

Code Committee MEETING AGENDA



June 27, 2024 - 2:30 PM
Council Chambers
3805 S. Casper Dr.

Published 6/21/2024

AGENDA

1. **CALL MEETING TO ORDER**
2. **ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE**
3. **APPROVAL OF MINUTES**
 - A. December 6, 2023 Meeting Minutes
4. **NEW BUSINESS**
 - A. KH DCD1-2302102 Municipal Code Updates - Chapter 152
5. **OLD BUSINESS**
6. **ADJOURN**

Supplemental Information:

- *The meeting agenda and agenda packet are available online at www.NewBerlinWI.gov*
- *The minutes are published online and are approved at the next regularly scheduled meeting.*
- *Action may be taken on any of the agenda items and the agenda may be discussed in any order.*
- *You may email comments to the City Clerk at CitizenComments@NewBerlinWI.gov. The comments will be forwarded to the mayor and governing body members. The emailed comments are not read during the meeting.*
- *The City of New Berlin is committed to hosting inclusive, accessible meetings. We strive to enable all individuals, regardless of their abilities, to engage and participate fully. If you have a qualifying disability under the Americans with Disabilities Act that requires the meeting to be accessible, please contact the Office of the City Clerk at (262) 786-8610 or via email at ClerksOffice@NewBerlinWI.gov at least 48 hours before the scheduled meeting time. We will make every effort to accommodate your needs through appropriate aids and/or services.*
- *It is also possible that members of and possibly a quorum of other municipal governmental bodies may attend the above-stated meeting to gather information; any governmental body will take no action at the above-stated meeting other than the governmental body specifically referred to in the above meeting notice.*



Code Committee MEETING MINUTES

December 6, 2023 - 3:00 PM
Badger Conference Room
3805 S. Casper Dr.

Please note: Minutes are unofficial until approved at the next regular scheduled meeting.

MINUTES

1. ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE

Mayor Ament called the meeting to order at 3:16 PM

Deputy Clerk Godshall took the roll call as follows:

Present: Mayor Ament, Commissioner McGrath, Alderperson Stribl

Excused: None

Staff Present: DCD Deputy Director Nikki Jones, Principal Planner Kristen Hogan, Principal Planner Kelly Wall, Deputy City Clerk Megan Godshall

A quorum was established and the meeting was properly noticed.

2. APPROVAL OF MINUTES

A. July 6, 2021 Meeting Minutes

MOTION: Motion to Approve

VOTE: Motion by: Alderperson Stribl
Second by: Commissioner McGrath
Motion 3-0

B. January 27, 2023 Meeting Minutes

MOTION: Motion to Approve

VOTE: Motion by: Alderperson Stribl
Second by: Commissioner McGrath
Motion Passed 3-0

3. NEW BUSINESS

A. GK DCD1-2302102 Zoning Code Updates

The following edits were made by the Code Committee to Chapter 275:

275-43H(3):

- Change "The holder of the Food Truck License" to "A food truck"

275-43H(3)(a):

- Change "as regulated in" to "except as allowed in"

275-43H(3)(c):

- Add "a lot with".
- Add language that defines how distance is measured.

275-43H(3)(d):

- Add language that defines how distance is measured.

275-43H(3)(e):

- Remove "other than Residential and Park districts" as this is already defined in 275-43H(3)(b)

MOTION: Motion to Approve as presented with changes

VOTE: Motion by: Alderperson Stribl
Second by: Mayor Ament
Motion Passed 2-1

4. ADJOURN

MOTION: Motion to Adjourn at 3:50 PM

VOTE: Motion by: Commissioner McGrath
Second by: Alderperson Stribl
Motion Passed 3-0

***Respectfully Submitted,
Megan Godshall, Deputy City Clerk***

ORDINANCE NO. 2689**ORDINANCE TO AMEND CHAPTER 152 (LICENSES AND PERMITS) OF THE
MUNICIPAL CODE OF THE CITY OF NEW BERLIN**

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

SECTION I

Section 152-4H(5) of the Municipal Code of the City of New Berlin is hereby amended to read as follows:

