

4.13 PUBLIC ASSEMBLAGE ORDINANCE

WHEREAS, the Douglas County Board of Supervisors having reviewed the Municipal Code regulations pertaining to public assemblage and having experienced the occurrence of assemblies within the County drawing large numbers of people, and creating traffic and parking congestion, and otherwise causing a spillage and encroachment onto and into the area surrounding the event; and

WHEREAS, the County Board of Supervisors having found and determined that further regulation of such public assemblage is necessary in order that the health, safety and welfare of all persons in the County, residents and visitors alike, may be protected; and

WHEREAS, the Douglas County Board of Supervisors having considered the nature and purpose of public assemblage and having found and determined that public assemblage regulated herein, does not include assemblages organized to consult for the common good; petition the government; exercise worship or religion; or demonstrate as a public display of sentiment for or against a person or cause for the purposes of speech making or address; such activities being protected by the First and Fourteenth Amendments to the United States Constitution, and the Wisconsin Constitution, Article 1, Sections 3, 14 and 18, such protected rights and activities not being governed by such proposed regulations.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF DOUGLAS DOES ORDAIN AS FOLLOWS:

That Ordinance #4.13 of the Douglas County Code of Ordinances is hereby repealed and re-created to read:

SECTION I. INTENT

A. It is the purpose of the Douglas County Board of Supervisors to regulate the assemblage of large numbers of people in excess of those normally needing the health, sanitary, fire, law enforcement, transportation and utility services regularly provided in Douglas County, in order that the health, safety and welfare of all persons in Douglas County, residents and visitors alike, may be protected.

B. It is the intent of the Douglas County Board of Supervisors that all sections and provisions of this Ordinance have an independent existence and, should any section or provision be declared invalid or unconstitutional by a court of competent jurisdiction, it is the intent of the Douglas County Board of Supervisors that any section or provision so declared shall be severable from and shall not affect the validity of the remainder of the Ordinance.

SECTION II. PURPOSE

The purpose of this section is to provide reasonable regulations for assemblage in order to protect the public health, safety and welfare from the potential adverse effects which may arise from such assemblies, upon premises not regularly used for or developed to regularly accommodate such events or gatherings. Such regulations are intended to protect against: traffic congestion; the overcrowding of lands; the potential for fires, explosion, riot, disorder or other dangers to persons or property; the diversion of public health, safety and emergency services from regular necessary duties; the additional cost to the community of providing public services necessary to protect the public health, safety and welfare arising from such temporary assemblies; to promote the preservation of public peace and order; and the furtherance of sanitation and the safeguarding of the public health.

SECTION III. DEFINITIONS

As used in this legislation:

A. "Public Assemblage" or "Assembly" means a temporary gathering of persons assembled together at any location at a single time, which is open to the general public and organized, produced or sponsored by a person or persons; is not ordinarily conducted on a daily or regular normal average use basis as a lawful use of the premises upon which such event is to occur; cannot be held completely within the confines of a building(s) on such premises; and for which event the number of persons attending will at any time exceed the maximum occupancy of the building(s) on the property or will substantially exceed the normal patronage and traffic otherwise attending such premises. Such assemblies include, but are not limited to, festivals, carnivals, athletic or contest tournaments, picnics and fairs.

B. "Person" means any individual natural human being, partnership, corporation, firm, company, association, society or group.

SECTION IV. LICENSE REQUIRED

A. No person shall permit, maintain, promote, conduct, advertise, undertake, organize, manage, or sell or give tickets to an assembly of 1,000 or more people, which continues for 6 or more consecutive hours and shall occur between the hours of noon and midnight, whether on public or private property, unless a license to hold the assembly has first been issued by the Douglas County Board of Supervisors, application for which must be made at least 90 days in advance of the assembly. A license to hold an assembly issued to one person shall permit any person to engage in any lawful activity in connection with the holding of the licensed assembly.

