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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Town of Tusten

Local Law No. __ of 2019 (Proposed)

A local law to enact the Mass Gatherings Law

BE IT ENACTED by the Town Board of the Town of Tusten as follows:

Section 1. Legislative Intent and Purpose.

A. The Town Board, in order to ensure the proper protection, order, conduct, safety, health, welfare and well-being of persons and property within the Town of Tusten finds it is in the public interest to enact this chapter regulating assemblies of persons , also known as mass gatherings, within the Town. The Town Board further finds that the public health, welfare, safety, peace and tranquility of persons and property within the Town will be adversely affected if more than one mass gathering is permitted to occur in the Town on the same dates or within a short time of each other due to the rural character of the Town and the availability of emergency responders.

Section 2. A new Chapter 196 of the Town Code, entitled, “Mass Gatherings”, is hereby added to the Town Code to read as follows:

196. Table of Contents

- §196-1. Purpose; scope.
- §196-2. Word usage; definitions.
- §196-3. Permit required.
- §196-4. Application for permit.
- §196-5. Tentative approval of application; public hearing.
- §196-6. Approvals for issuance of permit.
- §196-7. Additional conditions; insurance; deposit.
- §196-8. Revocation of permit.
- §196-9. Fees.
- §196-10. Penalties for offenses.

§196-1. Purpose; scope.

A. The Town Board, in order to ensure the proper protection, order, conduct, safety, health, welfare and well-being of persons and property within the Town of Tusten finds it is in the public interest to enact this chapter regulating assemblies of persons, also known as mass gatherings, within the Town. The Town Board further finds that the public health, welfare, safety, peace and tranquility of persons and property within the Town will be adversely affected if more than one mass gathering is permitted to occur in the Town on the same dates or within a short time of each other due to the rural character of the Town and the availability of emergency responders.

B. The terms and requirements of this chapter shall not apply to:

(1) Functions sponsored by the Town Board of the Town of Tusten, or any not-for-profit corporation (including any not-for-profit local development corporation) whose governing board is wholly comprised of or wholly appointed by the Town Board of the Town of Tusten;

(2) Functions sponsored by a school related to an educational activity or organized sporting event;

(3) Functions sponsored by the Town at Town parks or other Town property;

(4) Regular sporting events held at facilities which are approved for such purposes;

(5) Parades and street festivals. Proposers of parades and street festivals must apply to the Town Board for approval of a separate permit for use of the public right-of-way in lieu of a permit under this chapter.

C. No mass gathering authorized pursuant to the provisions of this chapter shall extend or be conducted beyond 11:00 PM of any day, nor shall any authorized mass gathering commence activity on any day prior to 9:00 a.m. These time frames restrict the event itself and shall not include preparations before the event or necessary actions following the event, such as the packing of equipment or cleaning of the site.

D. No mass gathering authorized herein shall extend for a period in excess of five consecutive days.

§196-2. Word usage; definitions.

A. Word usage. Words used in the present tense include the future; the singular number includes the plural; and the masculine shall include the feminine. "Shall" is mandatory; "may" is permissive.

B. Definitions. Unless otherwise expressly stated, the following terms shall, for the purposes of this chapter, have the meanings herein indicated:

BUILDING A structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals or property.

MASS GATHERING Any assemblage or gathering of people at an event, concert, festival, protest or other public or private gathering of a temporary nature, with or without an admission fee, at which 500 or more people are permitted or projected to attend. Activities set forth in §196-1. B. are exempt from this definition. If any use or business that by its nature includes groups or gatherings of people in an outdoor setting, the holding of an outdoor event that exceeds 500 people in addition to normal business or operations by such use or business, including but not limited to a concert or musical gathering, such an event shall be considered a mass gathering and shall be subject to the requirements of this chapter. A mass gathering shall not extend for a period in excess of five consecutive days.

PARADE An organized march or procession consisting of people, animals, vehicles, floats, or music, or any combination thereof, except funeral processions, upon any town street, sidewalks or right of way, which does not comply with normal and usual traffic patterns or controls and does not exceed eight hours.

PERSON Refers to an individual, corporation, business or land trust, partnership, association, two or more persons having a joint or common interest, or any legal entity as defined by the State of New York.

PLACE OF ASSEMBLY A place to which the public or a substantial group of persons is invited or has access.