- (5) Abandonment of license. Any licensee granted or issued a license to sell alcoholic beverages who abandons such business shall forfeit any right or preference the licensee may have to the holding or renewal of such license. Abandonment shall be sufficient grounds for revocation or nonrenewal of any alcohol beverage license. For purposes of this section, "abandon" and "abandonment" shall be defined as a continuing refusal or failure of the licensee to use the license for the purpose or purposes for which the license was granted by the Common Council for a period of 180 days or more individually or in the aggregate during the course of any one twelve-month period. In order for the licensee to avoid a finding of abandonment their establishment must be actively operated for the sale of alcoholic beverages for consumption on site as provided for in the Class B License issued to the owner/operator, specifically the establishment shall be open for sale of alcohol to the public for consumption on site a minimum of 25 hours per week and the licensee must main stock of alcohol to operate the bar as a going concern and such beer/liquor shall be purchased from a wholesaler. The Common Council may, for good cause shown, extend the period of permitted nonuse.

SECTION II

Section 152-4L of the Municipal Code of the City of New Berlin is hereby amended to read as follows:

- L. City Clerk to conduct investigation of applicants. Upon receipt of each application, the Clerk will make and complete an investigation of the statements in such application and an investigation of each applicant within reasonable dispatch after the application has been filed with the City Clerk. The City Clerk shall endorse his findings upon the application.

SECTION III

Section 152-4O of the Municipal Code of the City of New Berlin is hereby amended to read as follows:

- O. Reserve licenses. If an applicant applies for less than a full license year or terminates their license before the end of a license year, the reserve license fee and any portions thereof will not be refunded, nor will they be prorated.

SECTION IV

Section 152-4Q of the Municipal Code of the City of New Berlin is hereby amended to read as follows:

- Q. Alcoholic beverages on City property or public rights-of-way.
- (1) The sale of alcoholic beverages on City property or public rights-of-way is hereby prohibited except with an approved Special Event Permit. The sale of alcoholic beverages on City property for City-run events (i.e., Fourth of July Festival, Beer Gardens, Winterfest, etc.) does not require a Special Event Permit.
 - (2) An exception to this prohibition would be sales by City of New Berlin Staff in Municipal Parks as permitted pursuant to Wisconsin Statute Sec. 125.06(6).
 - (3) The prohibition against public consumption on City property and public rights-of-way is further limited where the City has issued an Extension of Premise Permit to a Class B alcohol beverage seller or where a Temporary Class B License has been issued.

SECTION V

Section 152-4R(2) of the Municipal Code of the City of New Berlin is hereby amended to read as follows:

- (2) Abandonment of license. Any licensee granted or issued a license to sell alcoholic beverages who abandons such business shall forfeit any right or preference the licensee may have to the holding or renewal of such license. Abandonment shall be sufficient grounds for revocation or nonrenewal of any alcohol beverage license. For purposes of this section, "abandon" and "abandonment" shall be defined as a continuing refusal or failure of the licensee to use the license for the purpose or purposes for which the license was granted by the Common Council for a period of 180 days or more individually or in the aggregate during the course of any one twelve-month period. In order for the licensee to avoid a finding of abandonment their establishment must be actively operated for the sale of alcoholic beverages for consumption on site as provided for in the Class B License issued to the owner/operator, specifically the establishment shall be open for sale of alcohol to the public for consumption on site a minimum of 25 hours per week and the licensee must main stock of alcohol to operate the bar as a going concern and such beer/liquor shall be purchased from a wholesaler. The Common Council may, for good cause shown, extend the period of permitted nonuse.

SECTION VI

Section 152-5A of the Municipal Code of the City of New Berlin is hereby amended to read as follows:

- 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. A copy of the direct sellers permit and mobile retail license shall be posted on the mobile unit for public view.

SECTION VII

Section 152-5B of the Municipal Code of the City of New Berlin is hereby amended to read as follows:

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

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. Food trucks are considered mobile vendors.

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.

