

Bill HN 2002A

A local law to amend Chapter 195 of the Code of the Village of Hewlett Neck and add a new Chapter 110 of the Code of the Village of Hewlett Neck, in relation to use of private or public premises for special events.

Section one. Section 195-9(E), is hereby amended to read as follows:

“195-9(E). Accessory uses, customarily incident to the above uses, but not including a billboard or advertising sign. Except as permitted in Chapter 110, assemblies, gatherings or events, are not accessory uses to a premises used or authorized or intended to be used as a residence, in accordance with a certificate of occupancy for such use.

Section two. A new Chapter 110, entitled “Special Events Permits”, is hereby added, to read as follows:

“Chapter 110 – Special Events Permits.

110-1. Purpose.

Assemblies, gatherings or organized events which are anticipated to or are likely to attract a large number of people can adversely affect the well-being of Village residents. Large assemblies on public and private properties can disturb nearby residents in the peaceful enjoyment of their homes and property, interfere with the general public's normal use of local roadways and other municipal facilities, and be harmful to the public safety and welfare. Large assemblages of people result in the need for some control over traffic and parking and can cause a strain on municipal and police services. In an effort to provide for the well-being of the Village and its residents, the Village Board establishes herein a procedure whereby the Village can be informed in advance of events and can assure that such events, if appropriate under the Village Code and the Constitution of the State of New York, can be accommodated without unduly burdening the community or the resources of the Village or unreasonably impacting upon or restricting the use of Village resources by other Village residents.

110-2. Definitions.

ASSEMBLY - A social occasion, an event, or an activity which involves the assembly of persons on public or private property in any zoning district, and which takes place in whole or in part outdoors, with or without an admission or invitation fee, a sponsorship, or a requested donation, and held on a one-time basis, including, but not limited to, weddings, family reunions, parties, fundraisers, fairs, bazaars, outdoor shows, and concerts, and if held on a commercial property as the same is defined herein, is not included within the approved uses of the property upon which the assembly is to take place, as evidenced by any site plan approval and/or certificate of occupancy issued by

the Village Building Department, or as determined by the Village Building Inspector based upon the historic use of the subject premises as supported by credible evidence.

COMMERCIAL PROPERTY - Property containing a legally nonconforming business use and any vacant or improved parcel other than one upon which the principal use is a single-family residence.

DESIGNATED AGENT - A person, residing within the County of Nassau, who is designated by an applicant for an assembly to accept service of process from the Village of Hewlett Neck for any violation of this chapter or any other chapter set forth in the Village Code which relates to or arises out of an Assembly.

EXPRESSIVE ACTIVITY - An Assembly or similar gathering held for the sole purpose of exercising free speech activity protected by either the First Amendment to the United States Constitution or Article I, § 8, of the New York State Constitution and for which no fee or donation is charged or required as a condition of participation in or attendance at such assembly.

PARADE/MARCH - A type of Assembly which involves a walk, run, march or similar assembly (including, but not limited to, a marathon or bicycle race) regardless of whether any fee or donation is charged or required as a condition of participation in or attendance at such Assembly, where the activity occurs on any Village roadway, public street, right-of-way, sidewalk or in any other public place rather than on a specific property, and which can or is likely to disrupt or interfere with normal traffic patterns, regulations or controls.

PUBLIC PROPERTY - Property of the Village or other governmental agency.

SOCIAL EVENT - An assembly for social, noncommercial purposes at which no goods, merchandise or services are offered or sold, or orders for the same solicited or taken.

SPECIAL EVENT PERMIT - A permit for a special event as defined in this chapter. Special event permits shall be of four categories:

RESIDENTIAL SPECIAL EVENT PERMIT — A permit for an Assembly of 50 persons or more upon a property which is zoned for, or actually used, as a residence.

