

## ORDINANCE NO. 4

### BERRIEN COUNTY MASS GATHERING ORDINANCE

---

#### **SECTION 1.0 – GENERAL PROVISIONS**

##### **1.001 – PURPOSE**

An ordinance to license, regulate and control, in the interest of the public health, safety and welfare, outdoor gatherings of persons in the excess of 1,000 in number, to provide penalties for violations thereof and to repeal all ordinances or parts of ordinances inconsistent therewith.

##### **1.002 – PREAMBLE**

The Board of Commissioners of Berrien County finds and declares that the interests of the public health, safety and welfare of the citizens of Berrien County require the regulation, licensing and control of mass gatherings of large numbers of people in excess of those normally drawing upon the health, sanitation, fire, police, transportation, utility and other public services regularly provided in this County.

##### **1.003 – DEFINITIONS**

The following words and terms, when used in this Ordinance, shall have the following meanings unless the context clearly indicates otherwise:

- a. “**APPROVED**” shall mean any construction or procedure of operation which is in accordance with the established regulations of the Berrien County Health Department and applicable provisions of general, state or local law, or regulations established pursuant thereto.
- b. “**ATTENDANT**” shall mean any person who obtains admission to an outdoor assembly by the payment of money or by the rendering of services in lieu of the payment of money for admission.
- c. “**COMMUNICABLE DISEASE**” shall mean an illness due to an infectious agent, or its toxic products, which is transmitted directly or indirectly to a well person from an infected person, animal or arthropod or through the agency of an intermediate host, vector or the inanimate environment.
- d. “**COUNTY**” shall mean Berrien County.
- e. “**Department**” shall mean the Berrien County Health Department, or its authorized representatives.
- f. “**DIRECTOR**” shall mean the Berrien County Health Director, or his authorized representative.
- g. “**DRINKING WATER**” shall mean water provided or used for human consumption or for lavatory or culinary purposes.
- h. “**GARBAGE**” shall mean all putrescible wastes (except sewage and body waste): included in this term are animal and vegetable offal.
- i. “**LICENSEE**” shall mean any person to whom a license is issued pursuant to this Ordinance.

j. **“MASS GATHERING”** shall mean any anticipated gathering of 1,000 or more people on private property, either outdoors or temporary facilities, but shall not include an event which is conducted by an entity qualifying for tax exempt status under Section 501(c) of the Internal Revenue Code of 1954, being 26 U.S.C. Section 501 (c), as incorporated by reference in Section 201 of the Michigan Income Tax Act of 1967, Act 281 of the Public Acts of 1967, being Section 206.201 of the compiled laws of 1948.

k. **“OPERATOR”** shall mean any person who has charge, care, or control of, or who promotes a mass gathering.

l. **“PERSON”** shall mean any individual, group of individuals, firm, partnership association, corporation, or any other public or private entity.

m. **“PLUMBING”** shall mean all of the following facilities and equipment: water pipes, waste pipes, drains, vents, water closets, sinks, trays or tubs, catch basins, and any other similarly supplied fixtures, together with all connections to water systems or sewerage systems.

n. **“REFUSE”** shall mean all nonputrescible wastes generally regarded and classified as rubbish, trash and junk, and similar designations which have been rejected by the owner or possessor thereof as useless or worthless.

o. **“SERVICE BUILDING”** shall mean a building housing toilet facilities for men and women, with separate bath or shower accommodations.

p. **“SEWAGE”** shall mean any substance that contains any of the waste products, excrement, or other discharge from the bodies of human beings or animals, and any noxious or deleterious substances which are harmful or inimical to the public health, to animal or aquatic life, or to the use of water for domestic water supply or for recreation.

q. **“SEWERAGE SYSTEM”** shall mean any community or individual system, publicly or privately owned, for the collection and disposal of sewage and industrial wastes of a liquid nature, including various devices for the treatment of such sewage or industrial wastes.

