

## **SHORT TERM AMUSEMENT AND RECREATION EVENTS**

**13.01 PURPOSE.** It is the purpose of this Section to regulate the time place and manner of special events when the event's impact upon the health, sanitary, fire, police, transportation or utility services exceeds those regularly provided to the location of the special event. This section is enacted in order to promote the health, safety and welfare of the residents and visitors to the Town of Black Earth by ensuring that special events do not create disturbances, become nuisances, or menace or threaten life, health or property, disrupt traffic or threaten or damage private or public property. It is not the intent of the Town Board, by enacting this section to regulate in any manner the content of speech or infringe upon the right to assemble, except for regulating the time, place and manner of assembly.

### **13.02 DEFINITIONS**

**a. AMUSEMENT OR RECREATION EVENT.** The following types of amusement and recreation uses, activities or businesses are considered an Amusement or Recreation Event subject to the provisions of this ordinance:

1. Amusement and theme parks.
2. Campgrounds/camping
3. Dances, shows, or other attended entertainment or celebration
4. Cross country skiing, bicycling, hiking
5. Festivals, fairs or carnivals
6. Motor vehicle races, including snowmobile races
7. Outdoor and indoor music concerts
8. Public exhibitions or exhibits
9. Rodeos
10. Road rallies (auto, motorcycle, motorized vehicle, or bicycle)
11. Off -Road rallies (auto, motorcycle, motorized vehicle, or bicycle)
12. Religious retreats
13. Political rallies
14. Athletic events, competitions, races or walks
15. Parades, processions or assemblages on the highways

The above list is not exclusive. Other outdoor and indoor amusements and recreations substantially similar to the above shall be considered included in the types of amusements and recreation subject to licensing under this ordinance.

**b. SPECIAL SERVICES** means the exclusive allocation of Town resources, including, but not limited to, town personnel, equipment, rights-of-way, property or facilities for use in conjunction with a specific event or activity, as requested by the host or sponsor for the event, or as requested by or on behalf of any person attending the event, or deemed necessary by town staff or officials in order to maintain public safety. Special Services shall include, but not be limited to any of the following:

16. requiring police officers direct traffic;
17. special police protection;
18. stationing emergency vehicles at or in the immediate vicinity of the event;
19. exclusive use of town roads or property as a staging area or for event parking;
20. additional street cleaning and garbage removal services;
21. special signage, including temporary no parking signs;
22. the use of any town building equipment or other property for any purpose other than the normal daily operations of the town.

**13.03 PERMIT REQUIRED; EXCEPTIONS.** Pursuant to 60.10 and 60.23(10) and 175.20, Wis. Stats., every person who conducts or operates in the Town any Amusement or Recreation Event which is open to the public and for which a fee is charged to the public to participate, or invokes a gathering of more than 100 persons on land which is not properly zoned for such activity shall obtain an Amusement-Recreation Event Permit from the Town prior to engaging in the Amusement or Recreation Event.

The following are exempt from permit requirements:

1. Funeral processions.
2. Any event attended by fewer than 100 persons at one time, which does not require Special Services and does not involve the sale of alcohol.
3. Any event that is otherwise regulated by the Town through the use of another regulatory manner, such as a zoning or conditional use permit.
4. The use of traditional public forums as alternative channels of communication by the public, provided that such use is for the free exercise of constitutionally protected activities and does not disrupt or interfere with traffic on public roads or the use of public places by other members of the public.

### 13.04 APPLICATION, FEE, ISSUANCE

**a. Application.** Application for an Amusement-Recreation Event Permit shall be made to the Town Clerk in writing. Application for Amusement-Recreation Event Permit that does not involve events occurring on public roads must be submitted at least forty-five (45) days before the Town Board meeting in the month preceding the proposed start date of the proposed Amusement or Recreation Event. Application for Amusement-Recreation Event Permit that involve events occurring on public roads must be submitted at least ten weeks before the Town Board meeting in the month preceding the proposed start date of the proposed Amusement or Recreation Event. A single application can be made for an event over similar routes on consecutive dates in one calendar year. Applicants who file after this deadline may be required to cover the cost of a special meeting of the Town Board to review the application should the Town Board agree to hold a special meeting. Appearance before the Town Board may be required. The Town Clerk will place the application on the Town Board agenda only if proper application fees have been paid, and the application contains the following information:

1. Name, address and telephone number of applicant. Applicants must be at least 18 yearsold.
2. Name and telephone number of owner of intended location of the proposed Amusement or Recreation Event, if different from applicant.
3. Name, address and telephone number of on-site manager or other person in charge of proposed Amusement or Recreation Event. Person in charge must be at least 18 years old.
4. Date(s) and hours of operation of proposed Amusement or Recreation Event.
5. Address and description of intended location of the proposed Amusement or Recreation Event.
6. Description and list of uses, activities, business or operation comprising the proposed Amusement or Recreation Event.
7. Description and location of any temporary building or structures to be constructed for use in the proposed Amusement or Recreation Event.
8. Description of parking lots or areas and access routes for vehicular traffic serving the proposed Amusement or Recreation Event.
9. Description and proposed location of any amplification equipment to be used in connection with the proposed Amusement or Recreation Event.
10. Description of any security needs in connection with the proposed Amusement or Recreation Event and a description of how security needs will be met.
11. Description of any amusement rides, amusement attractions or amusement structures in connection with the proposed Amusement or Recreation Event and number or date of approval or inspection by Wisconsin Department of Industry, Labor and Human Relations pursuant to Ch. ILHR 34, Wis. Admin. Code.