COMMERCIAL SPECIAL EVENT PERMIT — A permit for an Assembly upon a property which is zoned residential, multifamily, or other noncommercial use but actually used for a commercial business as a legally preexisting, nonconforming business, in that it includes one or more of the following:

A. The sale of goods or merchandise, by fixed price or auction, upon a

property not approved for retail sales or, if approved for the same, from a location on the property not approved for such use;

- B. The sale of food or beverages upon a property not approved for the sale of food or beverages or, if approved for the same, from a location on the property not approved for such use;
- C. The use of outdoor areas of the premises for business purposes, and such use is not included in the customary and/or approved use for the premises;
- D. A performance, speech, recital or other presentation by an entertainer or other artist, with or without the use of musical instruments or recorded music, for which a fee is charged, if such property is not approved for such use;
- E. The erection of a tent upon the premises;
- F. The parking of attendees' vehicles upon any public street, highway, right-of-way or other off-site location due to lack of availability of parking upon the premises hosting the assembly;

PUBLIC PROPERTY SPECIAL EVENT PERMIT — A permit for an organized Assembly upon a property which is a public park, beach, or other property which is open to the public.

PARADE/MARCH SPECIAL EVENT PERMIT – An assembly permit for a parade/march as defined herein.

151-3. Permit Required.

A. No owner, lessee or any other person claiming or having a right or interest in residential property located within the Village of Hewlett Neck shall cause, permit or allow such property to be used for an Assembly as defined herein unless a written special event permit for the Assembly has been issued by the appropriate Village official(s). Residential Assemblies are subject to the provisions of §195-9(E). No more than two (2) Residential Special Event Permits may issue per calendar year for any property in the Village zoned and/or used as a residence.

B. No owner, lessee or any other person claiming or having a right or interest in commercial property located within the Village of Hewlett Neck shall cause, permit or allow such property to be used for an Assembly as defined herein unless a written special event permit for the assembly has been issued by the appropriate Village official(s).

C. No person, group, entity or organization shall organize or conduct a public property special event, as defined herein, upon any public property within the Village of Hewlett Neck, unless a written special event permit for the Assembly has been issued by the appropriate Village official(s). Public property assemblies, in addition to the

limitations enumerated below, are subject to the Village's right to limit the number of public property special event permits issued per applicant and per location in a calendar year, as well as limit the hours and days of the week for which activities will be approved.

D. No person, group, entity or organization shall organize or conduct a parade/walk-run, as defined herein, upon any public street, sidewalk, walkway, right-of-way or public property within the Village of Hewlett Neck, unless a written special event permit for the assembly has been issued by the appropriate Village official(s).

151-4. Exemptions.

]The following shall be exempt from the requirements of a special event permit:

- A. Events sponsored by the Village.
- B. A student assemblage at any school chartered by New York State or any event at a place of religious worship, in accordance with any approvals issued for such use.
- C. An assemblage for purposes of expressive activity, provided that the organizers provide the Village Clerk with at least 48 hours advance notice if more than 25 persons are reasonably expected to attend. The name, address, and contact information of the organizer, the proposed location or route, and the date, time and duration of the event shall be provided to the Village Clerk.
- D. Gatherings for religious purposes held at facilities which are approved for such purposes.

151-5. Application for Permit.

- A. Application form. An applicant may obtain an application form from the Village Clerk upon written request for such permit or from the Village website, if the application form is made available on the Village website. The information requested on the application form shall include, without limitation, the following:
 - 1. The applicant's full legal name, mailing address and telephone number, with a statement of the applicant's relationship to any sponsoring organization. If the applicant is a "professional fund-raiser" as defined in § 171-a of the New York Executive Law, that fact shall be disclosed. If the applicant is an entity or organization, the name or names of the person(s) authorized to act on behalf of the entity or organization shall be stated on the application.
 - 2. The proposed date, time and duration of the event.

