

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

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.

County

City

of Volney

Town

Village

FILED
STATE RECORDS

JUL 31 2015

DEPARTMENT OF STATE

Local Law No. 3 of the year 2015

A local law Mass Gathering
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

County

City

of Volney

as follows:

Town

Village

SECTION 1: PURPOSE

The purpose of this local law is to protect the public health, welfare, safety, peace and tranquility by regulating mass gatherings within the Town of Volney.

SECTION 2: DEFINITIONS

As used in this local law, the following words and terms shall have the indicated meanings:

- (a) "Camping" shall mean a place where a group of persons or an individual is lodged in a tent or other temporary means of shelter.
- (b) "Drinking water" shall mean water provided for human consumption, food preparation or for lavatory, culinary, bathing or laundry purposes;

- (c) A "Mass Gathering" shall mean one which is likely to attract 1,000 people or more within a 12 hour period;
- (d) "Permit-issuing official" shall mean, except as otherwise provided in this law, the Town Code Enforcement Officer of the Town of Volney;
- (e) "Person" shall mean any individual, group of individuals, partnership, firm, corporation, association, political subdivision, government agency, municipality, industry, estate or any legal entity whatsoever;
- (f) "Racing Event" shall mean a contest or competition or series of races run at a set time over a regular course.
- (g) "Refuse" shall mean all putrescible and non-putrescible solid waste, including garbage, rubbish, ashes, incinerator residue, street cleanup, dead animals, offal and solid commercial waste; and
- (h) "Sewage" shall mean excreta and the waste from a flush toilet, bath, sink, lavatory, dish washing or laundry machine, or the water carried away from any other fixture or equipment or machine;
- (i) "Town" shall mean the Town of Volney.

SECTION 3: APPLICATION

The requirements of this local law shall apply to any mass gathering of 1,000 people or more, except:

- (a) Functions sponsored by the Volney Fire Department;
- (b) Functions sponsored at Town parks;
- (c) Racing events at Fulton Speedway, and for purposes of this section, camping that occurs during racing events;
- (d) School events at Volney Elementary School; and
- (e) Camping events with 250 people or less in a 24 hour period.

Nothing contained in this Section 3 shall authorize any person to hold a mass gathering for purposes of providing musical entertainment to the general public at the premises identified in subsections (b) and (c) of this section without securing a permit as otherwise provided in this local law.

SECTION 4: PERMIT REQUIRED

- (a) No person shall hold or promote, by advertising or otherwise, a mass gathering unless a permit has been issued for the gathering by the permit-issuing official of the Town. No person shall use, allow, let or permit to be used property for a mass gathering as defined

herein unless and until the written permit authorizing such use and assembly has been issued by the Code Enforcement Officer of Volney after approval has been given by the Town Board to issue the permit.

- (b) Application for such permit shall be by verified petition on forms to be furnished by the Town, addressed to the Town Board of the Town and shall be filed with the Town Clerk at least three (3) months prior to the date upon which such use and assembly shall occur.
- (c) A determination granting, conditionally granting or denying permits as herein provided for shall be made by the Town Board within two (2) months after the application is deemed complete. No permit shall be granted unless the applicant complies with all requirements of this local law and until it is found that the potential impacts of the proposed mass gathering on the public health, safety, and welfare of the people and property of the Town of Volney will be mitigated to the satisfaction of the Board. Denial of the permit by the Town Board shall be in writing.
- (d) Separate permits shall be required for each mass gathering. A separate permit is required for any mass gathering which is separated by more than 48 hours from a previous mass gathering for which a permit has been granted.
- (e) Any permit may be immediately suspended or revoked by the permit-issuing official or Town Board if it finds that the mass gathering for which the permit was issued is maintained, operated or occupied in violation of this local law, the conditions of the permit, or the Sanitary Code of the State of New York. A permit may also be revoked upon request of the permittee or upon abandonment of operation.
- (f) A permit issued for the operation of a mass gathering shall be kept on file and made available by the operator upon request.
- (g) Variance – In order to allow time to comply with certain provisions of this Law, an operator may submit a written request to the Town Board for a variance from a specific provision(s). The Town Board may grant a variance for a period not to exceed one year when the health and safety of the public will not be prejudiced by the variance and where there are practical difficulties or hardships in immediate compliance with the provision. An operator must meet all terms of an approved variance including the effective date, the time period for which the variance is granted, the requirements being varied and any special conditions the Town Board specifies.
- (h) Waiver – In order to obtain a waiver permitting alternative arrangements that do not meet the provisions of this Law but do protect the health and safety of the occupants and the public, an operator may submit a written request to the Town Board for a waiver from a specific provision of this Law. Such request must demonstrate to the satisfaction of the Town Board that the alternate arrangements provide adequate protection of the health and safety of the patrons and the public. The Town Board official may grant or deny a waiver after obtaining and following the recommendation of the State Department of Health and may set conditions on such waiver. An operator must meet all terms and conditions of an approved waiver. A waiver will remain in effect unless revoked by the permit-issuing official or the facility changes operators.