B. A separate license shall be required for each day and each location in which 1,000 or more people assemble; each separate license shall require payment of a separate license fee.

C. An assembly license shall specify the maximum peak number of people to attend the assembly. The licensee shall not sell tickets to nor permit to assemble at the license location more people at any time than as is specified in the license. Any tickets sold or advertisement made prior to the grant of a license under this section and the satisfaction of all conditions of such license shall include therein in like medium, a statement that "the occurrence of the [assembly] remains subject to the approval of Douglas County".

D. The license shall not permit sound to carry unreasonably beyond the enclosed boundaries of the location of the assembly.

E. Any permit issued under this section shall specify the days upon which the event shall occur. Such permit shall also specify the hours during which pre-event setup and post-event takedown operations may occur and no such operations may be conducted other than as so specified.

SECTION V. CONDITIONS FOR ISSUING LICENSE

Before an applicant may be issued a license the applicant shall first:

A. Determine the maximum number of people which will be assembled or admitted to the location of the assembly, provided that the maximum number shall not exceed the maximum number which can reasonably assemble at the location of the assembly, and provided that where the assembly is to continue overnight the maximum number shall not be more than is allowed to sleep within the boundaries of the location of the assembly by the zoning or health ordinances of the county and municipality where the event is located; and

B. Provide proof that the applicant will furnish at his or her own expense before the assembly commences:

1. A fence completely enclosing the proposed location, of sufficient height and strength to prevent people in excess of the maximum permissible number from gaining access to the assembly grounds, which shall have at least four gates, at least one at or near four opposite points of the compass;
2. Potable water, meeting all federal and state requirements for purity, sufficient to provide drinking water for the maximum number of people to be assembled at the rate of at least one gallon per person per day and water for bathing at the rate of at least 10 gallons per person per day;
3. Separate enclosed toilets for males and females, meeting all state and local specifications, conveniently located throughout the grounds, sufficient to provide facilities for the maximum number of people to be assembled at the rate of at least one toilet for every 150 females and at least one toilet for every 300 males

together with an efficient, sanitary means of disposing of waste matter deposited, which is in compliance with all state and local laws and regulations; a lavatory with running water under pressure and a continuous supply of soap and paper towels shall be provided with each toilet;

4. A sanitary method of disposing of solid waste, in compliance with state and local laws and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least 2.5 lbs. of solid waste per person per day, together with a plan for holding and a plan for collecting all such waste at least once each day of the assembly and sufficient trash cans with tight fitting lids and personnel to perform the task;
5. Paramedics and/or Emergency Medical Technicians (EMT) to provide the average medical care enjoyed by residents of Wisconsin for the maximum number of people to be assembled at the rate of at least one Paramedic/EMT for every 800 people, together with an enclosed covered structure where treatment may be rendered, containing a separately enclosed treatment room and at least one emergency ambulance available for use at all times; treatment room may be mobile and ambulance must be within ten (10) minutes away;
6. If the assembly is to be continued during hours of darkness, illumination sufficient to light the entire area of the assembly at the rate of at least five foot candles, but not to shine unreasonably beyond the boundaries of the enclosed location of the assembly;
7. A free parking area inside of the assembly grounds sufficient to provide off-street parking space for the maximum number of people to be assembled at the rate of at least one parking space for every four persons. Such parking areas shall be specified within the application and shall be located upon the assembly premises; upon separate premises within 1000 feet of the assembly premises. All temporary parking facilities shall be maintained free of dust or mud and all dirt or mud tracked onto the public right-of-way shall be cleared and removed within 2 hours following the close of the event on any day. The Sheriff's Department shall post temporary parking-related regulations on public streets for assemblies only if determined necessary by the Sheriff for public traffic safety or as may be directed by the Board of Supervisors within the license approval process;
8. A minimum of one working emergency telephone;
9. If the assembly is to continue overnight, camping facilities in compliance with all state and local requirements as set forth in the Wisconsin Administrative Code and ordinances of Douglas County, sufficient to provide camping accommodations for the maximum number of people to be assembled;