r. **“SOURCE”** shall mean any well, spring, cistern, infiltration gallery, stream, reservoir, pond or lake from which, by any means, water is taken either intermittently or continuously for use by the public.

s. **“SPONSOR”** shall mean any person who organizes, promotes, conducts, or causes to be conducted, an outdoor assembly or mass gathering.

t. **“TOILET FACILITIES”** shall mean water closets, privies, urinals, chemical toilets, and the rooms provided for installation of these units.

u. **“WASH BASIN”** shall mean a basin or bowl used for the purpose of obtaining personal cleanliness.

v. **“WATER CLOSET”** shall mean sanitary facilities for defecation equipped with a hopper or tray and a device for flushing the bowl by water, located within the compartment.

w. **“WATER SUPPLY”** shall mean a source or sources of water, and any or all water treatment, storage, transmission, and distribution facilities.

x. **“WATERS OF THE STATE”** shall mean any and all rivers, streams, creeks, rivulets, lakes, dammed water, ponds, springs, and all other bodies of surface and underground water, or parts thereof, whether natural or artificial, within or on the boundaries of the State of Michigan.

## **SECTION 2.0 – LICENSE REQUIREMENTS**

### **2.001 – GENERAL REQUIREMENTS**

a. No person shall establish, maintain, operate, or promote a mass gathering at any place within the County of Berrien, and no person shall permit to be operated on his property any mass gathering, unless the operator of said mass gathering and the owner of the property on which it operates together apply in writing on such forms and in such manner as prescribed by the Clerk of the County of Berrien, and obtain a valid license to operate a mass gathering. This shall be accomplished at least seventy-five (75) days prior to the date of the proposed gathering. Each application shall be accompanied by a nonrefundable fee established for each site according to the following scale based on the daily maximum number of persons expected to attend:

1,000 – 10,000 persons.....	\$ 100.00
10,000 - 20,000 persons.....	\$ 500.00
20,000 – 30,000 persons.....	\$1,000.00
Over 30,000 persons.....	\$1,500.00

b. In the alternative, if the operator exhibits to the Clerk a valid contract for use and/or rental of owner’s property, the owner need not be joined in the application as set forth above.

c. No license shall be issued until inspection of the premises’ facilities and equipment of the location has been made by the Department and the location is found to be adequate for the protection of the public health.

### **2.002 SPECIFIC REQUIREMENTS**

a. The name, age, residence and mailing address of the person making the application. (Where the person making the application is a partnership, corporation or other association, this information shall be provided for all partners, officers and directors, or members. Where the person is a corporation, a copy of the articles of incorporation shall be filed, and the names and addresses shall be provided of all shareholders having financial interest greater than \$500.00)

b. A statement of the kind, character, and type of proposed gathering.

c. The address, legal description and proof of ownership of the site at which the proposed gathering is to be conducted.

d. The date or dates and hours during which the proposed gathering is to be conducted.

e. An estimate of the maximum number of attendants expected at the gathering for each day it is conducted and a detailed explanation of the evidence of admission which will be used, and of the sequential numbering or other method which will be used for accounting purposes.

f. Each application shall be accompanied by a detailed explanation, including drawings and diagrams, where applicable, of the prospective licensee's plans including contracts to provide for the following:

- (1) Police and fire protection
- (2) Food and water supply and facilities
- (3) Health and sanitation facilities
- (4) Medical facilities and services including emergency vehicles and equipment
- (5) Vehicle access and parking facilities
- (6) Camping and trailer facilities
- (7) Illumination facilities
- (8) Communication facilities
- (9) Noise control abatement
- (10) Facilities for clean-up and waste disposal including removal by a licensed refuse hauler
- (11) Insurance and bonding arrangements
- (12) Before work is done in the construction of the facilities of, or in the advertising or other preparation for a mass gathering, the operator shall submit, in duplicate, and receive approval of such plans, specifications, and reports which the Department deems necessary for the protection and promotion of the public health
- (13) These plans, specifications, and reports shall include, where applicable, data relating to food and sanitary food service; water supply; plumbing; sewage disposal; toilet and lavatory facilities; refuse storage and disposal; vector control; sleeping areas and facilities; first aid and medical facilities; and, such other information as may be required by the Department
- (14) These plans, specifications, and reports shall accompany the operator's application for a license to hold or promote the mass gathering