12. Any public health plans, including supplying water, proposed method of disposing of human waste and other waste material generated by the proposed Amusement or Recreation Event.
13. Fire prevention and emergency medical services plans necessary for the proposed Amusement or Recreation Event.
14. The admission or entry fee or other consideration to be charged or requested for admission to the proposed Amusement or Recreation Event, if applicable.
15. Whether or not food or alcohol will be served or sold at the proposed Amusement or Recreation Event.
16. A detailed description of all public rights-of-way and private property for which the applicant requests the Town to restrict or alter normal parking, vehicular traffic or pedestrian traffic patterns, the nature of such restrictions or alterations and the basis for same.
17. For proposed Amusement or Recreation Events that are to take place on public highways or within rights-of-way: proposed routes and staging areas; specific dates, start times and length of time that each road or highway is expected to be affected by the proposed event; the method that will be used to identify participants, such as license plates, race back tags, wrist bracelets.
18. A description of any services, town personnel, equipment or property which the applicant requests the Town to provide, including the applicant's estimate of the number and type needed and the basis for the estimate.
19. A statement signed by the applicant either agreeing to pay all fees and meet all other requirements of this section or representing to the Town that the applicant is duly authorized to make such agreement on behalf of the person or organization holding or sponsoring the proposed Amusement or Recreation Event.
20. Signature of applicant and property owner of any private property where the proposed Amusement or Recreation Event is to take place if different than applicant.
21. Proof of liability insurance or ability to obtain insurance for the proposed Amusement or Recreation Event with minimum limits of \$1,000,000 per occurrence.
22. Any other information requested by the Town that is reasonably necessary to determine the nature of the proposed Amusement or Recreation Event and any Special Services required.

**b. Application Fee.** A non-refundable initial fee shall be paid to the Town Clerk at the time of application. The application fee for an Amusement-Recreation Event Permit shall be established annually on or before July 1 of each year by the Town Board based on the cost of processing the application and administering requirement of this ordinance.

**c. Permit Fee.** If a permit is issued to the applicant, the application fee shall be credited against the permit fee. The permit fee for an Amusement-Recreation Event Permit shall be established annually on or before July 1 of each year by the Town Board based on the cost of administering the permit and cost of Special Services per user, if provided to an event.

**d. Issuance.** Amusement-Recreation Event Permits shall be issued by the Town Clerk if approved by the Town Board after review of the application. An approved permit shall not be issued until the permit fee is paid in full to the Town Clerk. The permit shall contain the following information:

1. A map indicating the location of the Amusement or Recreation Event, and, where applicable, the route including the starting point, ending point and participant parking location and schedule of times that each roadway on the route will be affected.
2. A traffic control plan for the Amusement or Recreation Event,
3. A plan to address any emergency services that may be required.
4. An agreement signed by the applicant to indemnify, defend and hold the Town harmless from any claim that arises in whole or in part out of the Amusement or Recreation Event, except any claims arising solely out of the negligent acts or omissions of the Town.
5. A certificate of insurance from the permittee naming the Town as additional insured
6. A sample letter notifying property owners along the route of the event(s).

**e. Distribution of Permit.** Upon the issuance of a permit, the Town Clerk shall send a copy thereof to the following:

1. When deemed necessary, each public transportation utility whose regular routes will be affected by the Amusement or Recreation Event.
2. The EMS, Fire and Police service providers for the Town.

**13.05 DURATION OF PERMIT.** An Amusement-Recreation Event Permit shall be issued for the duration of the Amusement or Recreation Event as specified in the application or as otherwise approved by the Town.

**13.06 INSPECTION AND INVESTIGATION OF APPLICATION.** No Amusement-Recreation Event Permit shall be issued to any applicant unless the Town Building Inspection Supervisor and Town Board Chair have inspected the location where the Amusement or Recreation Event will be carried on and notified the Town Board in writing that it meets all required state, federal, county and municipal fire and safety codes for the activity to be conducted thereon or therein or otherwise shall set forth any conditions that must be met by the applicant to comply. Any food service and liquor permit

shall be obtained prior to issuance of permit. If any nonconformity or violation is found, no permit shall be issued to the applicant unless the inspecting official has re-inspected the premises and notified the Town Board that such deficiency has been rectified.