SECTION 5: WATER

- (a) Every existing and proposed water supply serving a mass gathering shall conform to all applicable requirements of Part 5 of the State's Sanitary Code and, in addition, shall meet the following requirements:
1. Drinking water shall be of a quality satisfactory to the permit-issuing official. Such determination of quality shall be made by the permit-issuing official with the advice and consent of the County Health Department.
 2. There shall be no physical connection between a pipe carrying drinking water and a non-potable water supply. A fixture, installation or equipment from which back siphon age may occur, shall not be supplied water from carrying drinking water.
 3. A common drinking utensil shall not be provided. Drinking fountains shall be approved sanitary design and construction.
 4. Any interruption in treatment of a drinking water supply shall be reported immediately to the permit-issuing official. No change in the source or method of treatment of the drinking water supply shall be made without first notifying and securing the approval of the permit-issuing official.

SECTION 6: HAND WASHING FACILITIES

Suitable and adequate facilities shall be provided, convenient to the toilets and food handling facilities.

SECTION 7: NOISE

- (a) All amplified noise, commercial business activities and stage performance(s) shall cease between the hours of 2:00 AM and 10:00 AM.
- (b) A buffer zone sufficient to protect neighboring property owners from excessive noise, light, or other nuisance effects of the mass gathering shall be required where necessary.

SECTION 8: CONTENTS OF APPLICATION

All applications for a permit to conduct a mass gathering shall include the following information:

- (a) The name, age, residence, mailing address and telephone number of the applicant; a statement of the applicant's legal status such as individual, partnership, corporation, etc.; and whether the applicant has ever been convicted of a felony or misdemeanor. If the applicant is a partnership, state the name, age, residence, mailing address and telephone number of each partner; and if a corporation, the names and addresses of all corporate officers and directors, together with a certified copy of the articles of incorporation and a list of the names and addresses of all the persons directly in charge of the activity.
- (b) The location and survey description of the property where the activity is proposed,

including all lands to be used directly, indirectly or incidental to the proposed activity or any part thereof, attaching to the application certified copies of documents disclosing the nature of the interest of the applicant relating to such property. If such interest is a leasehold, a copy of each lease shall be attached.

- (c) The date or dates and the hours during which the activity is to be conducted and the total time period of such activity.
- (d) The program and plans of the activity in its entirety, with particular emphasis on the following:
 - 1. 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.
 - 2. Detailed plans for transportation arrangements for non-contiguous parking facilities to the site to fully serve all reasonably anticipated requirements at a rate of no less than 20,000 persons, or the sum of the number of acres included in such non-contiguous parking area multiplied by 120 (whichever is less), per hour, including a statement from the County Sheriff certifying that the traffic control plan within the County is satisfactory, and from the New York State Police certifying that the traffic control plan outside the County is satisfactory.
 - 3. An outline map of the area to be used, to an appropriate scale, showing the location of all toilets and hand washing 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 and all refuse storage handling and disposal areas, and emergency access and egress roads.
 - 4. The total number of persons permitted at the event, including performers, staff members and audience, which shall be determined by providing a net assembly area of at least 50 square feet per person in addition to providing at least 50 square feet per person in a separate camping area for 50 percent of the population.
 - 5. 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.
 - 6. A statement agreeing to complete all construction and installation of services and facilities, including water supply, toilet and hand washing facilities, sewage disposal, roads, food service equipment and refuse handling facilities, at least 48 hours prior to the commencement of the event.
 - 7. A detailed plan for food service, including a description of food sources, menu, mandatory use of single-service dishes and utensils, refrigeration, food handling and dispensing.
 - 8. A detailed plan for use of signs to locate all facilities and roadways.

