

# Christmas on Merced Train & Pony Ride

## PARTICIPATION WAIVER

RELEASE: By participating in the event, participants agree to release, indemnify, defend and hold the event parties, and their respective parents, affiliates, subsidiaries, directors, officers, employees, and agents, including advertising and promotion agencies, and assigns, and any other organizations/entities related to the event (collectively, "Releasees") harmless from any and all claims, injuries, damages, expenses, or losses to person or property and/or liabilities of any nature incurred by any Releasee that in any way arise from an entrant's participation in the event or acceptance or use of a prize or parts thereof (collectively, "Claims"), including without limitation (i) any condition caused by events beyond Releasees' control that may cause the event to be disrupted or corrupted; (ii) any injuries, losses, or damages (compensatory, direct, incidental, consequential, or otherwise) of any kind arising in connection with or as a result of any prize, or acceptance, possession, or use of any prize, or from participation in the Event, including any injuries to person or property related to the transportation required to participate; (iii) any printing or typographical errors in any materials associated with the event; and (iv) any disputes amongst team members regarding the use or award of the prize amongst the team. In addition to the above, each Team Leader agrees to release, indemnify, defend and hold the Releasees harmless from any and all Claims incurred by any Releasee arising due to (a) a team member's claim against any Releasee that would otherwise be barred by the terms of these rules on the grounds that such team member was unaware of and/or did not agree to these rules; or (b) a minor team member's disaffirmance or repudiation of these rules.

LIMITATION OF LIABILITY: The Releasees are not responsible for (i) late, lost, delayed, damaged, incomplete, illegible, misdirected or undeliverable entries, responses, or other correspondence, whether through the platform, by e-mail or postal mail or otherwise; (ii) theft, destruction, unauthorized access to or alterations of entry materials; or (iii) phone, electrical, network, computer, hardware, software program, or transmission malfunctions, failures or difficulties. Prizes are awarded "as is, where is," without warranty of any kind, express or implied, including without limitation any warranty of merchantability or suitability for a particular purpose. Except where prohibited, by participating in the event and submitting an entry, each entrant agrees that: (i) any and all disputes, claims and causes of action arising out of or in connection with the prize awarded, determination of a winning team, or any other matter relating to the event that cannot be resolved between such entrant and any Releasees shall be resolved individually, without resort to any form of class action; and (ii) any and all claims, judgments and awards shall be limited to actual out-of-pocket costs incurred, including costs associated with entering the event, but in no event attorneys' fees. Notwithstanding anything to the contrary herein, in no event shall any entrant seek or be entitled to rescission, injunctive or other equitable relief or to enjoin or restrain the production, distribution, exhibition, operation or other exploitation of the City of Fowler's platform, the event, any website, content, advertising or other materials used, displayed or issued in connection with the event, or any submission or entry, and such entrant's rights and remedies in any such event shall be strictly limited to the right to recover money damages, if any, in an action at law. IN NO EVENT WILL ANY OF THE RELEASEES BE LIABLE FOR ANY DIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF USE, DATA, BUSINESS OR PROFITS) ARISING OUT OF OR IN CONNECTION WITH PARTICIPATION IN THE EVENT, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO ALL ENTRANTS.

PUBLICITY RELEASE: Except where prohibited, an entrant's participation in the event constitutes consent to the perpetual, worldwide, royalty-free use of name and/or photo by any releasee for advertising and promotional purposes, without limitations and without compensation.

GENERAL CONDITIONS: By participating in the event, each entrant acknowledges that he/she has read these Official Rules and agrees to be bound by them. Non-compliance with these Official Rules may result in disqualification and all associated entries will be void. Prize substitutions of equivalent value are permitted if necessary. Event rules will be amended if needed. We reserve the right to discontinue the event at any time for any reason. Date: Dec \_\_\_\_, 2024.

_____	_____	_____	_____
Participant Name	Signature of participant or legal guardian	Participant Name	Signature of participant or legal guardian
_____	_____	_____	_____
Participant Name	Signature of participant or legal guardian	Participant Name	Signature of participant or legal guardian
_____	_____	_____	_____
Participant Name	Signature of participant or legal guardian	Participant Name	Signature of participant or legal guardian

**CHRISTMAN ON MERCED STREET**  
**Participation Waiver and Release of Liability Agreement**

PLEASE READ CAREFULLY AND THOROUGHLY BEFORE SIGNING

**Waiver and Release of Liability:** In consideration for being permitted to participate in the following program or activity (the "Activity"), including any associated use of the premises, facilities, staff, equipment, and services of the City of Fowler, the undersigned voluntarily agrees, on his/her own behalf and that of his/her child(ren), heirs, personal representatives, assigns, and anyone for whom the undersigned is responsible to or for, to forever discharge, waive, release from any liability, and not to sue the City of Fowler, its officials, officers, employees, volunteers, and agents ("the City") for any personal injury(ies), including death, or property damage or loss caused by, arising out of, resulting from, or connected in any way to participation in the Activity described in this Agreement, including but not limited to incidents arising out of the City's negligence.

