

CHAPTER 4

PARKS

- 4.01 Parks
- 4.02 Rules and Regulations
- 4.03 Emergency Closing of Parks
- 4.04 Permits
- 4.05 Penalties

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4.01 PARKS.

(A) **Purpose and Definitions.** In order to protect the parks, parkways, recreational facilities and conservancy areas within the Town of Somers from injury, damage or desecration these regulations are enacted. The term "park" as hereinafter used in this section shall include all grounds, structures, lagoons and watercourses which are or may be located within any area dedicated to the public uses as a park, parkway, recreation facility or conservancy district in the Town, and the term "person" shall include any individual, firm, corporation or group of persons.

(B) **Authority.** The Board of Supervisors is empowered and directed to govern, manage, control, improve and care for all public parks, parkways, boulevards and pleasure drives located within, or partly within and without, the corporate limits of the Town, and secure the quiet, orderly and suitable use and enjoyment thereof by the people; to adopt rules and regulations not in conflict with these ordinances to promote those purposes; and to exercise such other powers conferred by §27.08, Wis. Stats.

4.02 RULES AND REGULATIONS.

No persons, other than authorized employees, agents, contractors and permittees of the Town, shall engage in any of the following conduct:

(A) **Parks.**

- (1) Dump or deposit any garbage, waste, trash or debris in other than an appropriately marked container.
- (2) Dump or deposit debris, leaves, grass trimmings, brush, trees or branches.
- (3) Remove any fixture, furniture, sand, stone, rock, dirt, tree, shrub, fern, flower or other property.
- (4) Destroy, break, injure, mutilate or deface any building, structure, monument, statue, fountain, wall, fence, fixture, furniture, tree, shrub, plant, fern, flower or other real or personal property.
- (5) Operate any snowmobile or all-terrain vehicle.
- (6) Operate any motor vehicle, bicycle, or other motorized vehicle on other than designated streets and thoroughfares.
- (7) Park any motor vehicle, bicycle or other motorized vehicle in other than a designated parking space or for longer than the posted time limits.

- (8) Operate any motor vehicle, bicycle or other motorized vehicle in a reckless, unreasonable or imprudent manner, contrary to the provisions of §346.61 and §346.62, Wis. Stats., or in excess of fifteen (15) miles per hour, except on a public street having a higher speed limit.
- (9) No person shall start, tend or maintain a fire except in personal grills or designated fireplaces. Personal grills shall be used only in designated picnic areas. The use of personal grills is permitted, provided lawns and vegetation are not endangered. Unburned fuel and ashes shall be disposed of in such a manner as to prevent fire or damage to any park property.
- (10) Enter any area, structure or building which is under construction or fenced, locked or secured to prohibit entry or posted with No Trespassing Signs.
- (11) The sale and giving away of fermented malt beverage is permitted only by persons and groups appropriately licensed under State Law and local ordinance.
- (12) Be or remain in any Town Park between 10:00 P.M. and the sunrise of the following day.
- (13) Fly any real or scale model, or miniature or U-control, or remote control or hot air balloon, propeller driven or jet aircraft or any rocket powered craft.
- (14) Sell or offer for sale any product, articles, food, beverages, goods or services.
- (15) Post or install any notice, advertisement, decoration, sign or banner.
- (16) Place any structure or construction materials or make any improvement.
- (17) String or hang any wire, rope, cable or cord.
- (18) Use of a skateboard, except in an area designated therefor.
- (19) Play or practice golf, except in an area designated therefor.
- (20) Bring or permit any animal to enter any park, except domestic animals (household pets) which are not vicious in nature, provided said animal is maintained on a secured leash of six (6) feet or less and further provided that the animal's excrement is scooped immediately and removed from the park at the time of exiting the park.
- (21) Engage in any activity which would endanger life or property.

4.03 EMERGENCY CLOSING OF PARKS.

In time of actual or potential civil unrest or when the public interest so requires, any Town park or parks may be closed as follows: The Chairperson may proclaim any Town park(s) closed for all or a portion of any day or days by issuing an oral or signed written order so stating, which order shall be made public by such means as are expedient at the time. Such orders shall not be effective for longer than thirty (30) days without the approval of the Town Board.

4.04 PERMITS.

(A) **Permits Required.** Except for Town sponsored activities, a permit shall be required under this Ordinance prior to and as a condition of any person, party, firm or corporation undertaking any of the following activities:

- (1) Hold any assembly or gathering of two hundred fifty (250) or more persons.
- (2) Engage in organized athletic competition or team sports.
- (3) Reserve any athletic field for a date and time certain.
- (4) Reserve any picnic area for a date and time certain.
- (5) Sell food, beverage or any other product or service.
- (6) Perform any act, otherwise prohibited.
- (7) Produce amplified sound in excess of decibel limit specified in applicable provision of the Kenosha County Code of General Ordinances.

(B) **Application.** Application for any permit above provided shall be made to the Town Clerk/Treasurer in writing, and accompanied by the required fee. Such application shall be fully completed on Town forms and shall define the activity desired to be engaged in, the park(s) or park area where the activity will be performed, the estimated attendance and other relevant information requested on the application form which is reasonably necessary to a fair determination as to whether the permit should be issued.

