

TO: William T. Lichter, Village Manager
FROM: George E. Seagraves
DATE: May 14, 2007
RE: AN ORDINANCE AMENDING TITLE 11, CHAPTER 110 OF THE LOMBARD VILLAGE CODE IN REGARD TO CARNIVALS

Len Flood, Finance Director, Tom Bayer, Village Attorney, and I have met to review the permitting of carnivals and circuses. The attached ordinance from Attorney Bayer brings clarity in that carnivals and circuses are regulated by Section 110.60 of the Village Code and not the Temporary Event provisions of the Village Code. Section 110.40 is for Temporary Events such as sales events.

In addition to this basic clean-up I wanted to bring to the attention of the Board of Trustees the insurance and indemnification provisions of Sections 110.60 (D) (1) and (2) since, from time to time, carnival operators have raised concerns about those requirements. This is not new language and is an essential part of the carnival/circus permitting process.

The insurance required is \$1,000,000 of combined single limit per occurrence for Comprehensive General Liability and \$1,000,000 for automobile liability for vehicle operations relative to the carnival or fair. The insurance shall list the Village, and its officers, agents, and employees as additional insured and as certificate holder.

This has been problematic with some carnivals and often is resolved at the last minute but it is always resolved with no major problems.

The indemnification holds harmless, the Village, its officers, agents, and employees from any and all claims directly or indirectly arising from the permit granted. The Village shall have the right to defense of counsel of our choice. The applicant shall be solely liable for all cost of such defense.

The indemnification requirement was a significant issue for the carnival operator at last year's Sacred Heart German Festival although ultimately an accommodation was made. Despite carnival operator concerns about indemnifying the Village, staff recommends that the requirement remain unchanged because it provides important protection to the Village since an accident at a carnival could result in a significant liability. The Village could be sued because we allowed the carnival. The Village would want to insure that it

has able representation and that the costs to protect the Village would be borne by the applicant.

If the Board of Trustees has no issue with the insurance and indemnification requirements in Section 110.60 (D) (1) and (2) no further action is needed.

Based upon the Board's action, the applicants known to us will be notified so that they can inform their carnival operators. They will be informed that these requirements shall be met or the carnival will not be allowed to open. Additionally, they were informed that the carnival/circus clean-up amendment would be on the June 7, 2007 Agenda.