

**CITY OF PORT WASHINGTON, WISCONSIN**  
**Ordinance No. 2021-1**

**Creating Ordinances Regulating Beer Garden Series Events**

The Common Council of the City of Port Washington do ordain as follows:

**Section 1.** Section 9.13.000 II.F., Municipal Code of the City of Port Washington, relating to “DEFINITIONS” of Events regulated by § 9.13.000, is hereby created to read as follows:

- F. **“Beer Garden Series Event”** means a beer garden Event held in Upper Lake Park - Picnic Area 6 facilities from 11:00 a.m. until 8:00 p.m. on consecutive Saturdays starting with the first Saturday in July and continuing until mid-October. Beer Garden Series Events are specifically regulated pursuant to Section 9.13.010, Municipal Code.

**Section 2.** Section 9.13.010, Municipal Code of the City of Port Washington, entitled “BEER GARDEN SERIES EVENTS,” is hereby created to read as follows:

**9.13.010 BEER GARDEN SERIES EVENTS**

**I. DEFINITIONS.** As used herein the following terms shall have the meanings indicated:

- A. **“Beer Garden Series Event”** means an Event held in Upper Lake Park - Picnic Area 6 beer garden facilities from 11:00 a.m. until 8:00 p.m. on consecutive Saturdays starting with the first Saturday in July and continuing until mid-October annually.
- B. **“City Property”** has the meaning in Section 9.13.000 II.B., Municipal Code.
- C. **“Event”** means a temporary gathering of people on public property and including, but not limited to, one or more of the circumstances listed below.
  - 1. Exclusive use of all or part of City Property within the City’s boundaries, including, but not limited to, buildings, park shelters, open spaces, streets, and parking lots.
  - 2. The closing of a public street, public right-of-way, or public way.
  - 3. Installation or erection of temporary structures, including, but not limited to tents.
  - 4. City ordinances, rules or policies require public safety support by City employees.
  - 5. The provision of Extraordinary Services by any City department.
  - 6. Alcohol beverages, food and/or merchandise will be offered for sale, with a portion of the net proceeds distributed to the charitable organization furnishing volunteers to provide labor for the Event.

As used herein, the term “Event” is not intended to include a family gathering or picnic unless it involves at least one of the above factors.

D. **“Extraordinary Services”** has the meaning in Section 9.13.000 II.C., Municipal Code.

**II. BEER GARDEN SERIES EVENTS; ORGANIZATION; OPERATION; PERMITS.** Beer Garden Series Events shall be subject to the following rules and regulations:

- A. **Purpose and Role of Friends of Port Washington Parks and Recreation, Inc.** Friends of Port Washington Parks and Recreation, Inc. is an independent, nonstock, non-profit corporation organized for charitable purposes under § 501(c)(3), Internal Revenue Code.

Such charitable purposes include, but are not limited to, lessening the burdens of City government through general fund-raising for, and the development, maintenance, improvement and beautification of, current and future public buildings, facilities, staff, activities, events, classes and programs of the Port Washington Parks and Recreation Department, the mission of which is to improve the quality of life for all residents of Port Washington by facilitating leisure and cultural activities, special events, and services that promote mental and physical health, self-development and community involvement.

