

# **TOWN OF ENFIELD**

## **LOCAL LAW NO. 1 OF THE YEAR 2010**

Local Law No. 1 of Year 2010 – Mass Gathering/Public Assemblies Local Law.

### **ARTICLE A: INTRODUCTION**

1. The purpose of this Law is to provide public awareness and public safety for all attendees and the Community.
2. No person, partnership, association, corporation, organization, landowner, lessee or other entity shall hold, permit to be held, or promote an outdoor public musical event, amusement, or other assembly which is to be held within the Town of Enfield and which might reasonably be expected to attract five hundred (500) persons or more, without first obtaining a special permit issued by Town Board of the Town of Enfield.

### **ARTICLE B: APPLICATION**

Written application for a special permit for the mass gathering event shall be made to the Town Board of the Town of Enfield by submission to the Town Clerk at least ninety (90) days prior to the first day the event is to be held. The Town Board shall approve or deny the permit application within forty-five (45) days. The applicant shall submit a fee, as set forth from time to time, by resolution of the Town Board, with the application, in cash or certified check, to defray the cost of administering this chapter, and is non-refundable.

### **ARTICLE C: APPLICATION REQUIREMENTS**

At a minimum, each application for a Mass Gathering/Public Assembly permit shall be by verified petition, addressed to the Town Board, and shall contain the following: Permits will not be issued to anyone under the age of 21.

1. A statement of the name and residence address of the applicant. If the applicant is a corporation, the name of the corporation and the names and addresses of the Directors, Officers, and Stockholders (if applicable) owning five percent (5%) of more of the number of shares outstanding of each class of stock must be included. If the applicant is a partnership or other entity, the names and addresses of every individual with the partnership or other entity must be included.

2. A statement of the name and address of the owner of the property upon which the event is to occur and the nature and interest of the applicant therein; the proposed dates and hours of the event; the maximum number of persons intended to use the property at any one (1) time, and, collectively the number of automobiles and other vehicles intended to use the property at any one (1) time; the purpose of the function, including the nature of the activities to be carried on and admission fees to be charged; and the names and addresses of all concessionaires and other persons providing services or facilities under any contract, lease, or other arrangement for the event.
3. A survey map (preferably prepared by a professional engineer licensed by the State of NY) or tax map showing the size of the property, the names of the owners of the adjoining properties, the streets or highways abutting the property, the size and location of any existing or proposed structures or facilities to be used for the assembly, the placement of the proposed water distribution system, the location of existing and proposed electrical lines, the location of parking areas for automobiles and other vehicles, the means of ingress and egress to the parking areas and the service, public, and private roads serving the camping areas, food service areas, toilet facilities, garbage, and refuse collection facilities, and entertainment and performance areas.
4. A detailed plan with drawings and written explanation showing and specifying the following:
  - a. the methods to be used for the disposal of sanitary sewage, as approved by the Tompkins County Health Department.
  - b. the system the supply, storage, treatment, and distribution of drinking water.
  - c. the layout of the parking areas for all vehicles and the methods of traffic controls to be used thereon, as approved by the Town of Enfield Highway Superintendent and/or the Tompkins County Sherriff's Department
  - d. the method and means of disposing of garbage, trash, rubbish, and other refuse.
  - e. the location of all anticipated electrical installations. All electrical installations are required to be inspected by a Certified Electrical Inspector at least 24 hours prior to the commencement of the proposed Mass Gathering/Public Assembly.
5. A statement specifying whether food or beverages are intended to be prepared, sold, or distributed. If food or beverage is intended to be prepared, sold, or distributed, a statement specifying the method of preparation and distribution of the food and beverage and a copy of the NYS Health Department Permit, if required.

6. A written statement specifying whether private security personnel will serve on or about the site during the event and, if so, the names and addresses of such persons, the duties to be performed by such persons, and the qualifications and source of such persons.
7. A detailed written plan providing the fire protection, specifying the location of the fire lanes, water supply, and other pertinent details to be developed in cooperation with and authorized by the Chief or designee of the fire company contracted with the Town of Enfield.
8. A detailed written plan specifying the facilities to be available for medical and ambulance service, and including the names, addresses, and proof of insurance for, all medical providers and ambulance service providers the applicant will utilize for the event.
9. A detailed written description of all insurance policies and surety bonds to be provided by the applicant for the protection of the general public, the Town of Enfield, and its various public bodies, officers, and employees.
10. A written authorization from the landowner and the applicant to the Town of Enfield and the County of Tompkins to permit the Town and the County, and their lawful agents, to go upon the property to inspect the same to determine if there is compliance with all other State and Local laws, to provide adequate police and fire protection, and to protect persons and property from damage.
11. A written statement by the applicant stating the maximum number of tickets to be sold, given, or otherwise issued.
12. A written statement by the applicant stating that the applicant shall not allow more persons to attend the event than is specified in the permit.
13. The application fee.
14. The Town Board may require that the applicant submit an Environmental Assessment Form (EAF) that is in compliance with the NYS Environmental Quality review Act and 6 NYCRR Part 617 (SEQRA). If the review of the EAF indicates that the proposed Mass Gathering/Public Assembly may have significant environmental impacts or consequences, the applicant shall be required to prepare and submit a Draft Environmental Impact Statement (DEIS). The application shall not be considered complete until the EAF is reviewed by the lead agency and/or until the DEIS and any findings statement there under, if required, have been accepted by the Town Board. The Town Board may hold a public hearing upon the EAF or DEIS, and when required by law, the Town Board shall hold such public hearings.