10. Security guards, must be duly sworn, off-duty Wisconsin peace officers licensed in Wisconsin, sufficient to provide adequate security for the maximum number of people to be assembled with a minimum of 3 law enforcement officers, and at the rate of at least 1 additional officer for every 500 people over 1000, as set forth in the license;
11. Fire protection, including alarms, extinguishing devices and fire lanes and escapes, sufficient to meet all state and local standards for the location of the assembly as set forth in the Wisconsin Administrative Code and Ordinances of Douglas County, and sufficient emergency personnel to efficiently operate the required equipment;
12. All reasonably necessary precautions to insure that the sound of the assembly will not carry unreasonably beyond the enclosed boundaries of the location of the assembly. The sound level at the property line of the assembly shall not exceed 70 decibels on the A scale slow response, to be determined by a qualified law enforcement officer;
13. A bond, filed with the County Clerk of Douglas County, either in cash or underwritten by a surety company licensed to do business in Wisconsin in the amount of \$10,000 per day, which shall indemnify and hold harmless Douglas County or any of its agents, officers, servants and employees from any liability or causes of action which might arise by reason of granting this license, and from any cost incurred in cleaning up any waste material produced or left by the assembly.
14. Compliance with Other Code Provisions. No assembly shall occur unless all other necessary municipal permits, licenses and approvals applicable to the assembly activities have been granted and any license granted under this subsection shall be conditioned upon the licensee obtaining all such other licenses, permits and approvals.

SECTION VI. APPLICATION

A. Application for a license to hold an assembly of 1,000 or more persons shall be made in writing to the Douglas County Board of Supervisors at least 90 days in advance of such assembly.

B. The application shall contain a statement made upon oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and shall be signed and sworn to or affirmed by the person making application. In the case of a corporation, by all officers; in the case of a partnership, by all partners; or by all officers of an unincorporated association, society or group or, if no officers, by all members of such association, society or group.

- C. The application shall contain and disclose:
1. The name, address and home and business telephone numbers of the authorized representative of the applicant who shall be responsible for the conduct of the assembly and available to Douglas County at all times for all communications and necessary contacts;
 2. The name, age, residence, telephone number and mailing address of all persons required to sign the application by this section and, in the case of a corporation, a certified copy of the articles of incorporation together with the name, age, residence and mailing address of each person holding 10% or more of the stock of said corporation;
 3. The address and legal description of all property upon which the assembly is to be held together with the name, residence and mailing address of the record owner(s) of all such property;
 4. Proof of ownership of all property upon which the assembly is to be held or a statement made upon oath or affirmation by the record owner(s) of all such property that the applicant has permission to use such property for an assembly of 1,000 or more persons;
 5. The nature or purpose of the assembly;
 6. The total number of days and/or hours during which the assembly is to last, including setup and takedown operations;
 7. The maximum number of persons which the applicant shall permit to assemble at any time, not to exceed the maximum number which can reasonably assemble at the location of the assembly, in consideration of the nature of the assembly, or the maximum number of persons allowed to sleep within the boundaries of Douglas County if the assembly is to continue overnight;
 8. The maximum number of tickets to be sold, if any;
 9. The plans of the applicant to limit the maximum number of people permitted to assemble;
 10. The plans for fencing the location of the assembly and the gates contained in such fence;
 11. The plans for supplying potable water including the source, amount available and location of outlets;