9. A statement from local fire authorities having jurisdiction over the area verifying that the facilities available to such mass gathering are suitable to provide adequate fire safety, that they are aware of the event and are willing to cooperate if needed.
 10. A detailed plan for emergency situations, including:
 - i. food supplies;
 - ii. medical supplies, facilities and personal;
 - iii. an evacuation plan;
 - iv. emergency access roads.
 11. A statement from the local civil defense director indicating that he or she has been advised of the event and has approved the plan from a civil defense standpoint.
 12. A command post to be used by State Department of Health personnel or the permit-issuing official and his or her lawful representatives, or both, consisting of a minimum of one building or trailer equipped with a communication system satisfactory to the permit-issuing official.
 13. A statement that if adult mosquito and biting fly populations are found to be in excess of 15 specimens per trap/night, the applicant agrees to insure that proper adult mosquito control measures are instituted no earlier than 72 hours nor later than 48 hours before the advertised start of the gathering in order to reduce such populations to a satisfactory level.
 14. A detailed plan for elimination of noxious weeds 96 hours before commencement of the mass gathering.
 15. Detailed plans for security enforcement, including prevention of the unlawful use of alcohol, narcotics and dangerous drugs at the site, methods for limiting the use 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.
- (e) The location and construction of toilet and hand washing facilities designed to serve fully all reasonably anticipated requirements at a rate of no more than 100 persons per toilet seat and 750 persons per hand washing facilities, 50 percent of the male toilets to be urinals, and plans for construction and reports, including copies of all rental and service contracts, showing that the construction and operation constitute no threat of pollution to surface or underground water locations to be attached.
- (f) The location and construction of water supply facilities, designed to serve fully all reasonably anticipated requirements at a rate of one pint of potable water per person, per hour, for the maximum estimated hourly attendance. One tap and one drinking fountain shall be provided per 1,000 persons and shall be separately located with adequate soakage pits or drainage.

- (g) Detailed plans for internal storage and collection of refuse, including provisions for disposal and cleaning the property and immediate surrounding properties within 48 hours after the event.
- (h) Detailed plans for emergency first aid to serve fully all reasonably anticipated requirements. Such plans shall state the arrangements made with hospital and ambulances in the area, including names and locations, the numbers of doctors and nurses at the site and on call, and arrangements made with all other medical personnel and facilities, either at the site or on call.
- (i) Detailed plans for amplifying equipment designed to control the noise level at the perimeter of the site to no more than 75 decibels on the A scale of a sound-level meter, which meets the specifications of the American National Standards Institute.
- (j) Detailed plans for lighting designed to illuminate the public areas of the site at all times and demonstrating that the lighting will not reflect on any area beyond the boundary of said site.
- (k) A plan showing that the proposed activity is adequately buffered from all neighboring homes within 500 feet of the perimeter of the site.

SECTION 9: INSURANCE AND BOND REQUIREMENTS

- (a) 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 person or property within limits of not less than \$1,000,000/\$5,000,000 for bodily injury or death and limits of not less than \$1,000,000 for property damage, to save the Town harmless from any and all liability or cause of action which might arise by reason of the granting of the permit, which policy shall not be cancelable without ten (10) days prior written notice to the Town and which shall be in effect during the entire period of the mass gathering. Failure to keep such policy in effect will result in automatic revocation of the permit without hearing.
- (b) No permit shall be issued unless the applicant deposits with the Clerk of the Town of Volney cash or a bond with sufficient sureties approved by the Town Board, in such sum not less than one hundred thousand dollars (\$100,000.), as the Town Board may reasonably require, and conditioned that all requirements of the permit will be fully performed by the applicant, that no damage will be done to any public or private property and that the applicant will not permit any litter, debris or other refuse to remain upon any public or private property by reason of the granting of the permit. The cash shall be refunded or surety company bond canceled upon certification of the Town of Volney Town Board that all conditions of this law have been complied with. The surety bond or cash shall serve as an indemnity to save and protect the roads, pavements, bridges, road signs and other property of the Town of Volney, the County of Oswego and any other Town and Village within the County from any and all damage that may be caused by vehicles, employees or participants in the event, to be used to restore the ground where the event is held to a sanitary condition and to pay all charges and losses to the Town of Volney and the County of Oswego and it's respective towns and villages from damages

to roads, pavements, bridges and other property.

SECTION 10: PROOF OF FINANCIAL RESOURCES

The applicant shall submit a statement of financial resources, prepared by a certified public accountant, showing finances sufficient to execute the plans as submitted.

SECTION 11: ADDITIONAL DUTIES OF A PERMITTEE FOR A MASS GATHERING

- (a) The site shall be provided with a network of interior roads to be kept clear at all times for service and emergency vehicles, and shall be serviced by access roads which will permit an adequate flow of traffic and ensure the free passage of emergency vehicles.
- (b) Each person attending the mass gathering shall be provided with a site map showing the location of all facilities, and adequate signs shall be provided locating all facilities.
- (c) A separate overnight camping area or areas shall be provided.
- (d) Adequate light for toilet areas, service areas and walkways shall be provided.
- (e) The operator of a mass gathering shall prohibit storage of flammable or volatile liquids or materials in or adjacent to the area of the gathering.
- (f) The permittee shall provide the services and facilities outlined in the permit application and approved by the Town Board.
- (g) The permittee shall provide such emergency health-care services and facilities as may be required under applicable provisions of the State Sanitary Code.
- (h) Each permittee will notify the County Health Department of any proposed mass gathering and will submit to a pre-operational inspection by the County Health Commissioner.
- (i) Children under 16 years of age not accompanied by an adult at a mass gathering shall be provided with adequate and competent adult supervision, such supervision to be provided by the permittee and exercised by a supervisor or supervisors present on the property.
- (j) Satisfactory arrangements shall be made to assure adequate medical and nursing supervision and care at the site of any mass gathering.
- (k) The person to whom a permit to operate or hold a mass gathering has been issued shall provide an individual who is acceptable to the permit-issuing official as suitable and responsible, to be in charge of the property and who shall be on or available to the property during reasonable hours of the day while the property is occupied or open for occupancy.
- (l) A person to whom any permit is issued shall comply with the provisions of this local law and with all conditions stated in the permit, and shall allow the permit-issuing official