g. On receipt by the Clerk, copies of the application shall be forwarded to the chief law enforcement and health officers for the County, the state fire marshal, and to such other appropriate public officials as the Clerk deems necessary. Such officials shall review and investigate matters relevant to the application and within twenty (20) days of receipt thereof shall report their findings and recommendations to the County Board of Commissioners.

h. Within forty-five (45) days of the filing of the application, the County Board of Commissioners shall issue, set conditions reasonably necessary to the public health or safety prerequisite to the issuance of, or deny a license. The Board will require that adequate security and insurance be provided before a license is issued. Where conditions are imposed as prerequisite to the issuance of a license, or where a license

is denied, within five (5) days of such action, notice thereof must be mailed to the applicant by certified mail and, in the case of denial, the reasons therefore shall be stated in the notice.

i. A license may be denied if:

(1) The applicant fails to comply with any or all requirements of the Ordinance or with any or all conditions imposed pursuant hereto, or with any other applicable provision of state or local law; or,

(2) The applicant has knowingly made a false, misleading or fraudulent statement in the application or in any supporting document.

j. A license shall specify the name and address of the licensee, the kind and location of the gathering, the maximum number of attendants permissible, the duration of the license, and any other conditions imposed pursuant to the Ordinance. It shall be posted in a conspicuous place upon the premises of the gathering shall not be transferred to any other person or location. It shall be subject to suspension or revocation upon finding the mass gathering not in compliance with this Ordinance.

k. In processing an application, the County Board of Commissioners shall, at minimum, require the following:

(1) **SECURITY PERSONNEL** The licensee shall employ, at his own expense, such security personnel as are necessary and sufficient to provide for the adequate security and protection of the maximum number of attendants at the gathering to regulate and limit the number of persons to the level authorized in the permit, and for the preservation of order and protection of property in and around the site of the gathering. No license shall be issued unless the chief law enforcement officer for the county, in cooperation with the Director of State Police, is satisfied that such necessary and sufficient security personnel will be provided by the licensee for the duration of the gathering.

(2) **MEDICAL FACILITIES** If the gathering is not readily and quickly accessible to adequate existing medical facilities, the licensee shall be required to provide an ambulance on the grounds at all times. In addition, a first aid station shall be made available as required by the county health officer. The kind, location, staff, strength, medical and other supplies and equipment of such facilities shall be prescribed by the county health officer.

(3) **FOOD SERVICE** If food service is made available on the premises, it shall be delivered only through concessions licensed and operated in accordance with the provisions of Act 269, Public Acts of 1968, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law. If the gathering is distant from food service establishments open to the public, the licensee shall make food services available on the premises as will adequately feed the attendants.

(4) **WATER FACILITIES** The licensee shall provide potable water, sufficient in quantity and pressure to assure proper operation of all water-using facilities under conditions of peak demand. Such water shall be supplied from a public water system, if available, and if not available, then from a source constructed, located and approved in accordance with "Regulations for Certain Water Supplies in Michigan", Sections R325.1451 to R325.1461 of the Michigan Administrative Code and the rules

and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law, or from a source and delivered and stored in a manner approved by the county health officer. Any interruption in the treatment of a drinking water supply shall be reported immediately to the Department. No change in the source of, or in the method of treatment of, a drinking water supply shall be made without first notifying the Department and securing its approval to do so.

(5) **PLUMBING** (a) Plumbing shall be so sized, installed, and maintained as to carry adequate quantities of water to required locations throughout the premises of the mass gathering, and to properly convey sewage and liquid wastes from the premises to the sewerage or sewage disposal system. (b) Plumbing shall serve to prevent contamination of the water supply, and shall not create an unsanitary condition or nuisance.

