



**CITY OF NEW BERLIN
COMMITTEE OF THE WHOLE MEETING**

Tuesday, January 25, 2022

6:00PM

Zoom Meeting

<https://us02web.zoom.us/j/81332972722>

The Council has satisfied the requirements as directed by the Common Council on June 22, 2021 and Ordinance No. 2651 to hold this meeting via electronic means. The full text of this ordinance and the minutes from the above mentioned meeting can be viewed at www.newberlin.org

Any comments that the public wishes to make may be communicated to the city via email at citizencomments@newberlin.org and will be forwarded to the Mayor and City Council. Interested parties may also participate by:

- Downloading the ZOOM app located at <https://zoom.us/> and utilize this unique ID to join: 813 3297 2722
- Following this direct link to the meeting: <https://us02web.zoom.us/j/81332972722>
- Find your local number: <https://us02web.zoom.us/j/81332972722>

AGENDA

CALL MEETING TO ORDER

ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE

APPROVAL OF MINUTES

December 14, 2021 Committee of the Whole Meeting Minutes

January 11, 2021 Committee of the Whole Meeting Minutes

UTILITIES & FINANCE

Approval of Water Utility claims in the amount of \$17,023.67(2021 INVOICES) AND \$9,149.68 (2022 INVOICES), Sewer Utility claims in the amount of \$42,523.10 (2021 INVOICES) AND \$469.96 (2022 INVOICES) and General City claims in the amount of \$1,129,550.05 (2021 INVOICES) AND \$266,495.96 (2022 INVOICES).
US Bank VISA EFT of \$18,693.99 NOV/DEC 2021

LICENSES & PERMITS

Operator (Bartender) license applications for the licensing period ending June 30, 2023 per the list as presented.

MISCELLANEOUS

Update from Municipal Courts Manager Catherine Hausen

Recommend the Common Council adopt Ordinance #2657 repealing & recreating Chapter 24 of the Municipal Code of the City of New Berlin regarding Emergency Management.

Recommend the Common Council adopt Ordinance No. 2658, an Ordinance to Repeal and Replace Section 152-5 of the Municipal Code of the City of New Berlin Regarding Direct Sellers.

DEFERRED, REFERRED & TABLED ITEMS

Repeal and Recreate Section 261-4(D) of New Berlin Code Regarding Issuance of Overnight Parking Permit *(This item was tabled on October 26, 2021. Motion to table by Alderman Garrigues. Seconded by Alderwoman Doyle.)*

ADJOURN

PLEASE NOTE:

- ✓ It is possible that action will be taken on any of the items on the agenda and that the agenda may be discussed in any order. It is also possible that members of and possible a quorum of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information; no action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice.
- ✓ Also, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact City Clerk Georgia Stanford (262) 786-8610.



NEW OPERATOR (BARTENDER) LICENSE APPLICANTS

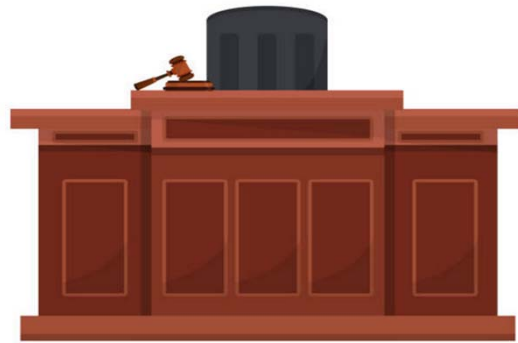
Council Meeting Date: January 25, 2022

The below individuals hereby make application to the Common Council of the City of New Berlin for an Operator's (Bartender) License to serve fermented malt beverages and intoxicating liquors subject to Wisconsin Statutes and City of New Berlin Ordinances for the period ending June 30, 2023.

Page: 1

Applicant's Name	Invited	Place of Employment as Operator	Applying for License
1. Louis W. Soplanda		Matty's Bar & Grill	Operator's 2 Year

Municipal Court



Catharine Hausen

Court Sessions

Court Sessions

- ❖ 1st and 3rd Wednesdays (8:30 AM)
- ❖ 2nd and 4th Wednesdays (7:00 PM)
- ❖ Since COVID, only one evening court per month.
- ❖ Last court session of the month pre-trial only.
- ❖ Court sessions currently all in-person.



2020-2021 Highlights

COVID related adjustments:

- ❖ Court cancelled from March 18, 2020 to June 3, 2020.
- ❖ Continual notification to defendants for new court dates.
- ❖ Obtained Chief Judge Dorow approval to reopen on June 3, 2020.
- ❖ Signage, masks, and limited capacity.
- ❖ Coordinated with NBPD for modified check in procedure.
- ❖ City Prosecutor by phone/email until September 2021.



2020-2021 Highlights Continued

Staff changes in 2020:

- ❖ Manager of 21 years retired in June 2020.
- ❖ Current part-time employee acquired manager position in July 2020.
- ❖ New part-time employee started in May 2020.

2020-2021 Highlights Continued

Office changes:

- ❖ Journal Technologies Court software of 10 years no longer supported.
- ❖ Signed contract with TiPSS during summer of 2020.
- ❖ Online training for new software for all staff.
- ❖ TiPSS Parking, Cash Register and Point and Pay web service started in October 2020.
- ❖ TiPSS Court interface with Tracs, DOR, and DOT began in April 2021.



Ticket Totals

2021

- ❖ Tickets issued: 4,777

2020

- ❖ Tickets issued: 4,020
- ❖ Fewer tickets issued during COVID.
- ❖ Increase in \$10.00 seatbelt tickets issued.
- ❖ Decrease in registration tickets issued due to state of emergency.

2019

- ❖ Tickets issued: 4,434



Juvenile Cases

2021 65 Juvenile Cases

- ❖ Juvenile Court with New Berlin
 - ❖ Receive alternative sentence including:
 - ❖ community service
 - ❖ letters of apology or essays
 - ❖ alcohol, drug and vaping classes
 - ❖ no further violations
- ❖ Waukesha County Teen Court
 - ❖ Waukesha county resident, no prior incidents, admit guilt, non-traffic only.
 - ❖ Receive an alternative sentence including:
 - ❖ community service
 - ❖ jury duties
 - ❖ no further violations
 - ❖ Five cases in 2020. Seven cases in 2021.

Serving the Public

- ❖ Assist the public with driver's license and vehicle registration matters:
 - ❖ Requirements, eligibility, restrictions and withdrawals.
- ❖ Provide requested information in regards to public records requests by government agencies.
- ❖ Process and assist defendants with requests for:
 - ❖ Adjournments, jury demands, refusal hearings, appeals etc.
- ❖ Prepare and submit statistical and financial reports to state, county and local government agencies.

Serving the Public continued

Implement any law changes related to municipal courts.

ACT 70 January 2020

- ❖ Ignition Interlock exemption for motorcycles
- ❖ Record motions to reopen and poverty hearings
- ❖ Jury trial no longer allowed for appealed OWI trials
- ❖ Armed security required during court sessions



Informing the Defendant

Defendant provided with information multiple ways regarding tickets.