SECTION VIII

Section 152-5C(13) of the Municipal Code of the City of New Berlin is hereby amended to read as follows:

(13) Any charitable organization, society, association or corporation which is recognized as a tax-exempt charitable organization by federal and state authorities.

SECTION IX

Section 152-5D of the Municipal Code of the City of New Berlin is hereby amended to read as follows:

D. License requirement.

- (1) Direct Sellers Permit. All mobile vendors doing business in the City will be required to obtain a direct sellers permit. The following information shall be provided:
 - (a) Application. A completed application shall contain the following information:
 - [1] Name, including middle initial, permanent address and telephone number and, if any, temporary address and telephone number.
 - [2] Age, date of birth, height, weight and color of hair and eyes.
 - [3] 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.
 - [4] Contact information for the business, including temporary address, phone number and/or website.
 - [5] Nature of business to be conducted and a brief description of the goods and any services offered.
 - [6] Proposed method of delivery of goods, if applicable.
 - [7] Make, model and license number of any vehicle to be used by the applicant in the conduct of his/her business.
 - [8] Last cities, villages and/or towns, not to exceed three, where the applicant conducted similar business.
 - [9] Place where the applicant can be contacted for at least seven days after leaving this City.
 - [10] 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.
 - (b) Driver's license, or other proof of identity.
 - (c) Fees. 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.
 - [1] An additional fee shall be collected for Direct Sellers operating on or along City property for non-City sponsored events.
- (2) Obtain a mobile retail license from either the State of Wisconsin or another jurisdiction. A copy of this license shall be on file with the City of New Berlin Clerk's Office.

SECTION X

Section 152-5E of the Municipal Code of the City of New Berlin is hereby amended to read as follows:

E. General regulations for Mobile vendors.

(1) Parking.

- (a) Vendors must follow all City parking regulations and posted signage. Overnight parking within the city limits is not permitted unless the mobile vendors place of business is a registered New Berlin business.
- (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) Operating within the public right-of-way.

[1] 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.

[2] Vendors are prohibited from selling within public right-of-way along single family residential streets without a special event permit. Mobile vendors shall be limited to operate a maximum of 6 days per year along such streets. Vendors must provide written evidence of the consent of all immediately adjacent property owners.

(d) Operating on or along City property.

[1] Approval from the Parks, Buildings and Grounds Commission is required for Direct Sellers operating on or along City property. Direct seller applicants operating on City property as part of a City-run event (i.e., Fourth of July Festival, Beer Gardens, Winterfest, etc.) shall be exempt.

[2] An additional fee shall be collected for each event the Direct Seller is operating on or along City property. This additional fee shall not apply to direct seller applicants operating on City property as part of a City-run event (i.e., Fourth of July Festival, Beer Gardens, Winterfest, etc.).

(e) Operating on private property.

[1] No more than 2 mobile vendors are allowed to operate on private property at any given time, unless approved as part of a special event permit.

[2] For properties directly adjacent to single family residential zoning districts, excluding the right-of-way, no more than 1 mobile vendor is allowed to operate on private property at any given time, unless approved as part of a special event permit. Mobile vendors shall be limited to operate a maximum of 6 days per year on such property. Vendors must provide written evidence of the consent of all immediately adjacent property owners.

[3] The vehicle utilized by mobile vendors shall be setback a minimum of 50' from the lot line, excluding the right-of-way, of a lot with an existing restaurant or business which sells food prepared on site. The vehicle shall provide a trash receptacle and remove all trash from the site upon the conclusion of the event.

(2) 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) Mobile vendors may only operate between 7:00 a.m. and 10:00 p.m. Direct seller applicants operating on City property as part of a City-run event (i.e., Fourth of July Festival, Beer Gardens, Winterfest, etc.) shall be exempt.
- (d) Vendors cannot place coolers on the ground or provide tables or chairs for their customers. Direct seller applicants operating on City property as part of a City-run event (i.e., Fourth of July Festival, Beer Gardens, Winterfest, etc.) shall be exempt.
- (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.

SECTION XI

Section 152-6 of the Municipal Code of the City of New Berlin is hereby repealed.