STREET FESTIVAL A street festival or street fair is an outdoor public event that may be held in observance of a state, federal, or religious holiday, the character of the neighborhood, or be conducted with organized activities for a historical, cultural, or special theme. The event may include the sale of foods and other merchandise, arts and crafts, and live musical entertainment. Such event shall be operated by a public or nonprofit group or agency, or a government entity, not be held solely for profit and not to exceed eight hours in duration.

STRUCTURE FOR MASS GATHERING A combination of materials to form a construction that is safe and stable and includes, among other things, stadiums, stages, platforms, radio towers, sheds, storage bins, tents, billboards and display signs.

TOWN OF TUSTEN or TOWN
Includes the Town Board of the Town of Tusten.

§ 196-3. Permit required.

No person shall use, allow, let or permit to be used any property for a mass gathering unless a written permit authorizing such use shall have been obtained from the Town Board.

§196-4. Application for permit; waiver authority.

Applicants shall, for proposed mass gatherings on private property shall, complete and file an application with the Code Enforcement Officer (the “CEO”) at least 120 days prior to the date upon which such assembly is contemplated. Such application shall include the information in A. – Y. Applicants are encouraged to submit materials more than 120 days in advance to allow for the completion of the application process in advance of the date of the event.

Applicants may request a waiver of any of the application requirements, and each requirement requested to be waived shall be accompanied by a statement explaining the reason(s) for the request. The Town Board may waive, when reasonable, any of the requirements in A. – Y below of this section. Any such waiver, which shall be subject to appropriate conditions, may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety, general welfare, and rural character of the Town. No waiver shall be granted that would compromise the purposes of these regulations. A statement of the reasons for any waiver(s) granted shall be submitted into the record by the Town Board.

A. The following information:

- (1) The name and physical and mailing addresses of the applicant.
- (2) A statement of whether the applicant is an individual, corporation, partnership, joint venture or other entity.
- (3) If the applicant is a corporation, the names and addresses of all corporate directors, and officers, together with a copy of the articles of incorporation and a list of the names and addresses of all persons directly in charge of the activity; if the applicant is a partnership, the names and addresses of all partners; if the applicant is a joint venture or other entity, it shall set forth the names and addresses of all participants in the venture or other entity.
- (4) If the applicant does not reside in the Town of Tusten, the name and address of an agent who shall be authorized to and shall agree by verified statement to accept notices or summonses issued with respect to violations of any law, ordinance, rule or regulation.

B. A statement containing:

- (1) The location or boundary description and the tax parcel identification number of the property where the mass gathering is proposed, including all lands to be used directly, indirectly or incidental to the proposed assembly or any part thereof. There shall be attached to the application copies of documents disclosing the name and address of the record owner of the property and the nature of the interest of the applicant therein. If such interest is a leasehold, a copy of such lease shall be attached.
- (2) The proposed dates and hours of such mass gathering.
- (3) The maximum number of persons to be permitted at the assembly, including performers, staff members and audience at one time and collectively.
- (4) The purpose of the function, including the nature of the activities to be carried on and the admission fee to be charged, if any.

C. A map showing:

- (1) The size of the property and the area proposed for the mass gathering.

- (2) The zoning district in which it is located and whether the property is located in an agricultural district.
- (3) The names of the record owners of the adjoining properties.
- (4) The streets or highways abutting said property.
- (5) The size and location of any existing building and any buildings or structures proposed to be erected for the purposes of the mass gathering.
- (6) The location of all privies or toilets and handwashing facilities; all water supply sources (lakes, ponds, streams, wells, storage tanks, etc.); all areas of assemblage, including separate overnight camping areas for sleeping; all food service areas; all refuse storage handling and disposal areas; and emergency access and egress roads.

D. A plan or drawing showing the method to be used for the disposal of sanitary sewage.

E. A plan or drawing showing the method to be used for the supply, storage and distribution of water.

F. Detailed plans for parking facilities off public roadways able to serve all reasonable anticipated requirements at a rate of up to 100 passenger cars per acre or 30 buses per acre.

G. Detailed plans for transportation arrangements from noncontiguous parking facilities and lodging facilities to the site of the assembly to fully serve all reasonably anticipated requirements at a frequency commensurate with the volume of expected event participants.

H. A statement containing the type, number and location of any radio device, sound amplifier, loudspeaker, sound truck or other similar sound equipment.

I. A statement specifying the precautions to be utilized for fire protection and a map specifying the location of fire lanes and water supply for fire control.

J. A statement specifying whether any outdoor lights or signs are to be utilized and, if so, a map showing the number, location, size, type and illuminating power of such lights and signs. In addition, no light on any part of the property of the assembly shall be permitted to shine beyond the property line of the property. All exterior lights on the property shall be so situated or equipped with shielding devices so that no glow shall shine beyond the property line of the assembly.

