TOWN OF FRYEBURG
MASS GATHERING ORDINANCE

ARTICLE I. TITLE, PURPOSE, AUTHORITY, AND DEFINITIONS

Section 1. Title

This Ordinance shall be known and may be cited as the Mass Gathering Ordinance of the Town of Fryeburg, Maine.

Section 2. Purpose

The purpose of this Ordinance is to control the issuance of permits for mass gatherings within the Town of Fryeburg, Maine and to prevent tumultuous conduct, riots, unnecessary noise, nuisances, unsanitary conditions, public indecency, or uncontrolled gatherings which may constitute a threat to public health, safety, or welfare within the Town of Fryeburg.

Section 3. Applicability

No person, corporation, association or group of any kind shall sponsor, promote or conduct a mass gathering, as defined, or make one's property available for a mass gathering by lease, contract, or otherwise within the Town of Fryeburg, until a permit has been obtained from the municipal officers of the Town of Fryeburg. Mass gatherings may consist of, but not be limited to: festivals, concerts, exhibitions, social gatherings, meetings, and entertainment. Land Use Authorization by the Planning Board for a specific use does not negate the necessity for a Mass Gathering Permit if the use results in the creation of a mass gathering.

The following events are exempt from this ordinance:

A. Agricultural fairs and exhibitions licensed by the State of Maine pursuant to Title 7 MRSA §81, as well as the normal and usual accessory camping activities utilized during the Fryeburg Fair.
B. Normal and usual school activities, including athletic events, taking place on school grounds sponsored by Fryeburg Academy or MSAD 72.
C. Outdoor events and festivals sponsored and under the direct supervision of the Town of Fryeburg.

Section 4. Authority

This Ordinance is enacted under the authority granted by Title 22-A MRSA §1601-1607 and Title 30-A MRSA §3001, as amended.

Section 5. Definitions

Continuous Mass Gathering: A mass gathering, major or minor, lasting for more than 24 hours or occurring on more than 1 occasion within a 6 month period.

Major Mass Gathering: Any gathering, attracting, or intending to attract, a continued audience or congregation of participants of 1000 or more persons for 1 hour or more.

Minor Mass Gathering: Any gathering, attracting, or intending to attract, a continued audience or congregation of participants of 500 participants but fewer than 1000 persons for 1 hour or more.

Operator: The person or group responsible for managing the mass gathering.

Performance Guarantee: An irrevocable letter of credit from a banking institution authorized to do business in Maine, cash escrow, or other financial guarantee acceptable to the Town Manager, in an amount set by the Town Manager or Board of Selectmen.

ARTICLE II. APPLICATION PROCEDURE, STANDARDS, AND OFFENSES

Section 1. Permit Application Procedure - Minor Mass Gathering

Applications for all minor mass gathering permits shall be made in writing to the Town Manager on the application obtained from the Town and shall include the following information:

- The name of the applicant
- The name and address where the mass gathering will occur
- The name, address, and phone number of the property owner
- The name, address, and phone number of the mass gathering operator
- A detailed description of the nature of the mass gathering, including a specific description of any entertainment to be offered, the location to be used, and the times of operation
- A descriptive statement about how each of the Review Standards in Section 3, below, will be met
- A plan showing the internal vehicular circulation within the mass gathering area
- Proof of the applicants liability insurance
- Any additional information to support the request for the permit
- Any additional information as may be needed by the Town Manager in the issuing of the permit

The applicant shall submit 7 copies of the application and all other related and required information to the Town Clerk not less than 45 days before the proposed event. Upon

receipt the Town Clerk will forward copies of the application to the Town Manger, as well as the Fire Chief, Police Chief, Rescue Chief, Public Works Director, and Code Enforcement Officer for review and comment. Comments from those people should be given to the Town Manager within 10 days of receipt.

The non-refundable fee for a minor mass gathering permit shall be $50.00. A minor continuous gathering shall require a fee of $200.00 every 6 months. The Town Manager may consider waiving the application fee for non-profit organizations.

No permit shall be issued for any thing, or act, or premises, if the premises and any buildings to be used for the mass gathering do not fully comply with all ordinances, articles, by-laws, or rules and regulations of the Town of Fryeburg and State of Maine.

The Town Manager shall grant a permit unless it is found that issuance of the permit will be detrimental to the public health, safety or welfare, or would violate municipal ordinances, or rules and regulations, articles or bylaws. The Town Manager will consider and use the review standards listed in Section 3 below as guidance when reviewing an application for a minor mass gathering and may waive any specific standards. The Town Manger may impose conditions to approvals to safe guard the public interest. The Town Manager shall notify the applicant of the decision in writing within 30 days of receipt of the application.