SECTION XII

Section 152-9 of the Municipal Code of the City of New Berlin is hereby amended to read as follows:

- A. No person shall operate any loudspeakers or sound-amplifying devices in open-air theaters, places of amusement, upon the public highways or elsewhere within the City without first obtaining a permit therefor from the City Clerk.
- B. Application for such permit shall be made in writing to the City Clerk. If the loudspeaker and sound-amplifying device will be operated at such volume and be so located as not to constitute a public nuisance, a permit may be issued.
- C. This section does not apply to public address systems and sound amplifiers operated within buildings which are completely enclosed so that the sound amplification does not cause disturbance outside of the building.
- D. Any amendment to a permit issued under this section shall require Common Council approval. In the event that any amendment to an existing permit is issued, City Clerk shall so advise the Chief of Police of that change.
- E. Loudspeaker Permits may only be issued for use between the hours of 9:00 a.m. and 11:00 p.m. Loudspeaker Permits outside of these hours may only be issued with the approval of the Common Council.
- F. Amplified music or noise being generated pursuant to a Permit under this Section shall only be permitted to the extent that it does not cause unreasonable disturbance to residents and businesses in the surrounding area. In the event the Police Department determines, in its reasonable discretion, that noise or music is causing an unreasonable disturbance to residents and businesses in the surrounding area, the Police Department shall have the authority to revoke the Permit and the noise/music being generated under the Permit must immediately cease.

SECTION XIII

Section 152-23 of the Municipal Code of the City of New Berlin is hereby amended to read as follows:

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

CLASS I

A special event as outlined in DHS 110.44(20r) with more than 5,000 people, including personnel, volunteers, vendors, and attendees. Some of the following may also occur:

- City resources and/or staff are to be utilized beyond their normal required duties
- alcohol is sold or served as a publicly open event
- the event will include amplified music or outdoor entertainment
- any direct or indirect charge for food, merchandise or services
- donations are solicited/collected

CLASS II

A special event with 501-5,000 people, including personnel, volunteers, vendors, and attendees. Some of the following may also occur:

- City resources and/or staff are to be utilized beyond their normal required duties
- alcohol is sold or served as a publicly open event
- the event will include amplified music or outdoor entertainment
- any direct or indirect charge for food, merchandise or services
- donations are solicited/collected

CLASS III

A special event with 151-500 people, including personnel, volunteers, vendors, and attendees. Some of the following may also occur:

- alcohol is sold or served as a publicly open event
- the event will include amplified music or outdoor entertainment
- any direct or indirect charge for food, merchandise or services
- donations are solicited/collected

CLASS IV

A special event with 150 people or less, including personnel, volunteers, vendors, and attendees.

SPECIAL EVENT

An event held in the City that requires the use of public streets, rights-of-way or sidewalks, or are otherwise likely at the discretion of the City to create substantial impacts on the operations of the City, surrounding neighbors or neighborhoods. Special events include but are not limited to sporting events, festivals, fairs, parades, walks, runs/marathons, bike-a-thons, races, markets, block parties, exhibitions, motion picture filming and other events similar in nature. Special events can also be classified as any event that may require public safety and City services above and beyond their normal functions. Events held on private property that are open to the public may be classified as a special event if there is a significant impact on the City's operations and residents.

B. Special Event Permit. No person or organization shall conduct a special event as defined herein within the City of New Berlin without first having obtained a Special Event Permit. Permits are valid only for the dates, times and locations specified in the permit application. This provision

shall apply to all events proposed after the date of the adoption of this section, regardless of if the event is a reoccurring event within the City.

C. Application.

(1) Application requirements. An application will be considered complete if it contains all the information required under this section.

(a) Application timing.

[1] Class I Special Event Permits shall be filed with the City Clerk's office at least 120 days prior to the proposed event.

[2] Class II Special Event Permits shall be filed with the City Clerk's office at least 90 days prior to the proposed event.

[3] Class III Special Event Permits shall be filed with the City Clerk's office at least 45 days prior to the proposed event.

[4] Class IV Special Event Permits shall be filed with the City Clerk's office at least 14 days prior to the proposed event.