- ❖ Before Court:
 - ❖ Defendant ticket issued with instruction sheet
 - ❖ Court notices
 - ❖ Website
 - ❖ Phone
- ❖ During Court:
 - ❖ Judge's opening remarks during court
 - ❖ Court handout
 - ❖ Defendant court record
- ❖ After Court
 - ❖ Default letter
 - ❖ Summons
 - ❖ Postcards

Informing the Defendant continued

Multiple payment methods available for defendants.

- ❖ In-person, by mail, drop box, and two online/phone services
- ❖ Payment plans
- ❖ Extensions



Defendants notified of due date prior any enforcement.

- ❖ Letters sent to provide defendants time to pay or contact us
- ❖ Default letters, summons and postcards

All correspondence indicates consequences for non-payment.

Collection Methods

When collection warnings are ignored, Court uses the following methods to collect:

- ❖ Department of Transportation
 - ❖ Driver's License Suspension
 - ❖ Registration Suspension
- ❖ Writ of Commitment or Warrant
- ❖ Department of Revenue
 - ❖ State Debt Collection
 - ❖ Tax Refund Intercept Program



Suspensions

Driver's License Suspensions for failure to pay.

- ❖ Suspended license for one year.
- ❖ Suspension traffic or juveniles offenses.
- ❖ Ordered to be consecutive to other suspensions on record.
- ❖ Once paid, suspension is released.



Traffic Violation and Registration Program TVRP

TVRP

- ❖ Two warning postcards are mailed to defendants for unpaid parking tickets.
- ❖ Failure to pay is submitted to TVRP electronically.
- ❖ Suspension placed on related car and any future attempts to register vehicles.
- ❖ Once paid, suspension is released electronically.

Writ of Commitment

Signed ordered for failure to pay for the arrest and incarceration in the Waukesha County Jail.

- ❖ Non-payment of violations such as:
 - ❖ Operating while Intoxicated
 - ❖ Disorderly Conduct
 - ❖ Theft
 - ❖ Possession of Paraphernalia or THC
- ❖ Defendant serves one day for every \$50.00 owed.
- ❖ City charged \$18.46 for each day served.



Writ of Commitment continued

Writs of Commitments

- ❖ Posted on City of New Berlin website
- ❖ ALPRS (Automatic License Plate Recognition System)
- ❖ Warning letters mailed
- ❖ Fewer issued since COVID
- ❖ During COVID, posted or released

Many Writs of Commitment cancelled and placed in more successful methods of collections since COVID.

- ❖ Defendant not in surrounding counties
- ❖ Low balances
- ❖ No hit confirmation in several years
- ❖ Cost to NBPD outweighs return on Writ

Department of Revenue

State Debt Collection (SDC)

- ❖ Collection by DOR with no cost to the Court
- ❖ Aggressively pursues collection from lotteries, wages, or bank accounts
- ❖ Joined SDC in late 2016
- ❖ From 2016 to 2021, \$463,103 has been collected
- ❖ In 2021, collected \$98,549 in forfeitures

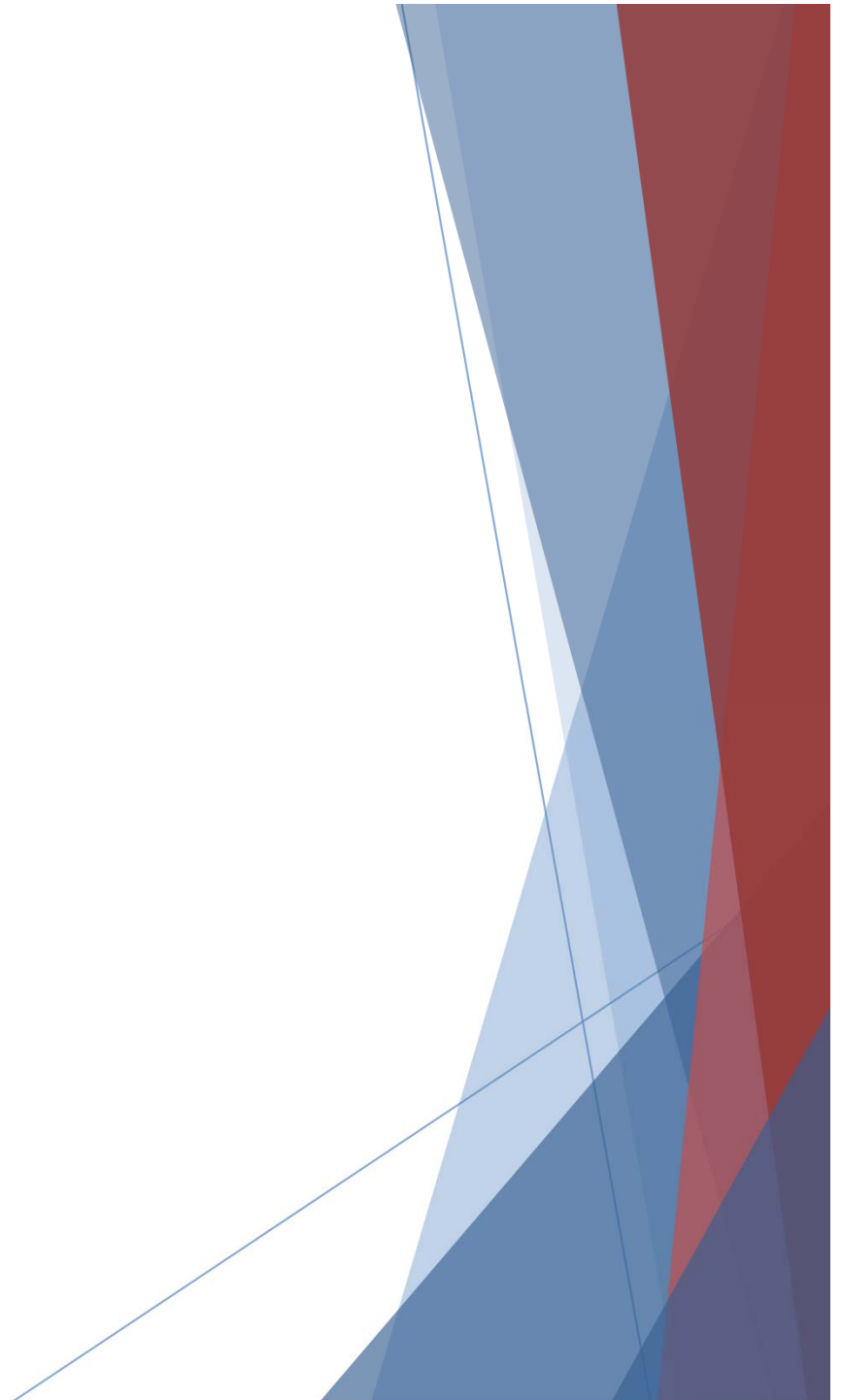
Tax Refund Intercept Program (TRIP)

- ❖ Collection by DOR with no costs to the Court
- ❖ Intercepts Wisconsin Tax Return
- ❖ Parking
- ❖ Writs of Commitment
- ❖ In 2021, collected \$3,500

Revenue Sources

2021 sources of payment of forfeitures

Cash	12%
Check	16%
AllPaid (online/phone)	17%
Point and Pay (online/phone)	20%
Credit Card	16%
SDC	18%
TRIP	1%



Revenue Totals

2021

- ❖ 2021 Revenue collected \$326,032 (as of 1/18/22)
- ❖ 2021 Proposed revenue \$320,000

2020

- ❖ 2020 Original Revenue \$320,000
- ❖ 2020 COVID Modified Revenue \$260,000
- ❖ 2020 Actual Revenue \$285,734

2019

- ❖ 2019 Actual Revenue \$309,045

2022 Goals

The Court will to continue to:

- ❖ Aggressively use all methods available for collection on outstanding balances.
- ❖ Provide defendants with multiple options for payments to allow for more successful compliance.
- ❖ Offer professional and helpful service to the public.
- ❖ Maintain a coordinated and cohesive relationship with the NBPD officers and clerks.