- B. **Purposes of Beer Garden Series Events.** The purposes of the Beer Garden Series Events are to provide a congenial atmosphere for the enjoyment of the citizens of the City and surrounding areas; to attract visitors and tourists to the City; to further the economic interests of the nonprofit and charitable organizations and groups within the City, thereby increasing the amount of donations from such organizations to the City for current and future public buildings, facilities, staff, activities, events, classes and programs of the Port Washington Parks and Recreation Department; and to enhance economic development through tourism, all in a manner consistent with public health, safety and welfare.
- C. **Operations.** Operation of the Beer Garden Series Events shall be administered by the Board of Directors and staff of Friends of Port Washington Parks and Recreation, Inc.
- D. **Authorization.** The president of Friends of Port Washington Parks and Recreation, Inc. is authorized to assign dates for; collect and hold in its operating account and disburse all revenues resulting from; and execute such documents as are necessary to conduct the Beer Garden Series Events, subject to the terms and conditions set forth hereinbelow.
- E. **Licenses for Sale or Serving of Fermented Malt Beverages, Wine Coolers, and Wine.** For each location at which fermented malt beverages, wine coolers and wine will be sold at a Beer Garden Series Event, an application for a Temporary Class B License shall be filed with the City Clerk at least sixty (60) days prior to the date of said Event. Each location shall have an agent and an operator licensed by the City present at all times while fermented malt beverages, wine coolers or wine are being dispensed, sold, or served. All sales, possession and consumption of fermented malt beverages, wine coolers and wine shall be within a designated, restricted, and fenced area at each licensed location.
- F. **Written Contract Required.** It shall be unlawful for a nonprofit or charitable group or organization to display, vend, dispense, sell or serve, or to offer to display, vend, dispense, sell or serve, any food, beverages, goods, or merchandise within Upper Lake Park - Picnic Area 6 in conjunction with a Beer Garden Series Event without first having entered into and executed a written contract with Friends of Port Washington Parks and Recreation, Inc., by its Board of Directors, for that purpose, and having paid a fee therefor in such amount as may be established or revised from time to time by said Board. The Board of Directors shall be authorized to designate where such food, beverages, goods, or merchandise are to be stored, displayed, dispensed, sold, or served. The contract shall contain the name, address, and contact information for the person(s) authorized to execute the contract on behalf of the group or organization. Friends of Port Washington Parks and Recreation, Inc. may refuse to offer or renew a contract with a group or organization if the Board of Directors reasonably determines that such group or organization has not complied with a prior contract for a Beer Garden Series Event.

III. **PROCEDURES.** Beer Garden Series Events shall be subject to the following procedures:

- A. **Application for Permit; Contents; Fee.** Friends of Port Washington Parks and Recreation, Inc. shall file an application for a Beer Garden Series Event permit with the City Clerk sixty (60) day prior to the date of the Beer Garden Series Event. The application shall contain such information as the City Clerk may require. A non-refundable permit fee of Five Hundred Dollars (\$500) shall be paid to the City Clerk when the application is filed. If issued, the permit shall set forth the exact day(s) on which the Beer Garden Series Event shall occur and shall be valid only during the day(s) and at the location specified. Upon filing such application, Friends of Port Washington Parks and Recreation, Inc. shall provide the City Clerk with a complete list of participating groups and organizations, as well as a detailed map showing the grounds of the Event and the location of stands, booths and fencing in Upper Lake Park - Picnic Area 6.
- B. **Review of Application; Issuance of Permit.** Upon receipt of a complete application for a Beer Garden Series Event permit and payment of the required fee, the City Clerk shall review the information in the application for conformity with the requirements of this Section. If the requirements are met, the City Clerk shall sign and issue the permit to Friends of Port Washington Parks and Recreation, Inc., which shall in turn issue identification cards to each group or organization participating in the Event. The permit shall be prominently displayed at Picnic Area 6 throughout the Event. If an application is incomplete or defective, the City Clerk may deny or conditionally approve the permit and shall advise the applicant of the reason(s) for denial or the conditions to be met for its issuance.
- C. **Conditions of Permit.** In addition to any other conditions which may be imposed by the Common Council, Friends of Port Washington Parks and Recreation, Inc. shall comply with the following conditions and procedures for all Beer Garden Series Events:
- (1) **Liability Insurance.** To obtain and hold a valid permit, Friends of Port Washington Parks and Recreation, Inc. shall have in force adequate liability insurance. Adequate liability insurance is liability insurance holding the City and its employees, agents, officers, and officials harmless and indemnifying and defending the City, its employees, agents, officers, and officials from and against all claims, liability, loss, damage, or expense for bodily injury (including death) and/or property damage incurred by the City and caused by or resulting from the activities for which the Beer Garden Series Event was issued. As evidence of such insurance, Friends of Port Washington Parks and Recreation, Inc. shall furnish to the City Clerk, at least thirty (30) days prior to each Beer Garden Series Event, a current Certificate of Liability Insurance showing the existence, types, and limits of liability insurance (including, but not limited to, liquor liability coverage) as required in the City's Event Application Manual (available from the City Clerk or on the City's official website), with the City and its employees, agents, officers and officials being named as additional insureds.
  - (2) **Extraordinary Services Provided by City.** All requests for Extraordinary Services in connection with a Beer Garden Series Event shall be directed to the City by the Friends of Port Washington Parks and Recreation, Inc., which shall be responsible for payment or reimbursement to the City for such Extraordinary Services. An invoice shall be sent to the Friends of Port Washington Parks and Recreation, Inc. within fifteen (15) after the Event. Payment is due within 30 days of the date of the invoice. The City reserves the right to require full or partial advance payment of the estimated costs for Extraordinary Services.