K. A statement specifying whether any camping or housing facilities are to be available and, if so, a plan showing the intended number and location of the same.

L. A plan for limiting attendance, including methods of entering the area, number and location of ticket booths and entrances, and provisions for keeping non-ticket holders out of the area.

M. A detailed plan for use of signs to locate all facilities and roadways.

N. Detailed plans providing for disposal and cleaning the property and immediate surrounding properties within 48 hours after the event.

O. A statement specifying whether food or beverage is 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 such food or beverage and the method of disposing of any garbage, trash, rubbish or other refuse arising therefrom shall be submitted. If a person other than the person applying for the permit will be engaged in the sale and distribution of food or beverage, the name and address of such person shall be submitted. All garbage, trash, rubbish or other refuse shall be stored until removed at an unobtrusive area of the premises in securely covered containers. Such containers shall be maintained in a sanitary condition and shall be cleaned at least daily. No garbage, trash, rubbish or other refuse shall be removed from the premises between the hours of 11:00 p.m. and 7:00 a.m.

P. Detailed plans for security enforcement, including prevention of the unlawful use of alcohol, narcotics or dangerous drugs at the site; methods for limiting the size of the proposed function to the number of participants for which the facilities are designed; and external as well as internal crowd control, including sufficient guards for crowd control and security enforcement.

Q. A statement specifying the facilities to be available for emergency treatment of any person who might require immediate medical or nursing attention.

R. A statement that no soot, cinders, smoke, noxious acids, fumes, gases or unusual odors shall be permitted to unreasonably emanate beyond the property line of the assembly.

S. A statement that no music shall be played in any place of assembly, either by mechanical device or live performance, or that no loud, unnecessary or unusual noise shall be permitted to be made or continued in such a manner that the sound emanating therefrom shall be unreasonably audible beyond the property line of the place of assembly or in violation of any noise regulations of the Town.

T. A statement that no law, ordinance, rule or regulation applicable to the place of the mass gathering or enforceable by any governmental authority will be violated and that the regulations of the New York State Department of Labor Board of Standards and Appeals for places of public assembly will be adhered to.

U. Proof of financial resources sufficient to execute the plans as submitted, including a financial statement prepared by a certified public accountant showing the net worth of the applicant.

V. A statement detailing the experience, qualifications and capabilities of the applicant to conduct the assembly as proposed in the application, including a description of all similar events operated or managed by the applicant.

W. The deposit required by §196-7.C. of this chapter.

X. A statement by the applicant that he/she will diligently and in good faith pursue all the conditions for a permit enumerated in §§ 196-6 and 196-7 of this chapter.

Y. A completed (Part 1) of the Short Environmental Assessment Form, pursuant to NYS SEQR Regulations (Part 617, NYCRR). If the proposed mass gathering exceeds any thresholds for a Type 1 Action under SEQR, or if the Town Board requests of the applicant, a completed (Part 1) Long Environmental Assessment Form will be required.

§196-5. Application Review Procedures

A. Complete Application

(1) One original and two copies of an application for mass gathering permits shall be submitted to the CEO at least 120 days prior to the event and contain the information required in §196-4. Applicants are encouraged to submit materials more than 120 days in advance to allow for the completion of the application process in advance of the date of the event. Upon receipt of an application, the CEO shall determine whether the application complies with the submission requirements of § 196-4 of this chapter.

(2) If the application does not comply with the requirements, the CEO shall issue a notification to the applicant within 14 days of the receipt of the application indicating which portion(s) of the application are incomplete. The applicant shall have 14 days from the CEO's notification of incompleteness to resubmit a revised application. Applications submitted after 14 days will be treated as new applications which must meet the requirements in A(1) above.

(3) If the application complies with the requirements of § 196-4 of this chapter, the CEO shall forward copies of all application materials to the Planning Board and the Town Board within 14 days of the receipt of the application.

B. Planning Board Review and Recommendation

Upon receipt of all application materials, the planning board shall have 31 days to review all information pertaining to §196-4. C – M and issue a recommendation to the Town Board. Such recommendation shall take the form of approval, disapproval, or approval with conditions or modifications. Such recommendation shall state the reasons for disapproval or, in the case of approval with conditions or modifications, the recommendation shall outline information and measures necessary to help ensure that the information requested under §196-4. C – M contains sufficient provisions to properly safeguard the safety, health, welfare and well-being of persons or property in the Town. The Planning Board shall also issue its recommendation for any waivers requested under § 196-4. C – M.