City of New Berlin
3805 South Casper Drive P.O. Box 510921
New Berlin, Wisconsin 53151-0921

(262) 786-8610
Fax (262) 786-6121

REQUESTED ACTION STATEMENT

Date: January 18, 2022
TO: Common Council
FROM: Mayor David Ament

ISSUE:

Recommend the Common Council adopt Ordinance #2657 repealing & recreating Chapter 24 of the Municipal Code of the City of New Berlin regarding Emergency Management.

REQUESTED:

Recommend the Common Council adopt Ordinance #2657 repealing & recreating Chapter 24 of the Municipal Code of the City of New Berlin regarding Emergency Management.

FISCAL IMPACT: None

RATIONALE:

After serious consideration, I would like to formally move Emergency Management under the Department of Community Development. EM has always worked very closely with DCD, and this move will enable better coordination and increased EM cross-training within DCD. The reality of how Emergency Management has operated in the past has really been within the DCD structure already anyway.

We envision the Director of Community Development fulfilling the leadership role with the EM Manager providing the day to day operations supplemented by other DCD staff. EM is really a division that primarily deals with contingency planning/preparedness which includes work with GIS, Engineering, Storm Water with some planning etc. all of this is a great fit within DCD and a dynamic that EM maintained for years.

There could be some cost savings through the utilization of existing staff to assist on projects when needed - admin staff GIS etc. - in addition to some of the duplication that might exist in some budget line item accounts - supplies, training etc. Putting EM within DCD also keeps it out of a public safety department that will be heavily involved in the emergency response/disaster phase, and putting it into a department that is involved in the recovery response of "how do we put the community back together" from a regional planning perspective, and an engineering perspective of repairing the infrastructure etc.

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

§ 24-1 Policy and purpose.

- A. "Emergency ~~government~~Management" shall mean the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to minimize and repair injury and damage resulting from disaster caused by enemy attack, sabotage, or other hostile action, or by fire, flood, or other natural causes.
- B. By reason of the increasing possibility of disasters of unprecedented size and destructiveness, and to ensure that preparations will be adequate to cope with such disasters, and to provide for the common defense, to protect the public peace, health, safety, and general welfare, and to preserve the lives and property of the people, it is hereby declared necessary:
- (1) To establish a local emergency ~~government~~management organization;
 - (2) To provide for the exercise of necessary powers during emergency ~~government~~management emergencies;
 - (3) To provide for the rendering of cooperation and mutual aid between the City of New Berlin and other political subdivisions.
- C. It is further declared to be the purpose of this chapter and the policy of the city that all emergency ~~government~~management functions of the city be coordinated to the maximum extent practicable with existing services and facilities of the city and with comparable functions of the federal, state, and county government and other political subdivisions, and of various private agencies to the end that the most effective preparation and use may be made of manpower, resources and facilities for dealing with any disasters that may occur.

§ 24-2 Appointment and duties of Emergency ~~Government- Management~~Director.

- A. Appointment. The office of Emergency ~~Government- Management~~Director is hereby created as a Division of the Community Development Department. The ~~Director-Manager~~ shall be appointed by the Director of Community Development pending Council approval or as approved thru the Budget process. Mayor, subject to confirmation by the Common Council. The Manager shall hold office for an indefinite term, subject to removal as provided by law. Other Emergency Management staff may be appointed by the Director of Community Development pending Council approval or as approved thru the Budget process. appointment shall be for a term of three years. Deputies and Coordinators may be appointed by the Director. Emergency ~~government~~Management personnel shall take and file an official oath. ~~Salaries shall be established each year through the budget process with a January 1 effective date.~~
- B. Duties and authority of ~~Emergency Management Manager~~Director.
- (1) The ~~Director~~Emergency Management Manager shall be the ~~executive-administrative~~ head of the emergency ~~government~~management organization and shall have direct responsibility for the organization, administration, and operation of the emergency ~~government~~management organization subject to the direction and control of the Director of Community Development and the Mayor. (in the absence of the Director, the Deputy Director of Community Development shall assume these duties and decision-making capabilities). ~~Mayor and the City Council.~~

- (2) ~~He~~ The Emergency Management Manager shall coordinate all activities for emergency ~~government-~~management within the city and shall maintain liaison and cooperate with emergency ~~government-~~management agencies and organizations of other political subdivisions and of the state and federal government, and ~~shall may~~ participate in county and state emergency ~~government-~~management activities upon request and as approved by the Director of Community Development or the Mayor.
- (3) ~~He~~ The Emergency Management Manager shall have such additional authority, duties, and responsibilities as are authorized by this chapter and as may from time to time be required by the Director of Community Development, Mayor and or the City Council.
- (4) The ~~Director~~ Emergency Management Manager, in collaboration with the Director of Community Development, shall prepare a comprehensive general plan for the emergency ~~government-~~management of the city, and shall present such plan to the Common ity Council for its approval. When the ~~City-~~Common Council has approved the plan by resolution, it shall be the duty of all municipal agencies and all emergency ~~government-~~management forces of the city to perform the duties and functions assigned by the plan as approved. The plan may be modified in like manner. This general plan shall be updated no less than once every 10 years and shall be integrated into the City's overall Comprehensive Plan where appropriate.

§ 24-3 Utilization of existing services and facilities.

In preparing and executing the emergency ~~government-~~management plan, the ~~Director~~ Emergency Management Manager shall utilize the services, equipment, supplies and facilities of the existing departments and agencies of the city to the maximum extent practicable. The officers and personnel of all departments and agencies are directed to cooperate with and extend their services and facilities to the Emergency Management Division. ~~Director.~~

§ 24-4 Emergency regulations.

Whenever necessary to meet an emergency ~~government-~~management situation for which adequate regulations have not been adopted by the City-Common Council, the Mayor, and in his absence, the Council President, and in his absence, the Emergency Management Manager or Director of Community Development ~~Director of Emergency Government~~, may by proclamation promulgate and enforce any orders, rules, and regulations relating to the conduct of persons and the use of property as shall be necessary to protect the public peace, health and safety, and preserve lives and property and to ensure the cooperation necessary in emergency ~~government-~~management activities. ~~These proclamations shall be posted in five public places in the city and may be rescinded at any time.~~ These proclamations shall be posted on the City's webpage, via social media and at City Hall. -

§ 24-5 Mutual aid agreements.

The ~~Director~~ Manager of Emergency ~~Government-~~Management and/or the Director of Community Development, may, subject to the approval of the City-Common Council, enter into mutual aid agreements with other political subdivisions. Copies of these agreements shall be filed with the State ~~Director~~ Emergency Management Office. ~~of Emergency Government.~~

§ 24-6 Declaration of emergencies.