(6) **LIQUID WASTE DISPOSAL** The licensee shall provide for liquid waste disposal in accordance with all rules and regulations pertaining thereto established by the county health officer. If such rules and regulations are not available, or if they are inadequate, liquid waste disposal shall be in accordance with United States Public Health Service Publication No. 526, entitled, "Manual of Septic Tank Practise". If liquid waste retention and disposal is dependent upon pumpers and haulers, they shall be licensed in accordance with Act 243, Public Acts of 1951, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law, and, prior to issuance of any license, the licensee shall provide the county health officer with a true copy of an executed agreement in force and effect with a licensed pumper or hauler, which agreement will assure proper, effective and frequent removal of liquid wastes from the premises so as to neither create nor cause a menace to the public health.

(7) **SOLID WASTE DISPOSAL** The licensee shall provide for solid waste storage on, and removal from, the premises. The collection of all garbage and refuse shall be conducted in a sanitary manner and shall be removed from the facilities at least once every twenty-four (24) hours or at more frequent intervals if necessary to prevent a nuisance. Storage shall be in approved, covered, fly-tight and rodent-proof containers, provided in sufficient quantity to accommodate the number of attendants. Prior to issuance of any license, the licensee shall provide the county health officer with a true copy of the executed agreement in force and effect by a license refuse collector as required by Act 87, Public Acts of 1965, and the rules and regulations pursuant thereto, and will assure proper, effective and frequent removal of solid wastes from the premises so as to neither create nor cause a nuisance or menace to public health. Each refuse container, room or area shall be thoroughly cleaned after each emptying or removal of garbage and refuse.

(8) **VECTOR CONTROL** (a) The licensee shall implement effective control measures to minimize the presence of rodents, arthropods, flies, roaches and other vermin on the premises. Poisonous materials, such as insecticides or rodenticides, shall not be used in any way so as to contaminate food or equipment, or otherwise constitute a hazard to the public health. Solid wastes containing food waste shall be stored so as to be inaccessible to vermin. The premises shall be kept in such condition as to prevent the harborage or feeding of vermin. Prior to issuance of any license, the licensee shall provide the county health officer with a true copy of an executed agreement in force and effect by a licensed exterminator to insure proper pest and vermin control. (b) All grass on the premises of the mass gathering shall be

mowed one week prior to the event and shall be effectively sprayed with insecticides approved by the Department.

(9) **RESTROOM FACILITIES** The licensee shall provide separate and enclosed flush-type water closets as defined in Act 266, Public Acts of 1929, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law. If such flush-type facilities are not available, the county health officer may permit the use of other facilities which are in compliance with Act 273, Public Acts of 1939, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law. The licensee shall provide lavatory and drinking water facilities constructed, installed, and maintained in accordance with Act 266, Public Acts of 1929, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable state or local law. All lavatories shall be provided with hot and cold water, soap, paper towels and toilet tissue. The number and type of facilities required shall be determined, on the basis of the number of attendants, in the following manner:

<u>FACILITIES</u>	<u>MALE</u>	<u>FEMALE</u>
Toilets	1:100	1:50*
Urinals	1:100	
Lavatories	1:100	1:100
Drinking Fountains		1:200

\*Female urinals may be substituted for toilet bowls on a one-for-one basis; however, no more than one-third of the total number of toilet bowls may be substituted.

Where the assembly is to continue for more than twelve (12) hours, the licensee shall provide shower facilities, on the basis of the number of attendants, in the following manner:

<u>FACILITIES</u>	<u>MALE</u>	<u>FEMALE</u>
Shower Heads	1:100	1:100

All facilities shall be installed, connected, and maintained free from obstructions, leaks and defects, and shall at all times be in operable condition as determined by the county health officer. A safe and adequate water supply with flush toilets and showers is considered to be a minimum of 1.5 gallons per minute per 100 persons; without showers, 0.75 gallons per minute per 100 persons.

(10) **PUBLIC BATHING BEACHES** The licensee shall provide or make available or accessible public bathing beaches only in accordance with Act 218, Public Acts of 1967, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provisions of state or local law.