C. Town Board Review

(1) Upon receipt of all application materials, the Town Board shall be responsible for the review of all information pertaining to §196-4. A, B, and N – Y, in addition to reviewing the planning board's recommendation. Within 45 days, of receipt of the complete application materials from the CEO, the Town Board shall determine if all information pertaining to §196-4. A, B, and N – Y of the application contains sufficient provisions to properly safeguard the safety, health, welfare and well-being of persons or property in the Town. If the town board does not receive the planning board's recommendation within 31 days as specified in §196-5. B., it shall continue the review of the application in accordance with this chapter and shall factor §196-4. C – M into its determination.

(2) If the Town Board determines, from the Planning Board's review and/or its own review, that any portion of the application contains insufficient provisions to properly safeguard the safety, health, welfare and well-being of persons or property in the Town, it shall send notification to the applicant prior to the expiration 45-day review period set forth in §196-5 C 1. Such notification shall constitute a denial of the permit application.

(3) The Town Board may deny an application for a permit under this chapter after a review of the application, whenever a determination is made that the proposed mass gathering would violate any law or ordinance or would unreasonably interfere with the public's use of public lands; unreasonably interfere with the use and enjoyment of adjoining properties; unreasonably impede the flow of vehicular or pedestrian traffic; be detrimental to the community because of anticipated excessive noise, illumination or other effect caused by the proposed assembly, including, but not limited to, a potentially dangerous activity or creation of a dangerous condition, such as the use of explosives, the use of stunts, helicopters, firearms or simulated firearms, or otherwise endanger the public's health, safety or welfare. Such denial shall be in writing and shall specify the reasons for the denial.

(4) The denial shall also include an outline of information and measures necessary to help ensure that the application materials requested under § 196-4 meet the objectives of this chapter. The applicant shall have 14 days to submit the revised and/or additional materials to the Town Board. Failure to submit such materials within 14 days will require that a new application be submitted to the CEO.

D. Public Hearing

(1) If the Town Board determines that all submitted application materials are sufficient, or with modifications can be made sufficient, to properly safeguard the safety, health, welfare and well-being of persons or property in the Town, it shall set a public hearing on the application within 30 days and at 10 days' notice of the hearing shall be provided. Notice of said hearing shall be mailed to the applicant at least ten days before said hearing and the Town Board shall give public notice of said hearing in the official newspaper of the Town at least five days prior to the date thereof. The Town Board shall make a decision on the application within 31 days after the close of such hearing.

E. The Town reserves the right to impose additional and further requirements up to and through the date or dates of the special event, as deemed by the Town to be necessary to assure compliance with the requirements and purposes of this chapter.

F. Two or more mass gatherings proposed within the same 30-day time period may have additional impacts that the town board shall take into consideration. Such impacts include but are not limited to those related to emergency personnel services, traffic, or the effects on adjacent properties, residents, and the neighborhood.

G. No permit shall be granted until the applicant complies with §§ 196-6 and 196-7 of this chapter.

§196-6. Approvals for issuance of permit.

The Town Board, before issuing any permit, shall require the applicant to get the approval of any or all of the following governmental agencies, as applicable:

A. The New York State Health Department, the Sullivan County Health Department, the Town Health Officer and the New York State Water Resources Commission as to any proposed sanitary sewage disposal system.

B. The New York State Health Department, the Town CEO, the Town Health Officer and the New York State Water Resources Commission as to any proposed system for the supply, storage and distribution of water.

C. The Sullivan County Highway Department, the New York State Department of Transportation, the Sullivan County Sheriff's Department, the New York State Police, the Chief Engineer of the controlling fire district, the Fire Commissioners of the controlling fire district and the Fire Advisory Board of the County of Sullivan as to the proposed parking area.

D. The New York State Health Department, the Sullivan County Health Department, and the Town Health Officer as to the proposed method of preparing, selling or distributing food or beverage and the removal of trash, rubbish or garbage arising therefrom.

E. The Sullivan County Sheriff's Department and the New York State Police as to any proposed private security or police protection.

F. The Chief Engineer of the controlling fire district, the Fire Advisory Board of Sullivan County and the Fire Coordinator of Sullivan County as to any proposed fire protection system.

G. The New York State Health Department and the Town or County Health Officer as to any proposed facilities for emergency medical or nursing treatment.

H. The Town CEO for any requirements of the NYS Uniform Fire Prevention and Building Code or any other permits issued by the CEO that pertain to the application.

