

TOWN OF NEWPORT LOCAL LAW #2 OF 2020

A LOCAL LAW TO AMEND THE ZONING LAW OF NEWPORT

BE IT ENACTED by the Town Board of the Town of Newport, County of Herkimer,
State of New York, as follows:

Section 1. Legislative Intent.

This local law amends Article VI – Events of the Town of Newport Zoning Ordinance dated January 26, 2017 to reasonably regulate the conduct of events in the Town of Newport. The Town Board of the Town of Newport is concerned about the effect that public events attracting large numbers of persons would have on the health, safety, and welfare of the residents of the Town of Newport and those persons passing through the jurisdiction of the Town of Newport. The concentration of large groups of persons for public events could create problems and demands beyond the existing services and facilities now available in the Town, including police protection, the flow of traffic on public highways, noise and damage and injury to persons and property adjoining the location of such events. The Town Board is also concerned that adequate provision be made for sanitation and sanitary facilities or services, water supply, food service, garbage/refuse collection/disposal, ambulance service, policing/traffic control, parking facilities and control/communication systems.

Section 2. Amendments to Article VI “Events” of the Town of Newport Zoning Law

Article 6.1 – “Event Classification” is amended to add in paragraph a) the definition:

MASS GATHERING: Any event that has an attendance of more than 5000 people defers to the State of New York and requires a mass gathering permit.

Article 6.1. c) “Zone Restrictions” is amended to add “A – S1, S2 and S3, M1, M2 and M3, L1, L2 and L3” to the restrictions within the designated Zones within the Town of Newport.

Article 6.1. d) “Application Fee” scale is amended as follows:

- (S)mall Events - \$50
- (M)edium Events - \$100
- (L)arge Events - \$500

Article 6.1.e) “Security Deposit” is amended as follows:

A security deposit will be required based on the classification of the event. The security deposit is refundable based on the applicant’s reasonable compliance with the conditions established in this local law and to ensure the health, safety and welfare of event attendees and the public. The security deposit is scaled as follows:

- Class 1 – None
- Class 2 - \$500
- Class 3 - \$15,000

Article 6.1.f) “Insurance” is amended as follows:

No permit shall be issued unless the applicant furnishes the Clerk of the Town of Newport with a comprehensive liability policy insuring the Town against liability for damage to persons or property to save the Town harmless from any and all liability or cause of action which might arise by reason of the granting of the permit. The Town of Newport must be named as an additional insured. This insurance policy shall be in effect during the event, during the set up and take down. In addition, a Certificate of Insurance is required to be submitted to the Town. Failure to keep the insurance in effect will result in the automatic revocation of the permit. The limits of liability insurance are:

- Class 1 - \$1,000,000
- Class 2 - \$2,000,000
- Class 3 - \$3,000,000

Article 6.3 “Application Process” For Class 3 Events is amended to read as follows:

For Class 3 Events

- The proposed use, location, height, design, and site elevation of all proposed buildings and structures, and existing buildings or structures

- Existing topography and proposed grade elevations at typical Geological intervals
- Location of all existing watercourses, intermittent streams, wetland areas, rock out-crops, wooded areas and any other significant existing features
- The general configuration of all existing and proposed public and private roads, drives and walkways
- Proposed final grades, including detailed information relative to methods to be used to retain, stabilize, and/or refurbish re-graded areas and the proposed plan for maintaining land stability and tree protection during construction
- Location of all parking and loading areas, with access and egress drives thereto
- Location of all traffic safety devices and directional flow of traffic, including detailed traffic plan
- Location of any outdoor storage and solid waste containers
- Description of method of water supply and location of facility
- Description of method of sewage disposal and location of facility
- Location, height, and size of all signs
- Location, height, quality, and design of lighting, power and communication facilities
- Description of smoke, noise, vibration, dust, odors, heat, and glare which the proposal will produce
- Vicinity map
- Environmental Assessment Form (EAF)
- Emergency Medical Service (EMS) Plan
- Security Plan
- Any other pertinent information as determined by the Planning Board

For Events determined questionable Class 2 by the Zoning Officer and forwarded to the Planning Board, the Planning Board will reply with comments to the Zoning Officer on its determination whether the Event should remain as a Class 2 or be upgraded to a Class 3 Event within 15 days of receipt of the application by the Planning Board.. If the Event is to remain a Class 2 the Zoning Officer will issue the permit upon his approval of the Event application. If the Event is upgraded to a Class 3 Event then the application will progress as follows.