(C) **Permit Fees.** Permit fees shall be as established by the Town Board from time to time.

(D) **Leases And Concessions.** Leases and Concession Agreements shall be subject to bids, requests for proposals or negotiated terms and conditions, reduced to a contract, reviewed and approved by the Town Attorney as to form, and approved by the Board of Supervisors.

(E) **Permitting Authority.** The Town Board shall be responsible for granting leases, concession agreements, permits for a gathering of two hundred fifty (250) or more persons, for special events involving the sale or consumption of fermented malt beverages, and for determination of fees and charges.

(F) **Standards For Permit Issuance.** The Permitting Authority shall consider the following standards for permit issuance and grant a permit only upon finding that:

- (1) The activity or use will be in compliance with applicable Federal, State, County and Town laws, rules and regulations.
- (2) The activity or use will not create an unreasonable risk of loss of life, personal injury or property loss or damage or otherwise threaten the public health, safety or welfare.
- (3) The activity or use will not unreasonably interfere with the use of the park by the general public.
- (4) The activity or use will not entail an unusual, extraordinary or burdensome expense to the Town which is not recovered in the permit fees or charges.
- (5) The area which is the subject of the application is not reserved for another use or party at the day and hour for which requested.
- (6) The area requested is an area designated by the Town Board for the type of use requested and is otherwise available for use.
- (7) Other considerations:
 - (a) Applications, where timely filed, shall be considered in order of priority determined by Permitting Authority, with due consideration for the need to distribute scarce resources on an equitable basis.
 - (b) Applications for a permit within a given calendar year shall not be accepted prior to the first working day in January of said calendar year.
 - (c) A permit shall not be denied where the activity constitutes free speech or right of assembly protected by the United States or Wisconsin Constitution, provided the above standards can be met.
 - (d) The Town Board shall retain the right to reserve any park or area for any civic function or Town sponsored event.

Whenever a permit application is denied, a statement of the reason(s) for denial shall be provided to the applicant in writing.

(G) **Permit Conditions.** The Permitting Authority shall have the right to impose reasonable permit conditions, including, but not limited to, the following:

- (1) Compliance with applicable Federal, State, County and Town laws, rules and regulations.
- (2) Compliance with this Ordinance.
- (3) Execution of Indemnity and Hold Harmless Agreement.
- (4) Post a bond or other assurance to guarantee compliance with permit terms and conditions.
- (5) Provide private security for traffic, parking and/or crowd control.
- (6) Hold Town harmless from damage to its property.
- (7) Clean up area immediately following use.
- (8) Inspect the Park Area immediately prior to Park use to determine whether or not the Park Area is suitable and safe for such use. If such inspection reveals that such Park Area is not suitable and safe for the intended use, the Park Area shall not be used until the Park Area is made suitable and safe for such use.
- (9) Report unsafe conditions in the Park Area to the Town Public Works Department as soon as practicable.
- (10) Warn all persons using the Park Area under authority of the Park Use Agreement of any unsafe conditions which may exist or portions of Park Area which are not suitable for use.
- (11) Supervise all persons using the Park Area under authority of the Park Use Agreement.
- (12) Reimbursement to Town of costs incurred in enforcing permit forms and conditions.
- (13) Procure and maintain one (1) or more liability insurance policy(ies) written by one (1) or more insurance company(ies) licensed to do business in the State of Wisconsin, which contain an endorsement of contractual liability, and which covers death, personal injury and property damage in the amounts to be determined, considering the activity and other factors.
- (14) Procure any other license or permit required for activity, such as food permit or temporary alcohol beverage licenses.

(H) **Revocation, Non-Renewal and Suspension of Permits.** The Permitting Authority may authorize and for just cause suspend, revoke, or not renew any permit herein provided, upon serving upon such party written notice of the charges forming a basis for the proposed penalty, in the same manner as that for the service of a Summons in a civil action. Said notice shall provide for a hearing upon a written request therefor being filed with the Town Clerk/Treasurer within ten (10) days of service. Absent a timely request for a hearing, the Permitting Authority shall administratively impose the penalty set forth in said notice.

The judgment of conviction of any permittee in any Municipal, State or Federal Court, irrespective of whether obtained following trial, plea agreement, or bond forfeiture, shall be prima facie proof of said violation for purposes of this Ordinance. However, in the instance of any judgment of conviction entered pursuant to a no contest plea, or considered in law to be rendered pursuant to a no contest plea, said judgment of conviction as a prima facie case may be rebutted. Further, mitigating circumstances may be introduced with respect to any judgment of conviction.

4.05 PENALTIES.

For the violation of any of the provisions of this Chapter or any rule or regulation prescribed by the Town Board, any person shall upon conviction thereof pay the fine not to exceed Five Hundred (\$500.00) Dollars with cost of prosecution and in default of payment of said fine and cost shall be committed to the County Jail for a term not exceeding ninety (90) days.