The Town Manager may also require the applicant to post a performance guarantee or bond in an amount reasonably necessary to ensure prompt payment for all damages caused by any attendee or employee to public and private property resulting from or in connection with the mass gathering. Promptly following the mass gathering the Town shall release the performance guarantee if the operator pays all clean up and public costs within 10 working days after the mass gathering.

Section 2. Permit Application Procedure – Major Mass Gathering

Applications for all major mass gathering permits shall be made in writing to the Board of Selectmen on the application obtained from the Town and shall include the following information:

- The name of the applicant
- The name and address where the mass gathering will occur
- The name, address, and phone number of the property owner
- The name, address, and phone number of the mass gathering operator
- A detailed description of the nature of the mass gathering, including a specific description of any entertainment to be offered, the location to be used, and the times of operation
- A descriptive statement about how each of the Review Standards in Section 3, below, will be met
- A plan showing the internal vehicular circulation within the mass gathering area
- Proof of the applicants liability insurance
- Any additional information to support the request for the permit

- Any additional information as may be needed by the Board of Selectmen in the issuing of the permit

The applicant shall submit 10 copies of the application and all other related and required information to the Town Clerk not less than 45 days before the proposed event. Upon receipt the Town Clerk will forward copies of the application to the Board of Selectmen, as well as the Town Manager, Fire Chief, Police Chief, Rescue Chief, Public Works Director, and Code Enforcement Officer for review and comment. Comments from those people should be given to the Board of Selectmen prior to the public hearing.

The non-refundable fee for a major mass gathering permit shall be $250.00. A continuous gathering shall require a fee of $1000.00 every 6 months. The Selectmen may consider waiving the application fee for non-profit organizations.

The Board of Selectmen shall, prior to granting a permit and after reasonable notice to the public and the applicant, hold a public hearing within 30 days of the date the request was received, at which the testimony of the applicant and that of any interested member of the public shall be taken.

No permit shall be issued for any thing, or act, or premises, if the premises and any buildings to be used for the mass gathering do not fully comply with all ordinances, articles, by-laws, or rules and regulations of the Town of Fryeburg and the State of Maine.

The Board of Selectmen shall grant a permit unless they find that issuance of the permit will be detrimental to the public health, safety or welfare, or would violate municipal ordinances, or rules and regulations, articles or bylaws. The Board may impose conditions to approvals to safe guard the public interest or waive any specific review standards listed in Section 3, below. The Board shall notify the applicant of its decision in writing within 30 days of receipt of the application.

The Board of Selectmen may also require the applicant to post a performance guarantee or bond in an amount reasonably necessary to ensure prompt payment for all damages caused by any attendee or employee to public and private property resulting from or in connection with the mass gathering. Promptly following the mass gathering the Town shall release the performance guarantee if the operator pays all clean up and public costs within 10 working days after the mass gathering.

Section 3. Review Standards

A. Premises and Facility Safety:

The premises and facility at which the mass gathering will occur shall be of sufficient size and appropriate layout so as to minimize risk or danger to employees, performers, customers, or the public. The Board may require inspections and/or certification as to the safety by the Code Enforcement Officer, Fire Department, Police Department, and other public safety departments as appropriate.

The Board should consider requiring at least 20 square feet of useable area per person at the site for daytime gatherings and at least 40 square feet per person for overnight gatherings.

Trees, underbrush, large rocks, and other natural features shall be left intact and undisturbed whenever possible and natural vegetative cover will be retained, protected and maintained so far as possible to maintain the scenic attributes of the property.

Adequate lighting shall be provided to protect the safety of the persons at the gathering. The lighting shall not unreasonably reflect beyond the property boundaries unless the adjacent properties are uninhabited.

The electrical system or equipment serving the mass gathering shall comply with applicable state standards and regulations.

B. Vehicular Ingress and Egress to Facility and On-site Parking:

The premises and facility at which the mass gathering will occur shall provide for safe ingress and egress for vehicles, with regard to the general public's use of any public right of way. Internal and external traffic and security control shall meet the requirements of the applicable State and local law enforcement agencies.

The Board shall, in their review of the plan showing the proposed internal vehicular circulation, consider requiring internal service roads to be at least 24 feet wide to allow for the safe passage of emergency vehicles.