12. The plans for providing toilet and lavatory facilities including the source number and location, type, and the means of disposing of waste deposited;
13. The plans for holding, collection, and disposing of solid waste material;
14. The plans to provide for medical facilities including the location and construction of a medical structure, the names and addresses and hours of availability of physicians and nurses, and provisions for emergency ambulance service;
15. The plans, if any, to illuminate the location of the assembly including the source and amount of power and the location of lamps;
16. The plans for parking vehicles including size and location of lots, points of highway access and interior roads including routes between highway access and interior roads including routes between highway access and parking lots;
17. The plans for telephone service including the source, number and location of telephones;
18. The plans for camping facilities, if any, including facilities available and their location;
19. The plans for security including the number of guards, their deployment, and their names, addresses, credentials and hours of availability;
20. The plans for fire protection including the number, type and location of all protective devices including alarms and extinguishers, and the number of emergency fire personnel available to operate the equipment.
21. The plans for sound control and sound amplification, if any, including number, location and power of amplifiers and speakers;
22. The plans for food concessions and concessioners who will be allowed to operate on the grounds including the types and number of vendors and their license or permit numbers;
23. The plans and specific description for each of any other type of vendor or amusement or entertainment provider who will be allowed to operate on the grounds, including the names and addresses of all such vendors and their license or permit numbers, if any.

D. The application shall include the bond required herein, and a nonrefundable license administration and review fee to Douglas County in the amount of \$100.00. In addition, an assembly

licensee shall be responsible for and pay to Douglas County a fee for all law enforcement and fire services provided by Douglas County for the assembly. Such law enforcement and fire services assembly fee shall not exceed the actual cost of providing the services. Such fee shall be paid to Douglas County by the licensee within 10 days of the date of itemized invoice for same prepared by Douglas County subsequent to the assembly. Prior to any Board of Supervisors approval of an assembly license, the Sheriff and Fire Chief of the municipality where the event is located shall review the application and report to the Board of Supervisors their respective findings as to the reasonable estimates of the costs of providing law enforcement and fire services reasonably required by the assembly. The licensee shall provide the Sheriff and chief with all information necessary to determine the level of services required. After reviewing such reports, upon which the applicant may be heard, the Board of Supervisors shall specify as a condition of the license, that the applicant deposit with Douglas County security in the form of a bond, letter of credit or cash deposit, in form approved by Douglas County Attorney in an amount determined to be sufficient to guarantee payment for the anticipated cost of providing such assembly law enforcement and fire services. Such security deposit shall be made by the licensee no later than 10 days prior to the assembly. Such security deposit shall entitle Douglas County to draw upon same forthwith upon any default in payment by the licensee after services invoice, with any remaining balance of any cash deposit to be returned to the licensee. Any determined deficiency for such service fees beyond the security deposit shall be a debt of the licensee to Douglas County, collectible by Douglas County in an action at law, which shall also entitle Douglas County to all costs of collection, including attorney fees and further, shall also constitute a lien against the assembly premises to be placed upon the tax roll for such premises. If the Public Health Officer reports the need for an extra (non-staff) registered sanitarian for the assembly, the above terms and provisions pertaining to law enforcement and fire services and costs shall likewise apply to such extra sanitarian services and costs.

SECTION VII. APPROVAL OR DENIAL OF APPLICATION.

A. Upon receipt of a completed application, the County Clerk shall submit the application for review to the Board of Supervisors, which shall approve, conditionally approve or deny the license within 45 working days of its filing. The Board of Supervisors shall have the authority to modify the time and place or specified activities of an assembly to facilitate crowd control in the interests of relieving congestion and promoting public safety. The Board of Supervisors shall issue the license if it complies with all terms and provisions of this section.

B. Grounds for denial of the application shall include:

1. Any false or misleading statements set forth upon the application.
2. The assembly is of such a size or nature so as to require the diversion of so great a number of municipal law enforcement or fire services so as to deny reasonable law enforcement or fire services to Douglas County as a whole.