**13.07 GROUNDS FOR DENIAL.** No person shall be issued or re-issued an Amusement-Recreation Event Permit who has failed to properly and fully complete and submit to the Town Clerk the application form as developed and provided by the Town. The Town may deny an application if it determines upon consideration of the application or other pertinent information, that:

- a. The event requires closure of town roads, including rolling closures.
- b. The information contained in the application or supplemental information provided by the applicant is false as to any material fact.
- c. The applicant fails to supplement the application after having been notified by the Town of additional information or documents needed.
- d. The applicant fails to agree to abide by or comply with any conditions of the permit, including the payment of fees.
- e. The Amusement or Recreation Event would substantially or unnecessarily interfere with traffic in the town, would interfere with access to fire protection services, or would interfere with access to businesses or residences in the immediate vicinity of the event and there are not sufficient town resources available at the time of the event to mitigate the disruption;
- f. The Amusement or Recreation Event is of the size or nature that requires the diversion of so many law enforcement officers to properly police the event, site and contiguous areas that allowing the Amusement or Recreation Event would unreasonably deny law enforcement protection to the remainder of the town and its residents;
- g. The proposed date and time of the proposed Amusement or Recreation Event conflicts with a previously scheduled event and there are not available at the time of the proposed Amusement or Recreation Event sufficient town resources to provide services for both events without substantially or unnecessarily interfering with police fire, water, public works or other services to the town;
- h. The location of the proposed Amusement or Recreation Event will substantially interfere with any construction or maintenance work scheduled to take place upon or along public property or right-of-way or with another public or private event previously scheduled in the Town.
- i. The proposed Amusement or Recreation Event would likely endanger the public safety or health, create or constitute a public nuisance or cause significant damage to public property or facilities.
- j. The proposed Amusement or Recreation Event requested would exceed a reasonable number of such events occurring in the Town during any year, based upon the total

cumulative impact upon the Town and the users of public property or rights of way affected by such events. The Town Board may set an annual limit for the number of permits to be issued.

- k. The applicant fails to comply with liability insurance requirements.
- l. The applicant, or person whose behalf the application is submitted has on prior occasion made material misrepresentations regarding the nature and extent of Special Services required for an Amusement or Recreation Event in the Town; has violated the terms of a prior Amusement -Recreation Event Permit; or has, under a prior Amusement-Recreation Event Permit, conducted an event that for which the Town has received complaints of discourteous behavior or behavior by participants that violates Town ordinances or other law, including littering.
- m. **Multiple violations of the ordinance will result in the revocation of future permits.**

**13.08 SUSPENSION OR REVOCATION OF PERMIT.** The Town Board may suspend for not more than thirty (30) days or revoke the permit of any permittee upon the determination after public hearing conducted in accordance with s. 125.12, Wis. Stats., for failure to comply with this section and conditions of the permit issuance. The Town Chair may revoke a permit already issued, if he or she deems that such action is justified by an actual or potential emergency due to weather, fire, riot, other catastrophe or likelihood of a breach of the peace, or by a major change in the conditions forming the basis of the standards of issuance. In lieu of revoking a permit, the Town Chair may require the permittee to file evidence of good and sufficient sureties, insurance in force or other evidence of adequate financial responsibility, running to the Town and such third parties as may be injured or damaged, in an amount depending upon the likelihood of injury or damage as a direct and proximate result of the holding of the Amusement or Recreation Event sufficient to indemnify the municipality and such third parties as may be injured or damaged thereby, caused by the applicant, its agents or participants.

### **13.09 COMPLIANCE WITH REGULATIONS**

- a. **Unlawful to Sponsor an Amusement or Recreation Event without a Permit.** An applicant under this section shall comply with all permit directions and conditions and with all applicable laws, ordinances and other regulations of the State of Wisconsin, Dane County and the Town of Black Earth.
- b. **Unlawful to exceed the scope of the Permit.** The Amusement-Recreation Event Permit authorizes the permittee to conduct only such Amusement or Recreation Event as is described in the permit and in accordance with the terms and conditions of the permit. It is unlawful for the permittee to willfully violate the terms and conditions of the permit.
- c. **Participants.** No person who leads or participates in an Amusement or Recreation Event shall disobey, or encourage others to disobey, this section after a law enforcement officer or Town official has directly and presently informed him or her of any of the provisions of this section or the terms of the applicable permit.

**13.10 ENFORCEMENT**

- a. **Injunction.** The provisions of this section may be enforced by injunction in any court of competent jurisdiction.
- b. **Public Nuisance.** The holding of an Amusement or Recreation Event in violation of any provision or condition contained in this section will be deemed a public nuisance and may be abated as such.
- c. **Towing authorized.** If an Amusement or Recreation Event is held on private property and participants or permittees have parked automobiles in violation of any provision or condition contained in this section, violators’ automobiles may be ticketed and towed at violator’s expense.
- d. **Misdemeanor.** Violation of any provision of this section is a misdemeanor. Violators shall be subject to a fine or imprisonment as specified by state statute. Each day in which a violation continues to occur shall constitute a separate offense. Violation of any provision of this section shall also be grounds for a revocation of the permit and grounds for denial of any renewal for future permit.

**13.10 EFFECTIVE DATE.**

This ordinance shall take effect and be in force from and after the day after passage and publication as required by law.

(a) **Town Board Approval.** This ordinance was adopted on this 2nd day of November 2021.

**APPROVED BY:**

\_\_\_\_\_  
Town Chair

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Town Supervisor

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Town Supervisor

**ATTESTED BY:**

\_\_\_\_\_  
Town Clerk

Posted: 11/8/21