3. A survey or sketch map of the assembly location together with the Tax Map number of the property.
4. A sketch plan depicting the proposed location(s) for parking, outdoor areas proposed to be used, and the location of any tent(s) and additional sanitary facilities. If parking is not available on site, a parking waiver application shall be included, which must identify the number of vehicles anticipated, the location where such vehicles will park, and the duration of such parking waiver. If off-site parking is proposed, a traffic management plan for the parking of vehicles and transportation of cars or guests to and from the assembly site.
5. On-site sanitary facilities available to attendees, none of which shall be located in a front yard, as that term is defined in the Zoning Code, or closer than 50 feet from any property line.
6. The number of anticipated attendees.
7. If food is to be served and the applicant or property owner or operator is not the supplier, the name and address of the proposed food vendor. Proof of the vendor's Nassau County Health Department authority to provide food must be included with the application.
8. If security is to be provided, the name of the security company and a contact person and number for the same.
9. Proposed traffic control and security plan for the event. (Security plans shall not be made publicly available.)
10. Proposed medical and emergency plans and personnel.
11. Proposed outdoor loudspeakers, music, live or recorded, and a description of the proposed use of loudspeakers and/or music, including the starting time and duration. No such outdoor loudspeaker or other amplified music device shall be played after 11:00pm, in a manner that can be heard by a reasonable person beyond the boundary lines of the premises.
12. Whether any alcohol will be served at the premises. A special event license from the State Liquor Authority may be required.
13. Whether any outdoor lighting is proposed, and a description of the proposed lighting together with the location of the same.
14. The proximity of the nearest residential structures.

15. If a tent is proposed, the size and placement of the tent on the premises. A separate tent application will be required to be submitted to the Village Building Department. Tents, and any conditioning of the air in the tent area, shall meet all necessary Fire Code requirements and shall be reviewed by the Village Building Department for placement and proper ingress and egress and compliance with applicable Fire Codes and Nassau County Fire Marshal requirements.

16. A name and contact number of a responsible party who will be available to Town officials at the time of the event.

17. Consent to inspection: a statement that the applicant (and, where applicable, the owner of the property) consents to inspection of the premises by a police officer or other enforcement officer, upon request, for the purpose of ensuring that the terms and conditions of the permit are met.

18. The name of the designated agent.

B. Submission to Village Clerk. Applications for events involving one to 50 participants, the application must be submitted at least 14 days before the event, and for events involving 51 or more participants, the application must be submitted at least 30 days before the event. For each application, the Village Clerk has the discretion to waive the submission deadline. The following materials shall be submitted by the applicant to the Village Clerk within the time period provided herein:

1. A completed application form.
2. For commercial, public property, and parade/march special event permits, a nonrefundable application fee. The Village Board, by resolution duly adopted, from time to time shall establish or amend such fee amount. The Village Board or its designee has the discretion to waive such fee.
3. If the proposed event will take place on public property, a certificate of insurance and indemnification agreement pursuant to §110-16, and such insurance shall include the Village as an additional insured.

C. Review by the Village Board. The Village Clerk shall forward the application to

the Village Board or its designee for approval or disapproval. The Board, or its designee, must refer all permits for comment to the Nassau County Police, Fire Marshal, Highway Department and/or any other Village department or agency should the application indicate that such entity may be affected by the approval of such application. The Board's review will consider whether the proposed assembly would unduly burden the community or the resources of the Village of Hewlett Neck, or unreasonably impact upon or restrict the use of Village resources by other Village residents, or constitute a threat to public safety, health or welfare by reason of time, location or duration of the activity, or will unduly interfere with vehicular and/or pedestrian traffic. The Village Board or its designee may deny an application for a permit under this chapter after a review of the application, whenever a determination is made that the proposed special event 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, firearms or simulated firearms; or otherwise endanger the public's health, safety or welfare. In addition, the Village Board or its designee may consider the number of applications submitted for a particular property and may deny an application if determined that the history of permit applications indicates an attempt by the applicant and/or property owner to circumvent the Village Code. Any denial shall be in writing and shall specify the reasons for the denial. Any approval by the Board may include conditions that are intended to address potential impacts related to the proposed assembly. The Board or its designee shall send the approved or disapproved application back to the Village Clerk.

- D. Review by Village Attorney. The Village Clerk shall forward the certificate of insurance and the indemnification agreement, if such insurance and agreement are required in accordance with this chapter, to the Village Attorney for approval. The Village Attorney shall return such approved or disapproved documents to the Village Clerk.
- E. Fees. The Village Clerk shall calculate the fees required to be paid by an approved applicant, in accordance with a fee schedule adopted by the Board by resolution, from time to time.:

- F. Permit fee. All special event permits may be subject to a permit fee, and the Village Board, by resolution duly adopted, from time to time, shall establish or amend such fee amount.
- G. Issuance of permit. The Village Clerk shall countersign an approved application. The Village Clerk shall collect the fees calculated pursuant to Subsection **E** from the applicant. Payment of the permit fee shall be in the form specified in section 110-6. Upon payment of the permit fee, the Village Clerk shall issue the permit to the applicant. The permit shall set forth the name of the applicant, the location(s), date(s) and time(s) of the special event and any special conditions.
- H. The Village may deny an application for a permit under this chapter after a review of the application, whenever a determination is made that the proposed special event 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, 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.
- I. The Village 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 Village to be necessary to assure compliance with the requirements and purposes of this chapter.
- J. The Village reserves the right to immediately revoke any permit issued due to noncompliance with the requirements of the permit.

110-6. Payment of Fee.

Any fee collected under this chapter shall be paid either by money order or certified check made payable to the Village of Hewlett Neck and shall be delivered to the Village Clerk.

110-7. Waiver.

The Village Board, upon consent of a majority of its members, after due consultation, may authorize a waiver of the requirements and/or limitations of this chapter whenever it determines that strict compliance with such limitations or requirements will pose an unreasonable burden upon the applicant and that such permit may be issued without endangering the public's health, safety or welfare. In such instances, the Village Board may attach additional conditions and safeguards to ensure the orderly conduct of the activity and to minimize the impact of such use.

110-8. Amendment, Modification or Rescission of Permit.

- A. Once an assembly permit has been issued, any proposed amendment or modification to the application, including any conditions, by the applicant shall be filed with the Village Clerk if any of the conditions have changed. Notice of any such proposed amendment or modification shall be given to the Village Clerk not less than 15 days prior to the assembly. Such changes may include, but are not limited to, the date of the event, the location of the event, the location or route of the parade, the number of attendees, or the addition of tents, alcohol, or fireworks.
 - 1. All changes in conditions necessitating the amendment will be accompanied by the appropriate certificates or permits.
 - 2. The appropriate Village officials shall review the proposed amendment and shall have the discretion to rescind or modify the permit due to changed conditions.
- B. The Village may rescind a special events permit issued pursuant to this chapter at any time for the following reasons:
 - 1. False information. The application is found to contain materially false information.
 - 2. Violation of existing law. The assembly is found to violate any law or regulation of the Village of Hewlett Neck, the County of Nassau, the State of New York or the United States of America.
 - 3. Violation of recorded conditions or limitations. The permit is found to be in violation of a restriction or limitation contained in a recorded covenant, deed or other document.
 - 4. Noncompliance with permit. The assembly is being advertised to be held in violation of the permit issued therefor or is actually being held in violation of the permit.

5. Substantive change in circumstances since the permit was issued, including one or more of the following:
 - a. The number of persons expected to attend the gathering is too great in relation to the size of the premises;
 - b. Arrangements made to control traffic, parking, noise, lighting, sanitary disposal and refuse disposal are insufficient;
 - c. The gathering will conflict with other events which might overtax police and emergency services;
 - d. Because of conflicts with other events, the gathering will cause vehicular or pedestrian congestion in a particular area of the Village on the date in question;
 - e. The frequency of gatherings proposed or approved for the premises is so great that the gatherings constitute a persistent usage of the property incompatible with its character or with that of the surrounding area. This provision shall not supersede the restrictions contained in sections 151-3(A) and 195-9(E) restricting the number of assemblies that may take place at a residence;
 - f. The gathering will conflict with ordinary public use of the land or facilities involved.

110-9. Permit suspension in Emergency Circumstances.

During the course of the special event, any authorized Village Code enforcement official, peace officer or a police officer may suspend any permit where public health or safety risks are found or where exigent circumstances warrant such action.

110-10. Notice.

The Village Clerk shall give notice to the Nassau County Police Department, the Building Inspector, the Fire Marshal, the Superintendent of Highways, if any, of each permit issued pursuant to this chapter.

110-11. Responsibility of Applicant and Property Owner.

- A. A permit holder shall be responsible for any damage to Village property or facilities that may result from the permit holder's activities. No alterations are to be made at special event sites, including, without limitation, cutting trees, digging holes and trimming bushes, without the express authorization of the

Village Board.