Upon the declaration ~~of a state of emergency~~ by the Governor, the Mayor, ~~or in the absence of the Mayor, the Council President, or in the absence of the Council President, the Emergency Government~~ the Director of Community Development, ~~Director in the absence of the Mayor, or the City Council, of a state of emergency,~~ ~~the Director of Emergency Government~~ shall issue all necessary proclamations as to the existence of such

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state of emergency and shall issue any disaster warnings or alerts as shall be required in the emergency government management plan. The emergency government management organization shall take action in accordance with the emergency government management plan only after the declaration of an emergency and the issuance of official disaster warnings. A state of emergency shall continue until terminated by the issuing authority, provided that any declaration not issued by the Governor may be terminated at the discretion of the City Common Council.

§ 24-7 Emergency government Management employees.

- A. Workmen's compensation. Employees of the city's emergency government management units are employees of the city for purposes of workmen's compensation benefits. Volunteer emergency government management workers in the city's emergency government management units are employees of the city for purposes of workmen's compensation benefits, provided they are duly registered in writing for purposes of workmen's compensation benefits and that they meet the Wisconsin statutory and administrative code restrictions for volunteers to receive worker's compensation benefits. Any employment which is part of an emergency government management program, including, but not restricted because of enumeration, test runs and other activities which have a training objective, as well as emergency government management activities during an emergency proclaimed by the Governor, or which grows out of and is incidental to such emergency government management activity, is covered employment subject to the restrictions provided for in the Wisconsin statutes and administrative code. Subject to the restrictions provided for under Wisconsin law Members of an emergency government management unit who are not acting as employees of a private employer during emergency government management activities are employees of the emergency government management unit for which acting. If no pay agreement exists, or if the contract pay is less, pay for workmen's compensation purposes shall be computed at \$2,080 per annum.
- B. Indemnification of employee. Emergency government management employees as defined in Subsection A shall be indemnified by the city against any tort liability to third persons incurred in the performance of emergency government management activities while acting in good faith and in a reasonable manner. Emergency government management activities constitute a governmental function.
- C. State reimbursement. If the total liability for workmen's compensation benefits under Subsection A, indemnification benefits under Subsection B, and loss of equipment incurred in any calendar years exceeds \$1 per capita of the city's population, application shall be made to the State of Wisconsin for reimbursement of such excess, upon certification of the State Director of Emergency-Government Management.
- D. Pay. Emergency government management employees-volunteers shall receive no pay unless specific agreement for pay is made.

§ 24-8 Expenses of emergency government management.

No person shall have the right to expend any public funds of the city in carrying out any emergency government management activity authorized by this chapter without prior approval by the City Common Council, nor shall any person have any right to bind the city by contract, agreement or otherwise without prior and specific approval of the City Common Council and/or per the City's Contract Policy.

§ 24-9 Violations and penalties.

Any person who shall obstruct, hinder or delay any member of the emergency government management

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organization in the enforcement of any order, rule, regulation or plan issued pursuant to this chapter shall, upon conviction thereof, be subject to the penalties as set forth in Chapter **1**, General Provisions, § **1-18** of this Code.

ORDINANCE NO. 2657

**ORDINANCE TO REPEAL & RECREATE CHAPTER 24 OF THE MUNICIPAL CODE OF
THE CITY OF NEW BERLIN REGARDING EMERGENCY MANAGEMENT**

WHEREAS, The City wishes to change the designation of Emergency Government to Emergency Management; and

WHEREAS, The City wishes to move Emergency Management under the Department of Community Development and create an Emergency Manager position; and

NOW THEREFORE, the Common Council of the City of New Berlin do hereby ordain as follows:

SECTION I

Chapter 24 of the Municipal Code is hereby repealed and recreated to read as follows:

Chapter 24 EMERGENCY MANAGEMENT

§ 24-1 Policy and purpose.

A. "Emergency Management" shall mean the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to minimize and repair injury and damage resulting from disaster caused by enemy attack, sabotage, or other hostile action, or by fire, flood, or other natural causes.

B. By reason of the increasing possibility of disasters of unprecedented size and destructiveness, and to ensure that preparations will be adequate to cope with such disasters, and to provide for the common defense, to protect the public peace, health, safety, and general welfare, and to preserve the lives and property of the people, it is hereby declared necessary:

- (1) To establish a local emergency management organization;
- (2) To provide for the exercise of necessary powers during emergency management emergencies;
- (3) To provide for the rendering of cooperation and mutual aid between the City of New Berlin and other political subdivisions.

C. It is further declared to be the purpose of this chapter and the policy of the city that all emergency management functions of the city be coordinated to the maximum extent practicable with existing services and facilities of the city and with comparable functions of the federal, state, and county government and other political subdivisions, and of various private agencies to the end that the most effective preparation and use may be made of manpower, resources and facilities for dealing with any disasters that may occur.

§ 24-2 Appointment and duties of Emergency Management.

A. Appointment. The office of Emergency Management is hereby created as a Division of the Community Development Department. The Manager shall be appointed by the Director of Community Development pending Council approval or as approved thru the Budget process. The Manager shall hold office for an indefinite term, subject to removal as provided by law. Other Emergency Management staff may be appointed by the Director of Community Development pending Council approval or as approved thru the Budget process. Emergency Management personnel shall take and file an official oath.

B. Duties and authority of Emergency Management Manager.

(1) The Emergency Management Manager shall be the administrative head of the emergency management organization and shall have direct responsibility for the organization, administration, and operation of the emergency management organization subject to the direction and control of the Director of Community Development and the Mayor. (in the absence of the Director, the Deputy Director of Community Development shall assume these duties and decision-making capabilities)..

(2) The Emergency Management Manager shall coordinate all activities for emergency management within the city and shall maintain liaison and cooperate with emergency management agencies and organizations of other political subdivisions and of the state and federal government, and may participate in county and state emergency management activities upon request and as approved by the Director of Community Development or the Mayor.

(3) The Emergency Management Manager shall have such additional authority, duties, and responsibilities as are authorized by this chapter and as may from time to time be required by the Director of Community Development, Mayor or the City Council.

(4) The Emergency Management Manager, in collaboration with the Director of Community Development, shall prepare a comprehensive general plan for the emergency management of the city, and shall present such plan to the Common Council for its approval. When the Common Council has approved the plan by resolution, it shall be the duty of all municipal agencies and all emergency management forces of the city to perform the duties and functions assigned by the plan as approved. The plan may be modified in like manner. This general plan shall be updated no less than once every 10 years and shall be integrated into the City's overall Comprehensive Plan where appropriate.

§ 24-3 Utilization of existing services and facilities.

In preparing and executing the emergency management plan, the Emergency Management Manager shall utilize the services, equipment, supplies and facilities of the existing departments and agencies of the city to the maximum extent practicable. The officers and personnel of all departments and agencies are directed to cooperate with and extend their services and facilities to the Emergency Management Division.

§ 24-4 Emergency regulations.