- (3) **Cooperation with Law Enforcement Officers.** To protect the public health, safety and welfare, Friends of Port Washington Parks and Recreation, Inc. shall coordinate with the Chief of Police and Fire Chief as to the location of all Beer Garden Series Events. Final plans for routing traffic, booth and stand locations, and parking provisions shall be submitted to the Chief of Police and Fire Chief for their review and approval at least thirty (30) days prior to each Event.
- (4) **Clean-Up.** Friends of Port Washington Parks and Recreation, Inc. shall be responsible for all necessary litter removal and site clean-up following a Beer Garden Series Event. Such clean-up shall be completed within two (2) hours after the conclusion of the Event.
- (5) **Compliance with Laws and Regulations.** In operating the Beer Garden Series Events and allowing use of Upper Lake Park - Picnic Area 6 and its facilities, Friends of Port Washington Parks and Recreation, Inc. shall treat all persons and nonprofit or charitable groups and organizations in a uniform manner. Friends of Port Washington Parks and Recreation, Inc. shall comply with the provisions of this Section and all federal, state, county and City laws, regulations and ordinances governing: health and sanitation for food and beverage service businesses; storage, dispensing, sale and/or service of alcohol beverages; traffic; parks; animals in public parks; health; fire safety; buildings; zoning; and access to or use of public activities or public facilities by persons without regard to race, color, age, gender, disability, nationality, ethnic origin, sex, sexual orientation, arrest or conviction record, or any other legally protected status or characteristic. Friends of Port Washington Parks and Recreation, Inc. shall use reasonable efforts to ensure compliance by Event volunteers, attendees and participants with such laws, regulations and ordinances. If during an Event the Fire Chief, Police Chief or his or her designee determines that for public safety or other public purposes street or parking closures or restrictions must be modified, he or she shall notify the president of Friends of Port Washington Parks and Recreation, Inc. thereof.
- (6) **Non-Transferable.** Beer Garden Series Event licenses and permits shall not be transferred or assigned to any other person, group, organization, or entity without prior approval of the Common Council. Any unauthorized transfer or assignment of such license or permit shall be null and void.

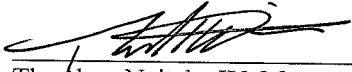
**IV. APPLICABILITY OF OTHER CITY ORDINANCES**

Except as otherwise specifically provided in this Section 9.13.010 for Beer Garden Series Events, Friends of Port Washington Parks and Recreation, Inc. shall comply with and shall be subject to the provisions of Section 9.13.000, Municipal Code, regulating Events, event licenses, and permits in the City of Port Washington, including, but not limited to the penalties set forth in Section 9.13.000 XII. for violations of that Ordinance, which shall also apply to violations of this Section 9.13.010.


**Section 3.** This Ordinance shall take effect upon adoption and publication as provided by law.

Adopted and dated this 20<sup>th</sup> day of April, 2021.

**CITY OF PORT WASHINGTON**

  
 Theodore Neitzke IV, Mayor

**ATTEST:**

  
 Susan L. Westerbeke, City Clerk