3. The time, size and nature of the assembly would unduly disrupt the safe and orderly use of any street or public place or material portion thereof, which is ordinarily subject to congestion or traffic at the proposed time or substantially interrupts the safe and orderly movement of traffic.
4. The vehicles, temporary structures, sanitary facilities, tents, equipment or other materials used in the assembly do not comply with or meet all applicable health, fire or safety requirements.
5. The assembly will interfere or conflict with another assembly for which an application had been previously filed or with a construction or public works project.
6. The conduct of the assembly will be contrary to law, including noise regulations.
7. Either the applicant or a proposed assembly were previously licensed for a prior assembly under this section and violated any term of this section while operating under such license.

SECTION VIII. APPEAL OF APPLICATION DENIAL.

Any applicant who has been denied an assembly license may, upon written request within 5 days of denial, have the denial reviewed by the Circuit Court Judge, who shall either affirm or reverse the initial action on the application. Such determination by the Circuit Court Judge shall constitute final action. If the Circuit Court Judge is unable to hear the matter prior to the proposed date of the assembly, the applicant may seek judicial review of the denial.

SECTION IX. EXEMPTIONS.

This legislation shall not apply to:

A. Any regularly established place of worship, stadium, athletic field, arena, auditorium, coliseum or other permanently established place of assembly for assemblies for which the number of persons attending will not exceed by more than 250 people the maximum seating capacity of the structure where the assembly is held.

B. This legislation shall not apply to government sponsored fairs held on regularly established fairgrounds or to assemblies required to be licensed by other ordinances, resolutions and regulations of Douglas County.

C. Assemblies sponsored by Douglas County or occurring upon public property and otherwise authorized or regulated by this Municipal Code, such assemblies being otherwise subject to governmental control to effectuate the purposes of this section.

SECTION X. REVOCAATION

The license may be revoked by the Douglas County Board of Supervisors at any time if any of the conditions necessary for the issuing of or contained in the license are not complied with, or if any conditions previously met ceases to be complied with.

SECTION XI. INDEMNITY.

The assembly license application shall contain a statement that: "The applicant agrees to indemnify and save harmless Douglas County from and against all liabilities, claims, demands, judgments, losses and all suits at law or in equity, costs and expenses, including reasonable attorney fees, for injury or death of any person or loss or damage to the property of any person, firm, organization or corporation, arising in any way as a consequence of the granting of a license for an assembly." No license may be issued unless the applicant has agreed to the terms of this statement on the written application.

SECTION XII. INSURANCE.

Each applicant for a public assemblage license shall furnish to Douglas County, no later than 10 days prior to the assembly, a

certificate of insurance written by a company licensed in the State of Wisconsin, approved by the Douglas County Corporation Counsel, and covering any and all liability or obligations which may result from the operations by the applicant's employees, agents, contractors or subcontractors, and including workers' compensation coverage in accordance with ch. 101, Wis. Stats. The certificate shall provide that the company will furnish Douglas County with a 10-day prior written notice of cancellation, nonrenewal or material change. The insurance shall be written in comprehensive form and shall protect the applicant and Douglas County against any claims arising from injuries to members of the public or damage to property of others arising out of any act or omission of the applicant, its employees, agents, contractors and subcontractors. The policy of insurance shall provide minimum combined single limits for bodily injury and property damage of at least \$1,000,000.00 per person/aggregate.

SECTION XIII. ENFORCEMENT

A. The provisions of this ordinance may be enforced by way of injunctive relief and all other remedies available at law and in equity in any court of competent jurisdiction.

B. The holding of an assembly in violation of any provision or condition contained in this ordinance shall be deemed a public nuisance and may be abated as such.

C. Any person who violates any provision of this section, or who violates any condition upon which s/he is granted a license shall be subject to a forfeiture of not less than \$1,000.00 nor more than \$10,000.00. Each day of violation shall be considered a separate offense.

SECTION XIV. SEVERABILITY

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION XV. PREVIOUS INCONSISTENT ORDINANCES

All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION XVI. EFFECTIVE DATE

This ordinance shall take effect and be in force from and after its passage and publication.

Dated this 15th day of May, 2003