Whenever necessary to meet an emergency management situation for which adequate regulations have not been adopted by the Common Council, the Mayor, and in his absence, the Council President, and in his absence, the Emergency Management Manager or Director of Community Development, may by proclamation promulgate and enforce any orders, rules, and regulations relating to the conduct of persons and the use of property as shall be necessary to protect the public peace, health and safety, and preserve lives and property and to ensure the cooperation necessary in

emergency management activities. These proclamations shall be posted on the City's webpage, via social media and at City Hall.

§ 24-5 Mutual aid agreements.

The Manager of Emergency Management and/or the Director of Community Development, may, subject to the approval of the Common Council, enter into mutual aid agreements with other political subdivisions. Copies of these agreements shall be filed with the State Emergency Management Office.

§ 24-6 Declaration of emergencies.

Upon the declaration of a state of emergency by the Governor, the Mayor, or in the absence of the Mayor, the Council President, or in the absence of the Council President, the Director of Community Development, shall issue all necessary proclamations as to the existence of such state of emergency and shall issue any disaster warnings or alerts as shall be required in the emergency management plan. The emergency management organization shall take action in accordance with the emergency management plan only after the declaration of an emergency and the issuance of official disaster warnings. A state of emergency shall continue until terminated by the issuing authority, provided that any declaration not issued by the Governor may be terminated at the discretion of the Common Council.

§ 24-7 Emergency Management employees.

A. Workmen's compensation. Employees of the city's emergency management units are employees of the city for purposes of workmen's compensation benefits. Volunteer emergency management workers in the city's emergency management units are employees of the city for purposes of workmen's compensation benefits, provided they are duly registered in writing for purposes of workmen's compensation benefits and that they meet the Wisconsin statutory and administrative code restrictions for volunteers to receive worker's compensation benefits. Any employment which is part of an emergency management program, including, but not restricted because of enumeration, test runs and other activities which have a training objective, as well as emergency management activities during an emergency proclaimed by the Governor, or which grows out of and is incidental to such emergency management activity, is covered employment subject to the restrictions provided for in the Wisconsin statutes and administrative code. Subject to the restrictions provided for under Wisconsin law Members of an emergency management unit who are not acting as employees of a private employer during emergency management activities are employees of the emergency management unit for which acting.

B. Indemnification of employee. Emergency management employees as defined in Subsection A shall be indemnified by the city against any tort liability to third persons incurred in the performance of emergency management activities while acting in good faith and in a reasonable manner. Emergency management activities constitute a governmental function.

C. State reimbursement. If the total liability for workmen's compensation benefits under Subsection A, indemnification benefits under Subsection B, and loss of equipment incurred in any calendar years exceeds \$1 per capita of the city's population, application shall be made to the State of Wisconsin for reimbursement of such excess, upon certification of the State Director of Emergency Management.

D. Pay. Emergency management volunteers shall receive no pay unless specific agreement for pay is made.

§ 24-8 Expenses of emergency management.

No person shall have the right to expend any public funds of the city in carrying out any emergency management activity authorized by this chapter without prior approval by the Common Council, nor shall any person have any right to bind the city by contract, agreement or otherwise without prior and specific approval of the Common Council and/or per the City's Contract Policy.

§ 24-9 Violations and penalties.

Any person who shall obstruct, hinder or delay any member of the emergency management organization in the enforcement of any order, rule, regulation or plan issued pursuant to this chapter shall, upon conviction thereof, be subject to the penalties as set forth in Chapter 1, General Provisions, § 1-18 of this Code.

SECTION II

All Ordinances or parts of Ordinances contravening the terms and conditions of this Ordinance are hereby to that extent repealed.

SECTION III

The sections of this Ordinance shall be considered severable. If any section shall be considered by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other portions of the Ordinance.

SECTION IV

This Ordinance shall take effect upon passage and publication as approved by law, and the City Clerk shall so amend the Code of Ordinances of the City of New Berlin, and shall indicate the date and number of this amending ordinance therein.

PASSED AND ADOPTED by the Common Council this ____ day of _____, 2022.

APPROVED:

David Ament, Mayor

Countersigned:

Georgia Stanford, City Clerk



REQUESTED ACTION STATEMENT

January 19, 2022

TO: Mayor Ament
Common Council

FROM: Rubina R. Medina, Deputy City Clerk / Licensing Specialist

ISSUE:

The City's municipal code currently requires all Direct Seller applicants to go before the Parks, Building & Grounds Commission for approval if the intent is to sell on City property regardless if they are taking part in a city sponsored event. City sponsored events currently consist of the Fourth of July festival, beer gardens and Winterfest which are sponsored by the Recreation Department. Potential vendors often submit their application after the last PB&G meeting was held in the month preceding the special event therefore the application cannot be approved. This creates a dilemma for Recreation staff as they frequently recruit and finalize vendors weeks prior to the event. With that, I am proposing amending the municipal code to provide an exemption for vendors taking part in city run events.

REQUESTED:

Recommend Council Adopt Ordinance #2658, an Ordinance to Repeal and Replace Section 152-5 of the Municipal Code of the City of New Berlin Regarding Direct Sellers.

FISCAL IMPACT:

None.

RATIONALE:

The principal purpose of this amendment is to provide an exemption for direct sellers taking part in City run events from the requirement of seeking approval from the PB&G Commission for sales on City property. The Fourth of July Coordinator and Recreation Staff expressed a need for this amendment as there has been instances when applicants were turned away because they applied after the PB&G meeting was held. Rather than turn away a potential vendor, this change allows the Clerk's office to approve the application internally pending the applicant meets all requirements outlined in City ordinance. This exemption would apply to direct seller applicants taking part in City run events only.

Additional minor amendments were made to reflect the current process of conducting background checks and the removal of the liability provision as directed by City Attorney Mark Blum.

ORDINANCE NO. 2658

**ORDINANCE TO REPEAL AND REPLACE SECTION 152-5
OF THE MUNICIPAL CODE OF THE CITY OF NEW BERLIN
REGARDING DIRECT SELLERS**

The Common Council of the City of New Berlin do ordain as follows:

SECTION I

Licenses and Permits Chapter 152, Section 5 regarding Direct Sellers of the Municipal Code of the City of New Berlin is hereby amended to read as it appears in the attached Exhibit A.

SECTION II

All Ordinances or parts of Ordinances contravening the terms and conditions of this Ordinance are hereby to that extent repealed.

SECTION III

The several sections of this Ordinance shall be considered severable. If any section shall be considered by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other portions of the Ordinance.

SECTION IV

This Ordinance shall take effect upon passage and publication as approved by law, and the City Clerk shall so amend the Code of Ordinances of the City of New Berlin, and shall indicate the date and number of this amending ordinance therein.

PASSED AND ADOPTED by the Common Council this 25th day of January, 2022.

APPROVED:

David Ament, Mayor

Countersigned:

Georgia Stanford, City Clerk

Exhibit A - § 152-5 Direct sellers

§ 152-5 Direct sellers.

- A. License required. No direct seller, or an employee of a direct seller, shall engage in direct sales within the City without being licensed for that purpose as provided herein.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated: **[Amended 6-19-2001 by Ord. No. 2142; 10-9-2018 by Ord. No. 2605]**

CLERK

The City Clerk.