The premises shall provide adequate onsite parking of at least 1 parking space for every 4 persons.

If off-site parking is proposed, the applicant must provide a statement from the landowner acknowledging and approving the use of their property for parking, and a plan stating or depicting the mode and routes of travel which will be utilized by attendees to get to the mass gathering area. The off-site parking premises shall provide adequate off-street parking of at least 1 parking space for every 4 persons.

C. Security:

The operator shall make satisfactory provisions to assure the avoidance of any breach of the peace or disorderly conduct. The applicant shall provide a plan for addressing crowd control, particularly at a general admission event, and an evacuation plan of the mass gathering area in the event of a natural disaster or other civil emergency.

The Board may require, at their discretion, demonstration of advance arrangements for special police duty and/or private security firms, as well as fire and/or rescue personnel. The Board should consider requiring 1 certified police

officer present for each 500 people and 1 security officer present for each 500 people, at the expense of the applicant.

Measures shall be taken to follow and abide by all local, state and federal statues and ordinances and to exclude minors from any entertainment activity from which they are barred by statue.

D. Noise and Hours of Operation:

The sound of the mass gathering shall not carry unreasonably beyond the boundaries of the mass gathering area. The noise levels at the property lines or the boundaries of a one time mass gathering shall not exceed 70 decibels unless the mass gathering is remotely located and the surrounding adjacent properties are uninhabited. The noise levels at the property lines or the boundaries of a continuous mass gathering shall not exceed the noise levels permitted in Section 16. H. of the Town of Fryeburg Land Use Ordinance.

The hours of operation for a mass gathering will be determined at the Selectmen's discretion but should be designed so as to not cause unreasonable disruption to the normal pattern of activities in the neighborhood.

E. Water Supply:

There shall be adequate and satisfactory water supply facilities at the mass gathering area.

F. Refuse Disposal:

There shall be adequate refuse storage and disposal facilities. At least one 50 gallon refuse container or its equivalent shall be provided for each 100 anticipated attendees. All refuse shall be gathered from the mass gathering area at least once every 12 hours of the gathering and disposed of in an approved manner. Areas where vehicles are parked shall have 1 refuse container for each 25 parked vehicles. Efforts should be made to also include containers for recycling purposes.

The mass gathering area and immediate surrounding property shall be cleaned of refuse within 24 hours following a mass gathering.

G. Sanitary Facilities:

There shall be adequate sanitary waste disposal facilities available. The facilities shall be conveniently accessible and well identified. Toilets shall be provided at a rate of one for each 150 persons present at the mass gathering.

H. Medical Facilities:

The operator of the mass gathering shall contact area hospitals and advise them that a mass gathering will be held and the approximate number of people attending. A telephone or other two-way electronic communication device shall be available.

The Board may require, at their discretion, demonstration of advance arrangements for rescue personnel and vehicles to be available onsite throughout the mass gathering as deemed necessary, at the expense of the applicant.

I. Alcoholic Beverages:

If alcoholic beverages are sold at the mass gathering, sale of alcoholic beverages shall be limited so that public safety and order will not be impaired. The sale of alcoholic beverages shall be in compliance with the laws of the State of Maine regulating sale and consumption, as well as the Town of Fryeburg Special Amusement Ordinance.

If alcoholic beverages are not sold onsite at a mass gathering, but are allowed to be consumed on a "B.Y.O.B" basis the operator of the mass gathering shall take precautions to not allow consumption of alcoholic beverages by a minor or a visibly intoxicated person.

J. Other Licenses and Permits:

The applicant must be in possession of all other necessary licenses, permits, and similar, as may be required by any other body, agency, or jurisdiction, including permits required under Title 22 MRSA §1601, as applicable. This includes the licenses and permits required by the State of Maine relating to the service of food.

Section 4 - Conduct Constituting Offenses by Licensees

A. Disorderly Conduct: The operator shall not knowingly allow anyone present at the mass gathering to disturb the peace of others, or act disorderly, offensive or hostile.

B. Riots: The operator shall not allow any activity which intends to promote a riot or disturbance.

C. Unnecessary Noise: The operator shall not allow for the making of noise which does not meet the standards set forth in Section 3.D, above.

D. Nuisances: The operator shall not allow mass gatherings to be conducted so that they constitute a nuisance as defined by the statues of the State of Maine.

E. Prostitution and Public Indecency: The operator shall not allow prostitution, public indecency, or any person to participate in lewd actions at the mass gathering.

