

## Chapter 101

### SPECIAL EVENTS

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**[HISTORY: Adopted by the Town Board of the Town of New Lebanon 4-13-1981 by L.L. No. 1-1981; amended in its entirety 12-14-2021 by L.L. No. 5-2021<sup>1</sup>. Subsequent amendments noted where applicable.]**

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#### § 101-1. Purpose.

The purpose of this chapter is to promote the health, safety, and general welfare of the residents of the Town of New Lebanon by regulating the holding of special events so as to ensure the convenient use of roadways, the availability of proper public safety resources, compliance by event organizers with applicable regulations, and appropriate arrangements for the safe and orderly conduct of such special events.

#### § 101-2. Construal of provisions.

The provisions of this chapter must be construed according to the fair import of their terms to promote and effect the objectives of this chapter. Unless otherwise expressly stated or where different meanings are expressly specified in this chapter, all words, terms and phrases used in this chapter shall have common, everyday, ordinary meanings.

#### § 101-3. Definitions.

The following terms shall have the following meanings:

**APPLICANT** — Any person maintaining, conducting, promoting, operating, holding, advertising, or otherwise causing a special event within the Town of New Lebanon.

**LICENSING AUTHORITY** —

- A. The Town Board of the Town of New Lebanon, if the special event is expected to bring together either:
  - (1) Five hundred or more people at any one time; or
  - (2) An aggregate of 1,000 or more people over the course of any twenty-four-hour period.
- B. For all other special events, the Code Enforcement Officer (CEO) shall be the licensing authority.

**SPECIAL EVENT** — A group activity, including, but not limited to, a performance, meeting, assembly,

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1. Editor's Note: This local law also amended the title of this chapter, which was formerly Entertainment, Public.

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contest, exhibit, ceremony or nonroutine activity that will take place on a public road or any ground abutting thereon and either:

~~A. Will take place on a public road or on any ground abutting thereon;~~

~~B.A.~~ Is expected to bring together 150 or more people at one time or an aggregate of 500 or more people over the course of any twenty-four-hour period; ~~and/or~~

~~C.B. Meets one or more of the following criteria~~ Involves a parade or the display of Class B or higher pyrotechnics.:

~~(1) The event involves the rent or lease of a site;~~

~~(2) The event involves an admission fee;~~

~~(3) The event involves a parade; or~~

~~(4) The event involves the display of Class B or higher pyrotechnics.~~

#### § 101-4. Applicability of special event license requirement.

A. License required. No person shall hold a special event within the Town of New Lebanon, nor promote or advertise such a special event, without first having obtained a special event license pursuant to this chapter.

B. Exemptions. Notwithstanding the foregoing, the following special events shall be exempt from the requirement to obtain a special event license:

(1) Events occurring inside permanently established places of assembly, such as a place of worship, public auditorium, sporting venue, theater, recreation hall, gym, or other structure designed primarily for assembly of people, provided that the maximum number of persons expected to attend or in actual attendance does not exceed the maximum number of occupants for the structure and that the maximum number of vehicles expected to park at the location does not exceed the number of parking spaces available;

(2) Events held by or in conjunction with any local, state, or federal government;

(3) School-sponsored events held on school property;

(4) Events sponsored by a religious organization on property owned by such religious organization;

(5) The Memorial Day parade and/or ceremony; **[Amended 8-8-2023 by L.L. No. 6-2023]**

(6) Events occurring at a lawfully existing and permitted commercial event venue, as that term is defined in Chapter 205 of the Code of the Town of New Lebanon, that comply in all respects with all applicable provisions of Chapter 205 of the Code of the Town of New Lebanon and all conditions, limitations, and requirements of any permit or approval issued for such commercial event venue. [Added 8-8-2023 by L.L. No. 6-2023] ~~Events conducted at a private residence that do not involve the rent or lease of the site to a nonoccupant, an admission fee, a parade, or the display of Class B or higher pyrotechnics;~~

~~(7) Events occurring at a lawfully existing and permitted commercial event venue, as that term is defined in Chapter 205 of the Code of the Town of New Lebanon, that comply in all respects with all applicable provisions of Chapter 205 of the Code of the Town of New Lebanon and all conditions, limitations, and requirements of any permit or approval issued for such commercial~~