or his representative to enter the premises at any reasonable time to ascertain compliance with this local law.

- (m) A maintenance and security staff of one maintenance employee for every 400 persons in attendance and security staff of two persons for every 250 persons in attendance at any mass gathering shall be provided to assure proper operation of all facilities. The maintenance and security staff shall be on hand for the duration of the event.
- (n) No permittee will sell, or offer for sale, nor allow any other person to sell, or offer for sale, any alcoholic beverages other than beer or wine upon the premises designed in the permit application during the time period delineated for such mass gathering.
- (o) Each permittee shall provide for the removal of any temporary structures erected for use during such mass gathering within 48 hours after the time specified in the permit application for termination of such mass gathering. Nothing contained in this subsection will relieve any party from the requirements of any other law regulating construction of such temporary structures.
- (p) No permittee will allow any person to possess any firearm on the premises of such mass gathering other than a policeman or peace officer otherwise authorized to possess firearms.

SECTION 12: FEES

Each application shall be accompanied by a fee at the time of its submission. The fee shall be compensation to the Town for its examination and processing of such application and shall not be refundable in whole or in part. The amount of the application fee shall be set from time to time by the Town Board. In addition, there is a gross receipts charge of 3% of all sales at the event, including admission fees.

SECTION 13: ENFORCEMENT AND PENALTIES

- (a) Any person who shall use, allow, let or permit to be used property for a mass assembly as defined herein, or any person who shall promote or advertise such mass assembly without first obtaining such mass assembly without first obtaining a permit in accordance with the provisions of this local law, shall be deemed to have violated this local law. Any person who commits or permits any act in violation of any provisions of this local law shall be deemed to have committed a misdemeanor and shall be liable for the penalties provided.
- (b) For each violation of the provisions of this local law, the person violating the same shall be subject to a fine of not more than \$5,000 nor less than \$1,000 or imprisonment not to exceed one (1) year, or both.
- (c) In addition to the above-provided penalties, the Town may 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, this local law.

SECTION 14 – SEPARABILITY

Each separate provision of this local law shall be deemed independent of all other provisions herein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

SECTION 15 - REPEALER

This Local Law shall supersede all prior local laws, ordinances, rules and regulations relative to mass gatherings in the Town of Volney and any prior such laws, including Local Law No. 5 of 1994, shall be, upon the effectiveness of this local law, null and void.

SECTION 16 – SAVE HARMLESS CLAUSE

The Town of Volney, its officials and employees shall not be held responsible for any claim, loss, damage, suit, or judgment that is the result of an unintentional nonperformance or misperformance of any of its corporate obligations or duties.

SECTION 17: SEVERABILITY

Should any section or provision of this local law be declared by any Court to be unconstitutional or invalid, such declaration shall not affect the validity of this local law as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

SECTION 18 EFFECTIVE DATE

This local law shall become effective immediately.

SECTION 19: CONSTRUCTION

The provisions of this local law shall be in addition to and not in lieu of nor construed to be in conflict with the provisions contained in Section 225 of the Public Health Law or Section 7-1.40 through 7-1.44 of Chapter 1 of the New York State Sanitary Code.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designation as local law No. 3 of 2015 of the (County)(City)(Town)(Village) of Volney was duly passed by the Town Board on July 16, 2015 in accordance with the applicable provisions of law.

2. ~~(Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____
(Name of Legislative Body)
(repassed after disapproval) by the _____ and was deemed duly adopted
(Elective Chief Executive Officer*)
on _____ 20____, in accordance with the applicable provisions of law.

3. ~~(Final adoption by referendum.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____
(Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20____. Such
(Elective Chief Executive Officer*)
local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. ~~(Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____
(Name of Legislative Body)
(repassed after disapproval) by the _____ on _____ 20____. Such
(Elective Chief Executive Officer*)
local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provision of law.

Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors of the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Barbara A MacEwen
BARBARA A. MacEWEN, Town Clerk

Date: 7-22-15

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF OSWEGO

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceeding have been had or taken for the enactment of the local law annexed hereto.

Alicia J. Nelson
Signature
Town Attorney
Title

County
City
of Volney
Town
Village

Date: 7/27/15