#### ARTICLE D: ADVISORY AUTHORITY

The Town Board, before issuing any permit, may seek advice from any or all of the following agencies:

1. The New York State Department of Health or the Tompkins County Health Department as to any proposed sanitary sewage system, lavatories, or toilets.
2. The New York State Department of Health, the Tompkins County Health Department, or the New York State Water Resources Commission as to any proposed system for the supply, storage, and distribution of water.
3. The Town of Enfield Highway Superintendent, the Tompkins County Highway Department, the New York State Department of Transportation, the Tompkins County Sheriff's Department, the New York State Police, and the Fire Chief of the Enfield Volunteer Fire Company as to the proposed parking areas and the means of ingress and egress to such parking areas.
4. Members of the public potentially affected as to the proposed type, number, and location of any sound producing equipment, outdoor light, or signs.
5. The New York State Department of Health and/or the Tompkins County Health Department as to the proposed method of preparing, selling, or distributing food or beverage, and the removal of refuse, trash, rubbish, or garbage.
6. The Tompkins County Sheriff's Department and/or the New York State Police as to any police related matters.
7. The Fire Chief of the Enfield Volunteer Fire Company and/or the Fire Coordinator of Tompkins County as to any proposed fire protection systems or matters.
8. The New York State Department of Health, the Tompkins County Health Department, and/or the Chief of the Enfield Volunteer Fire Company as to any proposed facilities for emergency medical treatment.
9. The Town of Enfield Code Enforcement Official and/or the New York State Department of Health as to any proposed camping, housing, or sleeping areas or facilities, and any other permit required structure.

#### ARTICLE E: INSURANCE REQUIREMENTS

No permit shall be issued unless the applicant has furnished to the Town of Enfield, at least fifteen (15) days prior to the event, a comprehensive liability insurance policy insuring the Town against liability for damage to persons or property with limits of not less than one million/three million dollars (\$1,000,000/\$3,000,000) for bodily damage or death, and limits of not less than five hundred thousand dollars (\$500,000) for property damage, sufficient in form to insure, indemnify, and save the Town harmless from any liability or causes of action that might arise by reason of the

granting of the permit. This insurance shall be non-cancelable without ten (10) days prior written notice to the Town, shall name the Town as an additional insured and claim and loss payee, and shall waive all rights of subrogation as against the Town.

#### ARTICLE F: ISSUANCE OF MASS GATHERING/PUBLIC ASSEMBLY PERMIT

In the event the Town Board approves an application for a Mass Gathering/Public Assembly permit, the permit shall be issued by the Code Enforcement Officer.

1. No permit shall be issued unless all of the provisions for the event described in the application are determined by the Town Board to sufficiently safeguard the safety, health, welfare, and well-being of persons and property and unless it is in compliance with all other requirements of this chapter, other local laws of the Town of Enfield, the regulations of the New York State Department of Health, the State Environmental Quality Review Law, the NYS Uniform Fire Prevention and Building Code, and any other applicable laws and regulations.
2. In the event the application approval was made subject to the satisfaction of certain prior conditions, the Code Enforcement Officer shall issue the permit only after said prior conditions have been met and/or complied with.
3. All Mass Gathering/Public Assembly permits shall state that the Code Enforcement Officer and all other relevant public officials shall have the right to inspect the Mass Gathering/Public Assembly at any time.
4. The Town Board may (and is hereby allowed to) determine that any Mass Gathering/Public Assembly may or could cause liability, loss, or expense to the Town or any other person. Such determination of the Town Board shall be reasonably made. In the event the Code Enforcement Officer makes a determination of the existence of any potential liability, loss, or expense, the Town Board, as a prior condition to the issuance of any permit, may require that the applicant provide a bond and/or other undertaking, together with the minimum insurance as required in Section E, to protect the Town from and against any such potential liability, loss, or expense. Such bond or other undertaking shall be in amounts reasonably determined by the Code Enforcement Officer, and any required insurance shall name the Town as an additional insured. The existence of any bond, undertaking, or insurance does not affect the indemnity obligations otherwise owed to the Town, nor may any person be or be deemed an intended beneficiary of such bond, undertaking, or insurance (as the Town shall be the sole beneficiary thereof and may collect and/or disburse any proceeds thereof in its discretion).
5. If any electrical services are proposed or to be utilized at or in connection with any Mass Gathering/Public Assembly, all electrical installations are required to be inspected by a Certified Electrical Inspector, and all permits issued shall be subject to fulfillment of such requirement at least 24 hours prior to the commencement of the proposed Mass Gathering/Public Assembly.