~~event venue. [Added 8-8-2023 by L.L. No. 6-2023]~~

~~(8)~~

**§ 101-5. Procedure.**

- A. Application Submission. Not less than 90 days prior to the special event where the licensing authority is the Town Board, or not less than 60 days prior to the special event in all other cases, the applicant shall submit an application to the licensing authority that contains the following information:
- (1) The names, addresses, and contact information of the applicant and of a designated contact person (if different from the applicant);
  - (2) The street address and tax map parcel identification number(s) of the property on which the special event is proposed to be held;
  - (3) A map showing the exact location of the property on which the special event is proposed to be held, the names of owners of adjoining properties, the roads abutting the subject property, the size and location of any existing or proposed buildings, structures, and other facilities to be used for the special event, whether permanent or temporary, the location of any parking areas, the location of sanitary facilities and solid waste collection bins and storage containers, and any temporary or permanent lighting fixtures to be used during the special event;
  - (4) The name, mailing address, and contact information of the owner of the property on which the special event is proposed to be held;
  - (5) The signed written consent of the property owner to the applicant's submission of the application, to the holding of the special event at the site, and to the entry and inspection by the licensing authority or the authorized representative of the licensing authority as provided in this chapter;
  - (6) A narrative describing:
    - (a) The general purpose and nature of the special event;
    - (b) The proposed activities that will occur at the special event;
    - (c) The anticipated maximum attendance at the special event at any one time and in the aggregate during any twenty-four-hour period;
    - (d) The dates and proposed hours of operation of the special event;
    - (e) Whether alcoholic beverages or cannabis products will be sold or permitted at the event;
    - (f) Whether a fee will be charged for admission and/or for parking;
    - (g) Whether the event involves the rental or leasing of the proposed special event site and/or any facilities located on the site;
    - (h) Whether a tent or tents will be erected for use at the special event;
    - (i) The plans for parking, vehicular and pedestrian traffic circulation within the site, and for sanitation, waste removal, and lighting;
    - (j) For events for which the Town Board is the licensing authority, the plans and availability of police, highway safety personnel, and on-site security personnel for the special event, along with a written statement from such police, highway safety personnel, and on-site security personnel setting forth a description of the services to be provided in connection with the special event; and
    - (k) A copy of all other required licenses for the special event, including, without limitation and

as applicable, sanitary facilities, waste removal, food service, and alcohol or cannabis sales, or if such licenses have not been issued as of the date of submission, a copy of the applications submitted therefor.

(7) Where required under the New York State Environmental Quality Review Act, a properly completed and executed Part 1 of the Environmental Assessment Form.

B. Effect of application.

(1) Submission of an application hereunder constitutes the consent of the applicant to the entry upon and inspection of the proposed site by the licensing authority and/or the authorized representative(s) of the licensing authority for purposes of ascertaining the appropriateness of the site for the special event.

(2) Submission of an application hereunder constitutes the agreement by the applicant that it will indemnify, hold harmless, and defend the Town of New Lebanon, its departments, boards, agents, employees, officers, personnel, and independent contractors from and against any and all liability, damages, judgments, suits, claims, costs and expenses, including reasonable attorneys' fees, whatsoever, arising from or as a result of the special event or from any decision made on a special event license application.

C. Fees and costs. With the application, the applicant shall submit payment of the application fee in the amount as set forth on the Town of New Lebanon Fee Schedule then in effect. In addition, prior to the commencement of the review of the application, the applicant shall deposit an amount into escrow to pay for the reasonable expenses, including, without limitation, professional engineering services, contracted code inspection/review services, and legal services, that are incurred in the review of the application. The initial amount required to be deposited into escrow shall be set forth in writing by the licensing authority based upon written estimates provided by any service providers engaged or to be engaged by the licensing authority. Any amount of the escrow that is not used to pay the Town's review costs shall be returned to the applicant. To the extent the amount in escrow is insufficient to pay all of the Town's review costs, the applicant shall be responsible to submit such additional deposit or deposits as may be reasonably necessary to cover such deficiency upon written notice from the licensing authority.

D. Completeness of application. An application for a special event license hereunder shall not be considered complete until all items required under § 101-5A are submitted and payment of the application fee and deposit of any required initial escrow amount are made pursuant to § 101-5C.

E. Public hearing. Where the Town Board is the licensing authority, it may conduct a public hearing concerning the application not less than 30 days prior to the special event, with notice of such public hearing being published in the official newspaper not less than five business days prior to the public hearing.

F. Determination. The licensing authority shall make a written determination on the special event license application based upon the standards set forth in § 101-5G. Where the licensing authority is the Town Board, the determination shall be made within 60 days of receiving a complete application. Where the licensing authority is the Code Enforcement Officer, the determination shall be made within 30 days of receiving a complete application.

G. Standards. The licensing authority shall consider the following standards in determining whether to issue a license for a special event:

(1) Sufficiency of parking and vehicular and pedestrian traffic circulation in conformance with the New York State Uniform Fire Prevention and Building Code;

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- (2) Accessibility of permanent facilities and temporary structures or facilities for firefighting or other life safety vehicles in conformance with the New York State Uniform Fire Prevention and Building Code;
- (3) Sufficiency of sanitation/toilet facilities in conformance with the New York State Uniform Fire Prevention and Building Code;
- (4) Sufficiency of waste storage and removal in conformance with the New York State Uniform Fire Prevention and Building Code;
- (5) Conformance of proposed temporary structures, facilities, and/or tents with the New York State Uniform Fire Prevention and Building Code;
- (6) Adequacy of lighting in conformance with the New York State Uniform Fire Prevention and Building Code; and
- (7) Where the licensing authority is the Town Board, the appropriateness of the site given the anticipated number of attendees, the demonstrated ability of the applicant to comply with requirements and the history of the applicant in complying with such requirements, and the potential for the event to present a nuisance to the neighborhood as a result of off-site impacts, including but not limited to noise, glare, disruption of vehicular and pedestrian traffic flow, and parking.