For Class 3 events, the Planning Board shall approve, approve with modifications, or disapprove such fully completed application within 32 days of the Planning Board's receipt of the application or, if both agree, can be mutually extended.

Any permit for a Class 3 Event shall be subject to approval of the Event preliminary plans by the Planning Board and approval of complete plans and specifications by the Zoning Officer. The permit holder shall cooperate and comply with all lawful directives issued by the Town of Newport Code Enforcement Officer and Town Supervisor.

The permit holder shall conduct the event in such a manner as to minimize the inconvenience or discomfort to adjoining property owners attributable to the event, and shall abate noise to the extent practical.

In the event the Town denies permission to hold an event at the time and place requested, the Town shall promptly provide the applicant with written notice of such denial and shall include in such written notice the reasons for such denial.

Permits shall be subject to payment of a fee to the Town in order to cover the Town's reasonable review and processing costs in such amounts as the Town Board may establish by resolution.

The Town shall have the right to revoke any permit granted in the event that after granting the permit the Town shall determine that conduct of the proposed event poses a danger to the health, safety or wellbeing of citizens and/or presents an unreasonable risk of damage or loss to public property or nearby private property.

The granting of an event permit by the Town shall in no way be considered an endorsement or any expression of support, of disagreement or of any position or opinion of the Town whatsoever with respect to the activities, policies, opinions, positions, precepts or other aspects of the persons or group organizing, sponsoring, holding or participating in such event, and no persons associated in any way with said event is authorized to or shall make any public statements or representations on behalf of the Town concerning the same.

Article VI of the Zoning Ordinance is further amended to add the following sections:

6.4 Site Plan

Attach an outline of the map of the event area to an appropriate scale showing the location of all areas of assemblage including adequate interior roads for emergency access/egress, camping area, concession areas, parking areas, stage area, and security offices. The plan must show that the proposed event is adequately buffered, as determined by the Town permit enforcement office and/or Town Board from all residential area within 500 feet.

6.5 Official Access/Inspection

Inspection of the event facility shall be undertaken by the Newport Codes Officer and/or Newport Fire Chief, within 24 to 48 hours prior to the start of the event. At this time all compliance and facilities set forth in the application shall be in place. A notarized letter from the landowner and/or applicant to the Town of Newport and/or County of Herkimer to permit the Town and County and their lawful agents to go upon the property to inspect the same to determine if there is compliance with all local, county and state laws to provide adequate police, EMS, and fire protection and to protect persons and property from danger, must be filed (15) days prior to event.

6.6 Noncompliance with Permit

If the Town Board/designee determines that any of the items as a condition of the permit are not adhered to prior to the completion of the event, then this permit shall thereupon immediately be terminated by action of the Town Board/designee.

6.7 Enforcement and Penalties

The Town Board shall appoint an enforcement officer, the Newport Town Codes Officer, to enforce the provisions of this application. Any person, who shall organize, promote, conduct, operate, or cause to be held an event within the Town of Newport or any person who shall license, rent, lease, or otherwise permit the use of real property or any part thereof for any event without having a written permit in accordance with the provisions of the law shall be deemed to have violated this application, which violation shall be fines not less than \$750 for the first time offense, not less than \$1500 for the second offense, and not less than \$3500 and loss of rights for a period of six months for the third and subsequent offenses.

In addition to the penalties above described, the Town Board may also maintain an action or proceeding in the name of the Town of Newport in a court of contempt jurisdiction to compel compliance with or to restrain by injunction the violation of this law. The Town Board shall be entitled to use one or more means concurrently for the enforcement of any violation of this law.

Section 5. “Appendix 3 – Event Permit Application” form is hereby amended to conform with the requirements set forth in this local law.

Section 6. Effective Date

This Local Law shall become effective upon filing with the Secretary of State of the State of New York subsequent to having been duly adopted by the Town Board.