## ARTICLE G: GENERAL PERMIT CONSIDERATIONS

In granting or denying a Mass Gathering/Public Assembly permit, the Code Enforcement Officer shall take the following factors into consideration:

1. The proximity of the Mass Gathering/Public Assembly site to established residential areas, recreational areas, firehouses, schools, churches, or unique natural areas.
2. The nature and type of proposed Mass Gathering/Public Assembly. Consideration under this factor should be viewpoint/content neutral, but such neutrality does not require the Town to ignore relevant factors related to the type of Mass Gathering/Public Assembly.
3. The availability of other suitable routes or locations for the Mass Gathering/Public Assembly.
4. Whether or not the proposed route or location can be reasonably protected from unreasonably affecting public health and safety by reason of offensive or unhealthy conditions, processes, noises, odors, smoke, or materials.
5. Whether the proposed Mass Gathering/Public Assembly will conflict in terms of route, location, or time with any other event or the normal flow of persons or traffic.
6. The size, number, and type of vehicles potentially involved, directly or indirectly, with such proposed Mass Gathering/Public Assembly; the number of persons present or expected; the suitability and size of the location proposed or chosen; the proposed duration of the Mass Gathering/Public Assembly, and other related factors.
7. The suitability and sufficiency of all services proposed to be provided, included but not limited to ambulance and medical care, police and security, food and beverage services, sanitary and refuse handling and removal, parking areas, water distribution systems, electrical supply systems, ingress and egress, traffic handling and routing, the sufficiency of all routes, roadways, pedestrian walkways and gathering areas, fire control plans, systems and devices, and the proper installation and inspection of any of the foregoing.
8. The accuracy and sufficiency of any application materials, including but not limited to any site plan, drawing, survey, or map.
9. The potential for unreasonable amounts or levels of disruption, nuisance, or other adverse effects upon any nearby residents or businesses, or any adverse impacts upon flora, fauna, and the environment.

## ARTICLE H: ADMINISTERING AND ENFORCEMENT

The Code Enforcement Officer and/or other relevant public officials shall make inspections of each Mass Gathering/Public Assembly to ensure that the requirements of this Local Law and/or any permit are met. The Code Enforcement Officer shall report any observed violations to the Town Board.

1. The Code Enforcement Officer shall issue a Noncompliance Notice for any conditions that are observed to be in violation of this Local Law, or in violation of any conditions stated upon any Mass Gathering/Public Assembly permit. Any person who receives a Noncompliance Notice shall be in violation of this Local Law and shall endeavor to bring the Mass Gathering/Public Assembly into compliance as soon as possible.
2. In the event of a disaster, calamity, riot, or other public emergency, any of (i) the Code Enforcement Officer, (ii) the Tompkins County Sheriff's Department, (iii) the NY State Police, (iv) or any person designated by the Town in the event the Town declares any state of emergency, may immediately revoke a Mass Gathering/Public Assembly permit by delivering a written revocation to the Permittee. Such Revocation may take effect immediately upon delivery.
3. After issuance of any Noncompliance Notice, the Code Enforcement Officer may revoke or restrict any Mass Gathering/Public Assembly permit. If any court proceedings are brought concerning such alleged violations, and the Permittee is found not guilty, or there is another adjudication in favor of the Permittee pertaining to the alleged violation of this Local Law or any Mass Gathering/Public Assembly permit issued hereunder, then the permit shall be reinstated by the Code Enforcement Officer with the same effect as if (1) no Noncompliance Notice had ever been issued, and (2) no revocation had occurred. If no such court proceeding is brought, then within 10 days of such revocation, any aggrieved Permittee may request a hearing before the Town Board. If a hearing is so requested, the Town Board shall hold such hearing within 20 days. Such hearing may be a public hearing at the sole discretion of the Town Board. Notice of any public hearing shall be made in the official newspaper at least 5 days prior to the hearing. At the hearing the Town Board shall hear all persons wishing to be heard concerning the revocation of the permit. The Town Board shall issue its decision within 10 days of any hearing, and may confirm the revocation of the permit, reinstate such permit, or reinstate such permit upon any one or more conditions.