- B. The applicant shall ensure that the assembly is held in conformance with the permit and shall be responsible for the conduct of the assembly. The applicant and the property owner shall prevent patrons, licensees and/or invitees of the assembly, or those engaged in conducting the same, from trespassing upon any adjoining property or premises.

110-12. Compliance with Other Laws.

Issuance of a permit pursuant to this chapter does not relieve the permit holder of its duty to comply with all other Village local laws and regulations during the duration of the special event. In addition to the permit required under this chapter, the applicant shall obtain all other governmental permits or approvals which are required for the assembly. Unless specific exemption is obtained from the appropriate governmental authority, the assembly shall be held in conformance with all Village, county, state and federal laws. If any food service is provided, the applicant shall be responsible to assure that the vendor is properly licensed by the Nassau County Health Department and that any and all approvals, if required, are obtained by the vendor for the assembly. By way of example and not by way of limitation, the following Village permits shall be obtained where required:

- A. Tent Permit. A permit shall be obtained from the Village Building Department for the erection of a tent, display of fireworks or the setting of an outdoor fire.
- B. Building permit. A building permit shall be obtained from the Building Inspector for the erection of any building or other structure if such permit is required by the Village Code, and such permit shall be subject to compliance with the New York State Uniform Building and Fire Prevention Code, including in relation to any cooling or warming of any outdoor areas to be used for the proposed assembly.

110-13. Insurance Requirements.

Every application for a commercial, public property, and parade/march special event permit pursuant to this chapter shall include a certificate of insurance that evidences a public liability insurance policy covering the Village as an additional insured in the minimum amount of the \$1,000,000 per occurrence for the duration of the special event.

The applicant shall also submit an indemnification agreement that states that the applicant agrees to assume all liability for and will indemnify and hold the Village harmless of and free from any and all damages that occur to persons or property by reason of said special event.

110-14. Permit Available at Assembly Site.

The permit holder shall be required to have the permit available for inspection by the Village Building Department and the Nassau County Police Department, at the site of the special event for the duration of the permit period.

110-15. Prohibited Assemblies.

The following assemblies are prohibited in the Village of Hewlett Neck, and no permit shall be issued which would authorize these assemblies:

- A. Circuses which include the use of any animals or animal acts.
- B. Carnivals, festivals or similar events which include mechanical rides.

110-16. Signs.

For the purposes of this section, the term "sign" shall have the meaning ascribed to it in Section 195-24 of this Code. No signs visible from public property, including a public roadway or right-of-way, shall be permitted in conjunction with and/or bringing attention to or advertising, the assembly.

110-17. Parking Waivers.

Parking waivers seeking the temporary suspension of parking regulations that are requested in conjunction with a special events permit shall be governed by section 140-20.2 of this Code.

110-18. Penalties for Violations

Any person who violates any provision of this chapter shall be guilty of a violation and shall, upon conviction, be subject to the imposition of a fine in accordance with the following schedule for each violation. Each day that a violation continues shall be deemed a separate offense.

- A. For the first offense, a fine of not less than \$500 nor more than \$2,000 for each offense, plus any reimbursement of any costs incurred by the Village as a result of the violation(s).
- B. For a second offense within a three-year period, a fine of not less than \$1,000 nor more than \$5,000 for each offense, plus reimbursement of any costs incurred by the Village as a result of the violation(s).
- C. For a third and subsequent offense within a three-year period, a fine of not less than \$2,500 nor more than \$15,000 for each offense, plus reimbursement of any costs incurred by the Village as a result of the violation(s).
- D. For any conviction, a defendant shall be liable to pay restitution of any expenses incurred by the Village, in enforcing the provisions of this chapter, including legal fees.

Section two. Any local law or provision of the Code of the Village of Hewlett Neck in conflict with this local law is hereby repealed to the extent of such conflict, except that such repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of such local law, ordinance or resolution prior to the effective date of this local law.

Section three. If any clause, sentence, paragraph, section, article, or part of this local law shall be adjudged to be invalid by any court of competent jurisdiction, such judgment shall not affect, impair or invalidate any other part of this local law, or the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, article, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section four. This local law shall take effect immediately upon adoption and filing pursuant to the Municipal Home Rule Law.