(11) **PUBLIC SWIMMING POOLS** The licensee shall provide or make available public swimming pools only in accordance with Act 230, Public Acts of 1966, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable provision of state or local law.

(12) **CARRIERS OF COMMUNICABLE DISEASE** No individual known to be a possible transmitter of a communicable disease shall be employed at a mass gathering, in any capacity.

(13) **CARE OF CHILDREN** Children under twelve (12) years of age not accompanied by an adult at a mass gathering shall be provided with adequate and competent adult supervision exercised by a supervisor or supervisors present on the property.

(14) **SUPERVISION OF PREMISES** A person to whom a license to promote or hold a mass gathering has been issued shall provide a competent individual to be in charge of the property and on the premises at all times while the property is occupied or open for occupancy.

(15) **RESPONSIBILITY FOR CLEAN-UP** The licensee shall be responsible for clean-up operations at the termination of the mass gathering.

(16) **GENERAL RESPONSIBILITY** The person to whom a permit is issued shall comply with the provisions of this Ordinance and with all conditions stated in the permit.

(17) **CAMPING FACILITIES** An overnight camping area or areas, clearly marked, shall be provided for each mass gathering which is in operation for more than twenty-four (24) hours, and shall comply with Act 171, Public Acts of 1970, and the rules and regulations adopted pursuant thereto, and any other applicable provisions of state or local law.

(18) **LOCATION; GROUNDS** (a) The site for any proposed mass gathering shall be well-drained, and the site shall not be adjacent to swamps, marshes, or breeding places for insects and rodents. (b) At any site, good natural drainage shall be required, and the drainage shall not endanger the water supply. Where ditching is done, it shall not create accident hazards. (c) A site map showing the location of all facilities shall be posted at all entrances and at other convenient locations so that they are readily accessible to each person attending the mass gathering. Adequate signs shall also be used to locate all facilities.

(19) **ACCESS AND TRAFFIC CONTROL** The licensee shall provide for ingress to and egress from the premises so as to insure the orderly flow of traffic onto and off the premises. Access to the premises shall be from a highway or road which is a part of the County system of highways or which is a highway maintained by the State of Michigan. Traffic lanes and other space shall be provided, designated and kept open for access by ambulance, fire equipment, helicopter and other emergency vehicles. Prior to the issuance of a license, the Director of the Department of State Police and the Director of the Department of State Highways must approve the licensee's plan for access and traffic control.

(20) **PARKING** The licensee shall provide a parking area sufficient to accommodate all motor vehicles, but in no case shall he provide less than one (1) automobile space for every four (4) in attendance.

(21) **ILLUMINATION** The licensee shall provide electrical illumination of all occupied areas sufficient to insure the safety and comfort of all attendants. The licensee's lighting plan shall be approved by the county building official.

(22) **INSURANCE** Before the issuance of a license, the licensee shall obtain public liability insurance with limits of not less than \$300,000 and property damage insurance with a limit of not less than \$25,000 from a company or companies approved by the Commissioner of Insurance of the State of Michigan, which shall insure liability for death or injury to persons or damage to property which may result from the conduct of the mass gathering or conduct incident thereto, and which insurance shall remain in full force and effect in the specified amounts for the duration of the license. The evidence of insurance shall include an endorsement to the effect that the insurance company shall notify the Clerk of the County, in writing, at least ten (10) days before the expiration or cancellation of said insurance.

(23) **BONDING** Before the issuance of a license, the licensee shall obtain, from a corporate bonding company authorized to do business in Michigan, a corporate surety bond in the amount of \$100,000 to a firm to be approved by the Prosecuting Attorney, conditioned upon the licensee's faithful compliance with all of the terms and provisions of this Ordinance and all applicable provisions of state or local law, and which shall indemnify the County, its agents, officers, and employees and the Board of Commissioners against any and all loss, injury or damage whatever arising out of, or in any way connected with, the mass gathering and which shall indemnify the owners of property adjoining the mass gathering site for any costs attributable to cleaning up and/or removing debris, trash, or other waste resultant from the mass gathering.