F. Gambling: The operator shall not allow on any premises permitted for mass gatherings the use or occupancy thereof for gambling or games of chance as prohibited by the statues of the State of Maine or ordinances, articles, bylaws or rules and regulations of the Town of Fryeburg.

G. Failure to Meet Permit Conditions: The operator shall be required to comply with the conditions outlined within the permit and shall be required operate as described within the application upon which the approval for the mass gathering was granted.

ARTICLE III. ADMINISTRATION

Section 1. Inspections

A. Whenever inspections of the premises used for or in connection with the operation of a mass gathering which has obtained a mass gathering permit are provided for or required by ordinance or state law, or are reasonably necessary to secure compliance with any ordinance provision or state law it shall be the duty of the licensee, or the person in charge of the premises to be inspected, to admit any officer, official, or employee of the municipality authorized to make the inspection at any reasonable time that admission is requested. Whenever an analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance provision or state law, it shall be the duty of the licensee, or the person in charge of the premises, to give to any authorized officer, official or employee of the municipality requesting the same sufficient samples of the material or commodity for analysis.

B. In addition to any other penalty which may be provided, the Board of Selectmen may revoke the mass gathering permit of any licensee in the municipality who refuses to permit any such officer, official, or employee to make an inspection or take sufficient samples for analysis or who interferes with such officer, official or employee while in the performance of his duty. Provided, that no mass gathering permit shall be revoked unless written demand for the inspection or sample is made upon the licensee or person in charge of the premises, at the time it is sought to make the inspection.

Section 2. Suspension or Revocation of a Permit

The Board of Selectmen may, after a public hearing preceded by notice to the permit holder and public, suspend or revoke any mass gathering permit which has been issued under this Ordinance on grounds that the music, dancing, or entertainment so permitted constitutes a detriment to the public health, safety, welfare, or violates the terms of the permit or this Ordinance or any other municipal ordinance, articles, bylaws, or rules and regulations.

Section 3. Rules and Regulations

The Board of Selectmen is hereby authorized, after public notice and hearing, to establish written rules and regulations governing the issuance, suspension, and revocation of mass gathering permits, the types of entertainment or gathering permitted, and other limitations on these activities required to protect the public health and safety and welfare. These rules and regulations may specifically determine the location and size of permitted premises, the facilities that may be required for the permitted activities on those premises, and the hours during which the permitted activities are permitted. Such rules and regulations shall be additional to and consistent with all sections of this Ordinance.

Section 4. Permit and Appeal Procedures

A. Any licensee requesting a mass gathering permit from the Board of Selectmen shall be notified in writing of their decision no later than thirty (30) days from the date the request was received. In the event that an applicant is denied a permit, the applicant shall be provided with the reasons for the denial in writing. The applicant may not reapply for a permit within thirty (30) days after an application for a permit is denied.

B. Any licensee who has requested a permit and has been denied, or whose permit has been revoked or suspended, may appeal the decision to the Fryeburg Board of Appeals within thirty (30) days of the denial, suspension, or revocation. The Board of Appeals may grant or reinstate the permit if it finds that:

    1. The permitted activities would not constitute a detriment to the public health, safety or welfare, or violate the Town's ordinances or regulations; or
    2. The denial, revocation or suspension was arbitrary or capricious.

C. Appeals from decisions of the Board of Appeals shall be taken within thirty (30) days to the Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

ARTICLE IV PENALTY, SEPARABILITY & EFFECTIVE DATE

Section 1. Penalty

Whoever violates any of the provisions of this Ordinance shall be punished by a fine of not more than $500 for the first offense, and up to $5000 for each subsequent offense, to be recovered on complaint, to the use of the Town of Fryeburg. A violation of each individual standard above or any conditions of the permit shall constitute a separate violation. In addition the Town of Fryeburg shall be entitled to pursue equitable relief, including injunctive relief in enforcement of this ordinance. Any property owner allowing his property to be used for a mass gathering without a validly issued permit therefore shall be deemed a co-violator.

Section 2. Separability

The invalidity of any provision of this Ordinance shall not invalidate any other part.

Section 3. Effective Date

This ordinance shall become effective when adopted by a majority vote at Town Meeting. This ordinance specifically repeals the "Ordinance for Issuance of Special Permits for Mass Gatherings Pursuant to 22A MRSA 1601-1607", dated March 16, 1996.

Enacted: 2/24/2011

ATTEST: Theresa G. Shaw
TOWN CLERK