DIRECT SELLER

A person who sells goods or takes sales orders for the later delivery of goods at any location other than the permanent business place or residence of such person, partnership, association or corporation, and failure to obtain approval of the plan of operation required hereunder shall be grounds for license revocation.

GOODS

Personal property of any kind and provided incidental to services offered or sold.

MOBILE VENDOR

A person who offers goods or services for sale to the public without a permanently built structure but with a self-contained static structure by way of a vehicle or other transportation.

PERMANENT MERCHANT

A direct seller who, for at least one year prior to the consideration of the application of this section to such merchant, has continuously operated an established place of business in this City or has continuously resided in this City and now does business from his residence.

- C. Exemptions. The following shall be exempt from all provisions of this section:
 - (1) Any person delivering newspapers or selling newspaper subscriptions, fuel, dairy products or bakery goods to regular customers on established routes.
 - (2) Any person selling goods at wholesale to dealers in such goods.
 - (3) Any person selling agricultural products which such person has grown.
 - (4) Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchant within this county and who delivers such goods in his or her regular course of business.
 - (5) Any person who has an established place of business in the City where the goods being sold are offered for sale on a regular basis and in which the buyer has initiated contact with, and specifically requested a home visit by, such person.

- (6) Any person who has had or represents a company which has had a prior business transaction, such as a prior sale or credit arrangements, with the prospective customer.
- (7) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law.
- (8) Any person who claims to be a permanent merchant but against whom complaint has been made to the Clerk that such person is a transient merchant, provided that there is submitted to the Clerk proof that such person has leased for at least one year, or purchased, the premises from which he/she is conducting business or proof that such person has conducted such business in this City for at least one year prior to the date complaint was made.
- (9) Any ex-soldier of the United States and any other disabled person who meets the requirements of § 440.51, Wis. Stats.
- (10) Any person selling Christmas trees.
- (11) Boy Scouts or Girl Scouts soliciting money or donations of money.
- (12) Any students, up to and through the 12th grade of primary or secondary school, who reside in Milwaukee and Waukesha Counties, in connection with authorized school programs and activities.
- (13) Any charitable organization, society, association or corporation which is recognized as a tax-exempt charitable organization by federal and state authorities. Such charitable organizations, societies, associations or corporations shall be regulated as provided in § 152-6 of this chapter. **[Amended 1-23-2007 by Ord. No. 2335]**

D. Mobile vendors. **[Amended 10-9-2018 by Ord. No. 2605]**

- (1) License requirement.
 - (a) All mobile vendors doing business in the City will be required to obtain a direct sellers permit.
 - (b) Obtain a mobile retail license from either the State of Wisconsin or from Waukesha County. A copy of this license shall be on file with the City of New Berlin Clerk's Office.
 - (c) A copy of the direct sellers permit and mobile retail license shall be posted on the mobile unit for public view.
- (2) Parking.
 - (a) Vendors must follow all City parking regulations and posted signage.
 - (b) Vendors cannot block or restrict an individual's access to a business or residence or the driveways, alleys or access points to the parking areas for such locations.
 - (c) Vendors are prohibited from selling along the following rights-of-way, arterials and major thoroughfares at all times: Calhoun Road, Cleveland Avenue, Greenfield Avenue, Lincoln Avenue, Moorland Road,

National Avenue, Howard Avenue, Beloit Road, Coffee Road, Lawnsdale Road, Janesville Road, Racine Avenue, College Avenue, Sunny Slope Road, 124th Street, Small Road, and Grange Avenue.

- (d) Vendors are prohibited from selling within or along any City parks without the permission of the Parks, Buildings and Grounds Commission.
- (e) Vendors are prohibited from selling along residential streets without the permission of the City.
- (3) Sales.
 - (a) It is prohibited to make any sales from the roadway median strip, safety island or on foot into any street or roadway, including any alleys where there is vehicular traffic.
 - (b) Food cannot be sold door to door.
 - (c) Food cannot be sold between the hours of 10:00 p.m. and 7:00 a.m.
 - (d) Vendors cannot place coolers on the ground or provide tables or chairs for their customers.
 - (e) No vendor shall use a power source from an adjacent building, and vendors must be self-contained.
 - (f) All waste shall be disposed of properly by the vendor; no organic waste shall be deposited into the City sanitary sewer system.
- (4) Exemptions.
 - (a) Direct Seller applicants wishing to sell on city property for city run events (i.e. Fourth of July Festival, Beer Gardens, Winterfest, etc.) shall be exempt from the following provisions set forth in this Chapter: 152-5(D)(2)(d), 152-5(D)(3)(c) and 152-5(D)(3)(d).E. Registration for license. **[Amended 8-28-2007 by Ord. No. 2355; 10-9-2018 by Ord. No. 2605]**
 - (1) Application. Applicants for a license shall complete and return to the Clerk a registration form furnished by the Clerk which shall require the following information:
 - (a) Name, including middle initial, permanent address and telephone number and, if any, temporary address and telephone number.
 - (b) Age, date of birth, height, weight and color of hair and eyes.
 - (c) Name, address and telephone number of the person, firm, association or corporation that the direct seller represents or is employed by or whose merchandise is being sold.
 - (d) Temporary address and telephone number from which business will be conducted, if any.
 - (e) Nature of business to be conducted and a brief description of the goods and any services offered.
 - (f) Proposed method of delivery of goods, if applicable.

- (g) Make, model and license number of any vehicle to be used by the applicant in the conduct of his/her business.
 - (h) Last cities, villages and/or Towns, not to exceed three, where the applicant conducted similar business.
 - (i) Place where the applicant can be contacted for at least seven days after leaving this City.
 - (j) Statement as to whether the applicant has been charged or convicted of any crime or ordinance violation related to the applicant's transient merchant business, or any crime or ordinance violation pertinent to the safety of citizens, including, or of a similar nature to, fraud, burglary, robbery, assault or sexual assault, within the last five years, and a detailed explanation of the nature of the offense and place of conviction.
- (2) Required documents. Applicants shall present the following to the Clerk for examination:
- (a) A driver's license, the number of which shall be recorded by the Clerk, or some other proof of identity as may be reasonably required.
 - (b) A state certificate of examination and approval from the Sealer of Weights and Measures where the applicant's business requires use of weighing and measuring devices approved by state authorities.
 - (c) (Reserved)
 - (d) The applicant shall be given a copy of this section and shall sign a receipt therefor.
- (3) Fee. At the time the registration is returned, a fee to cover the cost of processing the registration, as well as the required annual license fee, shall be paid to the Clerk. Such fees are stated in § 152-2 of this chapter.

(4)

F. Investigation. **[Amended 10-9-2018 by Ord. No. 2605]**

- (1) City Clerk to conduct. Upon receipt of each application, the Clerk will conduct a background check via the background check vendor as approved by the City Clerk. The City Clerk will review the findings upon the application and shall issue or deny the license in accordance with such findings. When the license is issued, the applicant shall pay an annual license fee as set by the Common Council, and the license shall be valid for one year from the date of issue.
- (2) Denial of license. The Clerk shall refuse to issue a license to the applicant if it is determined, pursuant to the investigation above, that:
 - (a) The application contains any material omission or materially inaccurate statement.
 - (b) Complaints of a material nature have been received against the applicant by authorities in the last cities, villages and Towns, not exceeding three, in which the applicant conducted similar business.
 - (c) The applicant was convicted of a crime, statutory or ordinance violation within the last five years, the

nature of which is directly related to the applicant's fitness to engage in direct selling or is a violation pertinent to the safety of citizens, including, or of a similar nature to, fraud, burglary, robbery, theft, assault and sexual assault.