## ARTICLE I: PENALTIES FOR OFFENSES

1. Any person who shall suffer, maintain, commit, or allow any violation of this Local Law shall be (1) guilty of an unclassified misdemeanor and subject to a fine of not more than \$1,500.00 and a period of incarceration not to exceed 30 days, or (2) subject to a civil penalty of not more than \$3,000.00 to be

recovered by the Town of Enfield in a civil action. Every such person shall be deemed guilty of a separate offense for each day that such violation disobedience, omission, neglect or refusal shall continue. Similarly, a separate civil penalty shall apply and/or be assessable for each day that such violation, disobedience, omission, neglect or refusal shall continue. All provision of New York law generally applicable to misdemeanors shall apply to any criminal proceeding brought under this subsection.

2. In addition to the above provided criminal and civil fines, sentences, and penalties, the Town Board may also maintain actions or proceedings in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any article of this Local Law.
3. A transfer of title (or any interests therein) in any premises by any Owner shall be no defense to any proceeding under this Local Law. No assignment of any obligations imposed by this Local Law shall be a defense to any proceeding under this Local Law.
4. **Indemnity** – Any person working upon any cleanup, remediation, or restoration work following a Mass Gathering/Public Assembly, including all persons acting in furtherance of the performance of any work pursuant to or under any Noncompliance Notice, shall indemnify, keep and save harmless the Town from and against any and all losses, costs, damages, expenses, judgments, claims, or liabilities of any kind whatsoever which may accrue against or be charged to or recovered from the Town from or by reason of or on account of accidents, injuries, damages, and/or losses to persons or property during any cleanup, remediation, or restoration work. This indemnity provision shall be construed and applied to the maximum extent permitted by law.
5. **Cleanup Work** – In the cleanup, remediation, or restoration of the premises of any Mass Gathering/Public Assembly, or any part thereof, any and all cleanup, remediation, or restoration work shall be undertaken with a diligent regard to, and a diligent application of, all applicable safety standards, rules, laws and regulations, in accord with the safest practice and customs in the applicable cleanup industry.
6. **Limitations on Liability** – The Town shall not be liable or responsible for any injury to persons or damage to property due to the Town's actions or failures to act under or pursuant to this Local Law, unless it is proven to a reasonable degree of certainty that such injury or damage was solely caused by a willful or intentional act of the Town. Such limitation includes, but is not limited to, any and all claims that injury, damage, loss or liability was caused or contributed to in whole or in part by the issuance or non-issuance of any permit, or the alleged or actual failure to impose or not impose any certain conditions, or the alleged or actual failure to verify or monitor compliance or non-compliance with this Local Law or any permit issued hereunder.

## ARTICLE J: WAIVERS & VARIANCES

Where the Town Board finds that, due to the special circumstances of a particular case, a waiver of certain requirements is justified, a waiver may be granted. In all cases, no waiver shall be granted unless the Town Board finds and records in its minutes that:

1. Granting the waiver would be keeping with the intent and spirit of this Local Law, and is in the best interests of the community.
2. The nature and duration of any non-conforming Mass Gathering/Public Assembly, and its effect upon the character, appearance, or welfare of any persons or the environment.
3. There are special circumstances involved in the particular case.
4. Denying the waiver would result in undue hardship to the applicant, provided that such hardship has not been self-imposed.
5. The waiver is the minimum necessary degree of variation from the requirements of this Local Law.

## ARTICLE K: MANAGEMENT

Every permittee, applicant, or unpermitted sponsor shall personally manage and be personally responsible for the Mass Gathering/Public Assembly.

## ARTICLE L: SEVERABILITY

If any clause, sentence, paragraph, section or article of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or article thereof directly involved in the controversy in which such judgment shall have been rendered.

## ARTICLE M: ARTICLE 78

The determinations of the Town Board and the Code Enforcement Officer referenced in this Local Law shall be deemed “final determinations” for purposes of Article 78 of the New York Civil Practice Laws and Rules (“CPLR”). Notwithstanding this, standing under said Article 78 of the CPLR shall only be appropriate after the exhaustion of any appeals as provided for in this Local Law.

ARTICLE N: FEES

Fees will be determined by the Town Board of the Town of Enfield in accordance with the current fee schedule.

ARTICLE O: EFFECTIVE DATE

This local law shall supersede any related local law or ordinance to the extent such other local law or ordinance is expressly inconsistent herewith, and shall become effective immediately upon filing with the New York State Secretary of State.

Date approved by the Town Board - April 14, 2010