Description of the Activity: Polar Express Train Ride & Reindeer Petting Zoo. Date(s): December 4, 2021

**Express Assumption of Risk - WARNING:** The undersigned is aware and acknowledges that participation in the Activity carries with it inherent risks that cannot be fully eliminated regardless of the care taken by the City, including without limitation damage to property, and personal injury including serious personal injury or death. Additionally, the Activity will include a petting zoo with various types of animals. The undersigned is aware and acknowledges that interaction with animals is an unpredictable activity, and the risks and dangers associated therewith include without limitation being stepped on, bitten, kicked, dragged, run into, run over, head-butted, and attacked. Furthermore, THE ACTIVITY MAY INCLUDE THE DISTRIBUTION OR AVAILABILITY OF FOOD PRODUCTS which may include ingredients that may cause allergic reactions for some participants. The undersigned, on his/her own behalf and that of his/her child(ren), agrees and acknowledges that responsibility for acceptance of any food product and reading and determining the ingredients thereof rests solely with the undersigned and not with the City. The undersigned freely and voluntarily assumes all risks, whether known or unknown, from participating in the Activity.

**Indemnification and Hold Harmless:** The undersigned agrees for himself/herself and his/her heirs, assigns, and representatives to indemnify and hold the City harmless from any and all losses, claims, actions, causes of action, proceedings, expenses, damages, and liability of any kind which may be initiated by the undersigned or by any other person or organization on the undersigned's behalf, including demands for damages, judgments, costs, loss of services, or expenses arising out of the participation or involvement in the activities contemplated by this Agreement, including but not limited to reasonable attorney's fees.

**Competition Release:** The undersigned agrees and acknowledges that the City is not responsible for the following: (i) events beyond the City's control that may cause the Activity to be disrupted, modified, or cancelled; (ii) any printing or typographical errors in any materials associated with the Activity; and (iii) any disputes amongst participants regarding the Activity or the use or award of any prize. Any prizes are awarded "as is, where is," without warranty of any kind, express or implied, including without limitation any warranty of merchantability or suitability for a particular purpose.

**Publicity and Promotional Release:** By signing this Agreement and participating in the Activity, the undersigned grants the City the perpetual irrevocable non-exclusive right and license to use and exploit, except where prohibited by applicable law, the undersigned's name, photograph, likeness, statements, answers, prize information, voice recording, and video images for publicity and promotional purposes, including without limitation on City's website and social media accounts, without obligation, compensation, or liability to the undersigned. The waiver and release of liability and indemnification and hold harmless provisions of this Agreement include the publicity and promotional release and grant of the right and license provided herein.

I, \_\_\_\_\_, do hereby read, understand, and agree that this Agreement is intended to be as complete and exclusive as the provisions hereof, and that if any clause, provision, or portion herein is held invalid, the remaining provisions shall continue to have full legal force and effect. I have read this Agreement, fully understands its terms, and voluntarily waiving substantial rights, including the right to be represented by counsel, and I am being signed freely and voluntarily, and the undersigned hereby releases the City of Fowler from all liability to the greatest extent permitted by law. I, \_\_\_\_\_, minor, I have read and agree to all provisions set forth herein.

\_\_\_\_\_  
Participant or legal guardian of participating minor(s)

\_\_\_\_\_  
Participant or legal guardian of participating minor(s)

\_\_\_\_\_  
Participant or legal guardian of participating minor(s)

The City of Fowler Proudly Presents  
**CHRISTMAS**  
**MERCED Street** **4<sup>TH</sup>**  
**SATURDAY**

**SKIP THE LINE!**

**Download and complete the participant waiver  
ahead of time and bring it to the  
EXPRESS LINE  
at the waiver booth to receive your wristband.  
(located near the Merced St. Christmas Tree)**

**WRISTBAND REQUIRED FOR THE  
TRAIN AND PONY RIDES.**