H. Conditions. The licensing authority shall have the authority to impose any conditions on a special event license that are reasonably related to the standards set forth in § 101-5G. In addition, all licenses issued pursuant to this chapter shall be deemed to include the following mandatory conditions, regardless of whether such conditions are expressly set forth within the license itself:

- (1) The special event shall not exceed four consecutive days.
- (2) The cumulative number of days on which special events are held on a property may not exceed 12 days in any twelve-month period.
- (3) Temporary structures, including but not limited to tents, toilet facilities, ticket booths, and performance stages, must be inspected and approved by the Code Enforcement Officer prior to commencement of the special event.
- (4) By applying for the license, the applicant irrevocably provides consent to entry upon the site by the licensing authority or by any representative of such licensing authority during the special event to inspect the special event for the purpose of ascertaining compliance with the license requirements.
- (5) All entertainment that occurs outdoors, in or on temporary structures, including, without limitation, tents and performance stages, or in venues that are not fully enclosed, shall end at the following times:
  - (a) If the event is held in the Residential-Agricultural/Conservation (RA-5), the Residential-Agricultural 2 (RA-2), Residential-Agricultural 1 (RA-1), or Commercial-Residential (C-R) zoning district, 10:00 p.m. on Sundays through Thursdays, and 11:00 p.m. on Fridays and Saturdays.
  - (b) If the event is held in any zoning district other than those specified in § 101-5H(5)(a), above, 11:00 p.m. on Sundays through Thursdays, and 11:59 p.m. on Fridays and

Saturdays.

- (6) The special event shall comply with all applicable federal, state and local laws.
- I. Insurance requirements. Prior to commencement of activity at the site in preparation for the special event, the applicant, where the licensing authority is the Town Board, shall submit proof to the licensing authority of current comprehensive general liability and property damage insurance coverage for the special event in such coverage amount(s) to be established by the Town Board for such special event which lists the Town of New Lebanon as an additional insured.
- J. Appeal. Any party aggrieved by a decision of the licensing authority may seek review of the decision as follows:
- (1) If the licensing authority is the Code Enforcement Officer, an appeal shall be made to the Town Board within 10 days of the date of the decision made by the Code Enforcement Officer.
  - (2) If the licensing authority is the Town Board, or if the Town Board renders a decision on an appeal from a decision under this chapter by the Code Enforcement Officer, an aggrieved party may seek judicial review in accordance with Article 78 of the Civil Practice Law and Rules.

#### **§ 101-6. Enforcement.**

- A. Revocation/suspension. The licensing authority may revoke or suspend any special event license issued under this chapter upon its determination that the applicant has violated any provisions of the special event license, any provisions of this chapter, or any provisions of state law affecting the special event. To the extent practicable without endangering the health or safety of the public or attendees, the licensing authority shall first give the applicant notice of the alleged violation(s) and an opportunity to be heard with respect thereto prior to such revocation or suspension.
- B. Injunctive relief. The Town of New Lebanon shall have the right to seek relief from a court of competent jurisdiction, including, without limitation, injunctive relief to prevent, restrain, enjoin, correct, or abate any violation of this chapter or of any special event license issued hereunder.
- C. Criminal and civil penalties. **[Amended 8-8-2023 by L.L. No. 6-2023]**
- (1) Criminal penalties. Any person violating any provision of this chapter or a special event license issued pursuant to this chapter, and any owner of real property on which any such violation occurs, shall be guilty of an offense, and upon conviction thereof, shall be subject to a fine of not more than \$2,500, imprisonment not to exceed 15 days, or both, for one offense committed within a period of 20 years; a fine of not less than \$2,500 and not more than \$10,000, imprisonment not to exceed 15 days, or both, for a second offense, both of which were committed within a period of 20 years; a fine of not less than \$10,000 and not more than \$25,000, imprisonment not to exceed 15 days, or both, for a third offense, all of which were committed within period of 20 years; and a fine of not less than \$25,000 and not more than \$100,000, imprisonment not to exceed 15 days, or both, for each additional offense(s), all of which were committed within a period of 20 years. The Code Enforcement Officer is authorized to issue appearance tickets for any violation of this chapter or of any special event license issued hereunder.
  - (2) Civil penalties. Any person violating any provision of this chapter or a special event license issued pursuant to this chapter, and any owner of real property on which any such violation occurs, shall be subject to a civil penalty enforceable and collectible by the Town of New

Lebanon in the amount of \$2,500 for one violation committed within a period of 20 years; \$10,000 for a second violation committed within a period of 20 years; \$25,000 for a third violation committed within a period of 20 years; and \$100,000 for each additional violation committed within a period of 20 years. Such civil penalty shall be payable upon written demand therefor. Upon default in payment thereof within 30 days of such written demand, any such civil penalty may be awarded in an action instituted therefor in any court of competent jurisdiction upon authorization by the Town Board of the Town of New Lebanon, and shall be recoverable without regard to whether any criminal proceeding has been instituted for the same violation or whether any conviction of an offense for the same violation has occurred.

- D. The provisions in this § 101-6 shall not be deemed exclusive, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, any other remedies or penalties available under law.