

CHAPTER 4

PARKS

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

4.01 PARKS.

(A) **Purpose and Definitions.** In order to protect the parks, parkways, recreational facilities and conservancy areas within the Village 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 Village, and the term “person” shall include any individual, firm, corporation or group of persons.

(B) **Authority.** The Board of Trustees 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 Village, 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.

(C) **Park Names.** Village parks shall be identified with the following names:

(1) **Gitzlaff Family Park.** Parcel #80-4-222-094-0201 located in the 7600 block of 12th Street (C.T.H. “E”).

(2) **Fabiano Park.** Parcel #81-4-223-074-0585 located at 818 12th Street (C.T.H. “E”).

(3) **Somers Memorial Park.** Parcel #80-4-222-161-0116 located at 7511 12th Street (C.T.H. “E”).

(4) **Neumiller Woods Park.** Parcel #80-4-222-093-0596 located in the 8000 block of 12th Street (C.T.H. “E”).

(5) **Valley View Park.** Parcel #80-4-222-342-0155 located at 4512 64th Avenue, 80-4-222-342-0160 located at 4600 64th Avenue and 80-4-222-342-0165 located at 4610 64th Avenue.

(6) **Country Charms Park.** Parcel #80-4-222-171-0220 located in the 1400 block of 94th Avenue.

(7) **7th Place Overlook Park.** Located at 7th Place and Sheridan Road.

4.02 RULES AND REGULATIONS.

No persons, other than authorized employees, agents, contractors and permittees of the Village, 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) Except as permitted in §4.04(G) below, the sale, consumption 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 Village 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 Village park or parks may be closed as follows: The President may proclaim any Village 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 Village Board.

4.04 PERMITS.

(A) **Permits Required.** Except for Village 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 except permits reserving any picnic area in Memorial Park which shall be issued pursuant to §4.04(G), below.

- (5) Sell food, beverage or any other product or service.
- (6) Perform any act, otherwise prohibited.
- (7) Produce amplified sound.

(B) **Application**. Application for any permit above provided shall be made to the Village Clerk/Treasurer in writing, and accompanied by the required fee. Such application shall be fully completed on Village 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**. Except as to permits issued under §4.04(G) below, permit fees shall be as established by the Village 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 Village Attorney as to form, and approved by the Board of Trustees.

(E) **Permitting Authority**. Except for permits issued under §4.04(G) below, the Village 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 Village 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 Village 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 Village 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 Village Board shall retain the right to reserve any park or area for any civic function or Village sponsored event.

(8) For permit applications for permits to be issued by the Village Clerk/Treasurer pursuant to §4.04(G), below, in addition to the reasons stated in this subsection 4.04(F), in the event that the applicant has a documented history of disruptive or undesirable behavior, a history of alcohol related offenses or in the event that there is insufficient time for Village staff to prepare the facility for use or process the application, then the Village Clerk/Treasurer may deny the use of Memorial Park for a picnic permit .

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

(G) **Reservations for Picnic Areas in Memorial Park.** A permit may be issued by the Village Clerk/Treasurer who, for purposes of this subsection only, shall be deemed the permitting authority, for the reservation of any picnic area in Memorial Park. Permit fees for such reservations shall be Fifty (\$50.00) Dollars for non-residents of the Village or Town of Somers and a One Hundred Fifty (\$150.00) Dollars security deposit for both residents and non-residents of the Village and Town of Somers. Security deposits may be refunded partially or in full pending satisfactory review of the area following completion of the event covered by the permit by representatives of the Department of Public Works and approved by the Village Clerk/Treasurer. Failure to satisfactorily clean up the area subject to the reservation may result in forfeiture of all or a portion of security deposit. Any permits for reservations for picnic areas in Memorial Park shall be subject to the standards for permit issued under §4.04(F), above. In addition to the permit conditions enumerated in §4.04(H),below, some or all of which the Village Clerk/Treasurer may require, the following permit conditions shall be applicable for reservations for picnic areas in Memorial Park:

(1) Any applicant must be twenty-one (21) years of age or older and must assume responsibility for exercising control over behavior at the event. Beer,

wine and/or liquor may be consumed but not sold at an event covered by this permit.

(2) The applicant must be personally present for the entire duration of the event for which the picnic permit is sought and must take personal responsibility for all damage, missing or damaged items and cleanup immediately following the conclusion of the event. The applicant must personally indemnify the Village, its officers, agents, representatives and any invitees from any and all liability caused or suffered by any person including persons who are at the event on forms provided by the Village Clerk/Treasurer.

(H) **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 Village 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 Village 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 Village 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 Village 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(les) 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.

(I) **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 Village 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 Village 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.