- (d) The applicant failed to comply with any applicable provision of Subsection **D(2)** above.
- G. Appeals. Any person denied a license may appeal the denial to the City Council. [**Amended 10-9-2018 by Ord. No. 2605**]
- H. Regulation of direct sellers. [**Amended 8-12-2008 by Ord. No. 2384; 10-9-2018 by Ord. No. 2605**]
- (1) Prohibited practices.
 - (a) A direct seller shall be prohibited from calling at any dwelling or other place between 8:00 p.m. and 9:00 a.m., except by appointment.
 - (b) A direct seller shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents.
 - (c) No direct seller shall impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.
 - (d) No direct seller shall make any loud noises or use any sound-amplifying device to attract customers if the noise produced is capable of being plainly heard outside a 100-foot radius of the source.
 - (e) No direct seller shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.
 - (f) No permit holder under this section shall call at any dwelling or in any way solicit at a dwelling where a sign has been posted indicating that solicitation is generally not permitted or is restricted to particular hours. Such sign shall be placed in a location reasonably calculated to provide notice of this restriction to the direct seller. [**Amended 9-24-2019 by Ord. No. 2623**]
- (2) Disclosure requirements.
 - (a) After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of goods or services he/she offers to sell.
 - (b) If any sale of goods is made by a direct seller, or any sales order for the later delivery of goods is taken by the seller, the buyer shall have the right to cancel the transaction if it involves the extension of credit or is a cash transaction of more than \$25; in accordance with the procedure as set forth in § 423.203, Wis. Stats., the seller shall give the buyer two copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of § 423.203(1)(a), (b) and (c), (2) and (3), Wis. Stats.
 - (c) If the direct seller takes a sales order for the later delivery of goods, he/she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement; the amount

paid in advance, whether full, partial or no advance payment is made; the name, address and telephone number of the seller; the delivery or performance date; and whether a guaranty or warranty is provided and, if so, the terms thereof.

- (d) Any person licensed under this section shall carry his license with him while engaged in licensed activities and shall display such license to any police officer or citizen upon request.
- I. Records. The Chief of Police shall report to the Clerk all convictions for violation of provisions of this section and the Clerk shall note any such violation on the record of the registrant convicted. **[Amended 10-9-2018 by Ord. No. 2605]**
- J. Revocation of license. **[Amended 10-9-2018 by Ord. No. 2605]**
 - (1) Registration may be revoked by the City Council, after notice and hearing, if the registrant made any material omission or materially inaccurate statement in the application for registration; made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales; violated any provisions of this section; or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling or is a violation pertinent to the safety of citizens, including, or of a similar nature to, fraud, burglary, robbery, theft, assault and sexual assault.
 - (2) Written notice of the hearing shall be served personally on the registrant at least 72 hours prior to the time set for the hearing; such notice shall contain the time and place of hearing and a statement of the acts upon which the hearing will be based.
- K. Minor employment laws adopted. Except as otherwise specifically provided in this chapter, the statutory provisions in §§ 103.21, 103.23 and 103.25, Wis. Stats., describing and defining regulations with respect to the employment of minors are hereby adopted and by reference made a part of this chapter as if fully set forth herein. **[Amended 10-9-2018 by Ord. No. 2605]**
- L. Use and occupancy. If a direct seller shall occupy or use vacant land or a building, use and occupancy permits shall be obtained pursuant to the provisions of Chapter 275, Zoning, of this Code. **[Amended 10-9-2018 by Ord. No. 2605]**
- M. Term. The term of the direct seller license shall be one year from the date of its issuance. Any renewal of the license shall require reapplication and review as provided for hereunder. **[Added 8-28-2007 by Ord. No. 2355; 10-9-2018 by Ord. No. 2605]**
- N. Suspensions of license. Registration may be suspended by the City Clerk pending the determination by the Common Council of the revocation of a license where the City Clerk has credible evidence that the registrant is engaged in conduct which has or may jeopardize the safety of citizens such as perpetrating a fraud or commitment of a burglary, robbery, theft, assault or sexual assault. Written notice of the suspension shall be served personally upon the registrant or, if the registrant cannot be found despite reasonable attempts to serve him/her, the notice may be tendered the registrant at the address given in its application for the direct seller license. **[Added 9-27-2016 by Ord. No. 2574; amended 10-9-2018 by Ord. No. 2605]**



DIRECT SELLER LICENSE APPLICATION

Direct Seller: A Direct Seller license is required for any individual who sells goods or takes sales orders for the later delivery of goods or services at any location other than the permanent business place or residence of such person, partnership, association or corporation. No direct seller, or an employee of a direct seller, shall engage in direct sales within the City of New Berlin without being licensed. Each person applying must complete a separate application.

Fees: A daily license is \$10 per day, per direct seller. A business license is \$100 which includes up to 3 employees and is valid for one year from the date of issuance. There is also a \$10 background check fee per person. Fee is waived if the business owns a brick & mortar facility within Waukesha County. Cash or Check is accepted. Make checks payable to: City of New Berlin

1. Is this application in conjunction with a City of New Berlin special event? ☐ No ☐ Yes (If yes, please answer questions 2 & 3)
2. If yes, what event: ☐ Fourth of July Festival ☐ Beer Garden ☐ Other _____
3. Provide Date(s) of Event: _____
4. Provide location of Event: _____
5. What City Department is sponsoring this event?: _____
6. Who is your contact person at this department?: _____

Section A. Direct Seller Information – Please print legibly

Business Name (if any): _____

Business Website (if any): _____

Does the business own a brick & mortar facility within Waukesha County? ☐ No ☐ Yes (If yes, please provide address on next line)

First Name _____ Middle Name _____ Last Name _____

Maiden or Previous Name (if any): _____

Date of Birth _____ Check One: ☐ Male ☐ Female

Phone Number _____ Email _____

Street Address _____

City _____ State _____ Zip Code _____

Driver License/I.D. Number _____ (Attach copy with this application)

Height _____ Weight _____ Hair Color _____ Eye Color _____

1. Have you been convicted of any crime or ordinance violation within the last five years? ☐ No ☐ Yes
2. Do you currently have any pending charges in Wisconsin or any other state? ☐ No ☐ Yes
3. If you answered yes to the question above, please provide explanation: _____

Section B. Vendor Products / Location of Sales

1. Check the items you plan to sell: ☐ Food/Beverages ☐ Merchandise ☐ Selling Products/Services (to be delivered or completed at a later time)

If you checked FOOD, have you attached your food license with the Waukesha County Environmental Health Department? ☐ No ☐ Yes

2. Provide (or attach) a detailed description of the items checked above. (i.e. food menu, brochure of services, etc.)

4. List other municipalities, festivals or events that you conducted similar business: _____

5. If you are selling items from a specific location, please provide the exact address and what business this is: _____

*Do you have the permission of the property owner to utilize their property for sales? ☐ No ☐ Yes

Provide the name and phone number of the property owner: _____

**You must answer yes to the above question to submit this application.*

Section C. Direct Seller Fees

Each person who is directly engaged in sales must have a direct seller license. A daily license is \$10 per day, per direct seller. A business license is \$100 which includes up to 3 employees and is valid for one year from the date of issuance. There is also a \$10 background check fee per person. Fee is waived if the business owns a brick & mortar facility within Waukesha County.