(24) **FIRE PROTECTION** The licensee shall, at his own expense, take adequate steps as determined by the state fire marshal to insure fire protection. He shall see to it that no flammable or volatile liquids or materials shall be stored in or adjacent to the area of the gathering and that adequate fire-fighting equipment is available to protect the life and health of the people attending the mass gathering.

(25) **FENCING** The licensee shall erect a fence completely enclosing the site, of sufficient height and strength as will preclude persons in excess of the maximum permissible attendants from gaining access and which will have sufficient gates properly located so as to provide ready and safe ingress and egress.

(26) **SOUND PRODUCING EQUIPMENT** Sound producing equipment, including, but not limited to, public address systems, radios, phonographs, musical instruments and other recording devices, shall not be operated on the premises of the gathering so as to be unreasonably loud or raucous, or so as to be a nuisance or disturbance to the peace and tranquility of the citizens of Berrien County.

(27) **COMMUNICATIONS** The licensee shall provide public telephone equipment for general use on the basis of at least one (1) unit for each 1,000 attendants.

(28) **MISCELLANEOUS** Prior to the issuance of a license, the County Board of Commissioners may impose any other condition(s) reasonably calculated to protect the health, safety, welfare, and property of attendants or the citizens of Berrien County.

## **SECTION 3.0 – REVOCATION**

### **3.001 REASON FOR AND WHO MAY REVOKE LICENSE**

The County Board of Commissioners may revoke a license whenever the licensee, his employee or agent fails, neglects or refuses to fully comply with any and all provisions and requirements set forth herein, or with any all provisions, regulations, ordinances, statutes, or any other laws incorporated herein by reference.

## **SECTION 4.0 – VIOLATIONS**

### **SECTION 4.001 WHAT ARE VIOLATIONS**

It shall be unlawful for a licensee, his employee, or agent, to knowingly fail to comply with any requirement of this ordinance, or to:

- a. Advertise, promote or sell tickets to, conduct or operate an assembly without first obtaining a license as herein provided, or after revocation of such a license.
- b. Conduct or operate a gathering in such a manner as to create a public or private nuisance.
- c. Conduct or permit within the gathering any obscene display, exhibition, show, play, entertainment or amusement.
- d. Permit any person on the premises to cause or create a disturbance in, around, or near the gathering by obscene or disorderly conduct.
- e. Permit any person to unlawfully consume, sell, or possess intoxicating liquor while on the premises.
- f. Permit any person to unlawfully use, sell or possess any narcotics, narcotic drugs, drugs or other controlled substance as defined by Act 196, Public Acts of 1971.

Any of the above violations is a separate offense and is punishable by imprisonment in the County jail for not more than ninety (90) days or by a fine of not more than \$100.00, or both such fine and imprisonment. It is further provided that violations (1) through (f), supra are hereby declared to be nuisances per se, immediately enjoined in the circuit court and that any violation of this Ordinance shall constitute a sufficient basis for revocation of the license and for the immediate enjoining of the gathering.

## **SECTION 5.0 – SEVERABILITY**

### **5.001 SEVERABILITY CLAUSE**

If any portion of this Ordinance or the application thereof to any person or circumstances shall be found to be invalid by the court, such invalidity shall not affect the remaining portions or applications of this Ordinance which can be given effect without the invalid portion or application, provided such remaining portions are not determined by the court to be inoperable, and, to this end, this Ordinance is declared to be severable.

## **SECTION 6.0 – EFFECTIVE DATE**

### **6.001 EFFECTIVE DATE AND REPEAL OF OTHER REGULATIONS**

This Ordinance shall take effect sixty (60) days after its adoption by the Berrien County Board of Commissioners, subject to approval by the Governor and publication of the Ordinance in a newspaper of general circulation in the County. All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

**ADOPTED:** June 17, 1976