I. The local civil defense director indicating that he has been advised of the event and has approved the plan from a civil defense standpoint.

J. The Sullivan County Sheriff's Department, NYS State Police, NYS Department of Transportation or other law enforcement agency certifying that the traffic control plan is satisfactory.

K. If the Sullivan County Sheriff's Department, NYS State Police, NYS Department of Transportation or other law enforcement agency determines that additional police officers or traffic control officers will be necessary for the protection of the citizens or for the control of traffic during the special event, the applicant shall submit to the Town Clerk a fee for each day

covered by the permit pursuant to the fee structure duly set and adopted by resolution of the Town Board and amended periodically.

After termination of the special event, entities providing safety or traffic control services shall provide the Town Clerk with a statement regarding the actual cost to the Town of providing said services. If the actual cost is less than the moneys that the Town has collected pursuant to this subsection, the Town shall remit the balance to the applicant. If the actual cost is more than the moneys that the Town has collected pursuant to this subsection, the applicant shall be responsible for providing the balance to the Town within 30 days of the permit period. All statements of actual cost shall be provided to the Town Clerk, who shall file same with the original application form.

§ 196-7. Additional conditions; insurance; deposit.

A. No permit shall be issued unless the owner and his tenant or licensee, if any, shall furnish the Town with written authorization to permit the Town or its lawful agents to go upon the property for the purpose of inspecting the same, providing adequate police and fire protection and protecting persons and property from danger.

B. No permit shall be issued unless the applicant shall furnish the Town with a comprehensive liability insurance policy insuring the Town against liability for damage to persons or property with limits of not less than \$50,000,000 for bodily injury or death and for property damage, sufficient in form to hold the Town harmless from any liability or causes of action which might arise by reason of the granting of the permit or the conduct of the assembly. Such policy shall be non-cancellable without 10 days' prior written notice to the Town. The applicant shall also furnish the Town with a written hold-harmless agreement to the Town for any loss or damage above and beyond insurance coverage.

C. No permit shall be issued unless the applicant shall deposit with the Town Clerk cash or other performance guaranty in form and substance acceptable to the Town Attorney and Town Board, in a sum as set from time to time by resolution of the Town Board to secure the applicant's performance of all the items set forth in the permit application submitted pursuant to this chapter and the responsibilities imposed upon the applicant by this chapter and all other applicable laws and regulations. Such deposit shall be deposited in an escrow account established by the Town Board for that purpose and shall be released upon a determination by the Town Board that all conditions for which the security has been provided have been satisfied.

§196-8. Revocation of permit.

The Town reserves the right to, at any time, immediately revoke any permit issued due to noncompliance with the requirements of the permit or this chapter. In such event, a post-revocation hearing shall be scheduled by the Town Board within 15 days of revocation to review the revocation and provide the applicant with the opportunity to be heard.

§196-9. Fees.

The applicant shall pay to the Town a non-refundable application fee in a sum as set from time to time by resolution of the Town Board. The applicant shall also provide, at the time the application is submitted, review fees in accordance with § 300-12.5 of the Zoning Law to compensate the Town for all reasonable and necessary costs and expenses incurred by the Town in processing the application, including but not limited to legal, engineering and technical consultant expenses incurred by the Town to review the applications.

§196-10. Penalties for offenses.

It shall be the duty of the CEO, the Sullivan County Sheriff's Department, the New York State Police, and all other law enforcement agencies that have jurisdiction in the Town of Tusten to administer and enforce the provisions of this Chapter.

Any person who shall use, allow, let or permit to be used property for, or any person who shall cause, a mass gathering, as defined herein, without having a written permit in accordance with the provisions of this chapter shall be deemed to have violated this chapter. Any person who commits or permits any act in violation of any of the provisions of the chapter shall be deemed to have committed a misdemeanor against such chapter and shall be liable for the penalties provided. A separate offense against this chapter shall be deemed committed on each day during which a violation occurs or continues. A separate penalty may be imposed for each separate offense.

A. For each violation of a provision of this chapter, the person violating the same shall be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or to both such fine and imprisonment.

B. Any person violating this chapter shall be subject to a civil penalty enforceable and collectible by the Town in the amount of \$100 for each offense.

C. In addition to the above-provided penalties, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of such chapter.

Section 3. Authority

This local law is enacted in accordance with the powers vested in the Town by the Municipal Home Rule Law.

Section 4. Effective Date

This local law shall take effect immediately upon filing in the Office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.