Select Direct Seller Option below – check one box:

☐ **Daily License - \$10 per direct seller, per day + \$10 background check fee.** Each direct seller applicant must complete a separate application.

Indicate the exact dates you will be conducting direct sales in the City of New Berlin – this will be printed on your license:

☐ **\$100 Business License (Includes 3 direct sellers and is valid for 1 year) + \$10 background check fee per person.**

*Each applicant must complete a separate application.

☐ **Business owns a brick & mortar facility within Waukesha County - no fee.** Please provide proof of brick & mortar facility.

TOTAL DUE: _____ *(cash or check only – Please make all checks payable to: City of New Berlin)*

Section D. Signature & Acknowledgment

I, the undersigned, do hereby make an application for a Direct Seller license for the City of New Berlin. I certify that all of the information provided on this application is true and correct to the best of my knowledge. I authorize the City of New Berlin to conduct a background check to verify the information provided, and authorize the release of all information regarding my record.

I acknowledge that I have read the [New Berlin Municipal Code Section 152-5](#) relating to Direct Sellers and agree to comply with all provisions set forth in this section.

☒ **Applicant Signature** _____ **Date** _____

OFFICE USE ONLY:

Date Application Received: _____ Total Fees Paid: _____ Date Record Check Completed: _____

Date License Issued: _____ License No.: _____

Notes: _____

REQUESTED ACTION STATEMENT

TO: MAYOR AND NEW BERLIN COMMON COUNCIL

FROM: NEW BERLIN POLICE DEPARTMENT AND CITY ATTORNEY'S OFFICE

RE: REPEAL AND RECREATE SECTION 261-4(D) OF NEW BERLIN CODE REGARDING ISSUANCE OF OVERNIGHT PARKING PERMIT

DATE: January 11, 2022

Requested Action:

Repeal and recreate Section 261-4(D) of the Municipal Code of the City of New Berlin concerning the issuance of overnight parking permits.

Financial fiscal impact:

Costs of publishing changes to Municipal Code

Rationale:

The current Section 261-4(D) provides that the Police Department issues a physical parking permit to the owner of any vehicle for use by the owner where there is insufficient parking space on the premises occupied by the vehicle's owner. The current ordinance requires the owner to display the permit in a conspicuous place within the vehicle. It is sometimes difficult for an officer issuing an overnight parking citation to see a permit allegedly displayed which can sometimes lead to disputes in court regarding whether the permit was properly displayed or not. Under the current ordinance, permits are sometimes transferred between vehicles and owner.

Under the proposed ordinance, a physical permit will no longer be issued. Instead, at the time the permit is purchased by an owner, the owner's vehicle information will be entered in the Police Department's records management system which will allow the officers to quickly determine if a valid permit has been issued for a specific vehicle. Permits will no longer be transferable between owners and vehicles. At the time of purchase, the owner will instead be supplied with a receipt as proof of purchase. The proposed ordinance will also increase temporary permission granted by the Police Department from twenty-four hours to seventy-two hours which, in the Department's experience, is more consistent with an owner's need for temporary permission which typically coincides with parking lot and driveway improvements at the vehicle owner's apartment complex or residence.

Main Benefits of such a proposed ordinance:

1. Language is added to require owner/lessee to procure a permit specific to a single vehicle. This eliminates the need to issue a physical permit to be displayed in a vehicle. This also reduces officer and court time in which parking citations are contested by permit holders whom allege the permit was displayed and the officer failed to observe it and/or a valid permit holder simply failed to display a permit.

2. The proposed process of issuance of a receipt provides a permit holder proof a permit was procured should an error occur in permit entry, permit recall or in the RMS system itself. A physical permit will no longer be issued to the permittee for display.
3. According to the police clerks issuing temporary permission, most residents seek permission exceeding one night and typically do so for 3 nights or 72 hours due to driveway improvements.
4. The changes to the temporary permission allows the PD to grant permission to multi-family or single family residences for parking lot/driveway maintenance projects.

ORDINANCE NO. _____

ORDINANCE REPEALING AND RECREATING SECTION 261-4(D) OF THE NEW
BERLIN MUNICIPAL CODE

The Mayor and Common Council of the City of New Berlin, Waukesha County, do ordain as follows:

SECTION I

Section 261-4(D) of the City of New Berlin Municipal Code is hereby repealed and recreated as follows:

D.

Night parking. No person shall park any vehicle on any street in the City between 2:00 a.m. and 5:00 a.m. unless a permit is granted therefor as provided in Subsection **D(1)**. Signs giving notice of this restriction shall be placed or erected at or near the corporate limits of the City on all state and county truck highways and connecting streets as defined in § 84.02(11), Wis. Stats. Such signs shall be reflectorized and of a type approved by the State Department of Transportation as to the size of lettering, shape and color.

(1)

Permit for overnight parking. A permit may be issued by the Police Department to any owner or lessee of any motor vehicle to park such motor vehicle overnight upon a street or highway adjacent to the premises occupied by such owner or lessee as a residence where there is insufficient parking space upon such premises to provide parking space for such motor vehicle. Such permits shall be issued by the Police Department on a month-to-month basis. Overnight parking permit fees shall not be pro-rated and are not refundable. Overnight parking permits are not transferable in any manner. The monthly parking fee shall be set by the Common Council and shall be paid to the Police Department at the time the permit is issued, and the parking fee shall be paid by the Police Department to the Director of Finance and Administration. The Police Department shall issue a receipt for the overnight parking permit in lieu of a physical permit to the owner and/or lessee of such motor vehicle upon payment of such overnight parking permit fee. The Police Department shall electronically record the permittee's contact information, vehicle description, vehicle registration plate number, and the duration for which the permit is valid in the Department's records management system. No permit shall be issued by the Police Department for parking upon any street or highway when such parking would create a danger to other users of the street or highway. The parking privileges provided for by such parking permit shall be suspended during all periods of snow emergency as provided in § **261-11** of this chapter, at which time such motor vehicle shall be removed from the street or highway.

(2)

Notwithstanding the provisions of Subsection **D(1)**, the Police Department may grant permission for one-time temporary overnight parking not to exceed one seventy-two hour period per month, without fee, or as otherwise deemed appropriate by the Chief of Police or his designee.

SECTION II

All Ordinances or parts of Ordinances contravening the terms and conditions of this Ordinance are hereby to that extent repealed.

SECTION III

The several sections of this Ordinance shall be considered severable. If any section shall be considered by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other portions of the Ordinance.

SECTION IV

This Ordinance shall take effect upon passage and publication as approved by law, and the City Clerk shall so amend the Code of Ordinances of the City of New Berlin, and shall indicate the date and number of this amending ordinance therein.

PASSED AND ADOPTED by the Common Council this _____ day of _____, 202_.

APPROVED:

David Ament, Mayor

Countersigned:

Georgia Stanford, City Clerk