(b) Fees. Fees are established by the Common Council and shall be on file in the City Clerk's Office. The City Clerk may waive the permit fees for public agencies, nonprofit agencies or as deemed appropriate by the City Clerk.

(c) Deposits for Class I Events. Application fee in the form of a deposit shall be submitted to the City for all Class I events. The deposit shall be used to cover City staff review, planning time and coordination to review the application itself and through the completion of the event. Staff will use their direct billable hours to debit the submitted deposit amount. Should the deposit itself go down to zero, the applicant shall replenish the deposit to the original amount. Any remaining deposit funds after the permit is issued or denied shall be returned to the applicant. The deposit will start at \$1,000.

(d) The application shall include the following:

[1] The name, address and phone number of the person, entity or organization sponsoring the event.

[2] The name and address of the special event sponsor's contact or agent.

[3] The name, date, time and location of the event in question.

[a] Special events in residential neighborhoods may require notification of adjacent neighbors.

[4] A description of the event and its purpose.

[5] The estimated maximum number of participants, spectators and vendors at the proposed event. If the event is a multi-day event, it should be noted the estimated attendance per day.

[6] Whether alcohol will be sold or served at the event.

[7] Whether food and/or merchandise will be sold at the event.

[8] Plans and description of the following, as necessary for the event:

[a] Amplified music or entertainment and the hours;

[b] Fireworks;

[c] Closure of public streets or rights-of-way meeting the requirements of §230-6 of the Municipal Code;

[d] Parking size and location;

[e] Electricity and lighting plan;

[f] Erecting tents, canopies or temporary structures;

- [g] Temporary fencing locations;
 - [h] Waste/recycling collection and disposal;
 - [i] Portable restrooms and hand wash stations.
- [9] Additional items to consider:
- [a] Additional security personnel;
 - [b] Emergency plan for inclement weather;
 - [c] Potable water for consumption on site;
 - [d] Medical/first aid kits.
- [10] Certification that by signing the application, the applicant is authorized to act on behalf of the event sponsor(s).
- [11] Applicant's acknowledgement that by signing and submitting the application, they accept and comply with the provisions of § 152-23D.
- (2) Application process.
- (a) Facility Rental Permit.
- [1] Special events held on City Property shall obtain a Facility Rental Permit from the Recreation Department prior to applying for a Special Event Permit.
 - [2] Approval from the Parks, Buildings and Grounds Commission is required for Facility Rentals requiring a Special Event Permit.
- (b) Temporary Use Approval Permit.
- [1] Special events on private property may require a Temporary Use Approval Permit from the Department of Community Development prior to applying for a Special Event Permit. Applicants shall abide by the provisions of §275-43 of the Municipal Code.
 - [2] Approval from the Plan Commission/CDA may be required.
- (c) Special Event Permit.
- [1] Within three business days of receipt of an application, the City Clerk shall distribute the complete application to the following departments for review and recommendation: City Attorney, Police, Fire, Public Works, and Community Development. Department review and comments shall be returned to the City Clerk within 15 days of distribution of the application.
 - [2] Common Council approval may be required depending on the size and scope of the special event.
- (d) Direct Sellers Permit.
- [1] All vendors, including mobile vendors, operating on City Property, public rights-of-way, and/or private property shall obtain a Direct Sellers Permit from the Clerk's Office. The permit shall be displayed. Vendors shall abide by the provisions of §152-5 of the Municipal Code.
 - [2] Approval from the Parks, Buildings and Grounds Commission is required for Direct Sellers operating on City property.
- (e) Temporary Class B Retailer's License.
- [1] The sale of beer and/or wine on City Property, public rights-of-way, and/or private property is prohibited unless the applicant can secure a Temporary Class B Retailer's License from the Clerk's Office. There must be either a licensee or a person holding an operator's license on

site in accordance with §§ 125.17(1), 125.32(2), and 125.68(2), Wis. Stats. Applicants shall abide by the provisions of §152-4 of the Municipal Code.

[2] Approval from the Parks, Buildings and Grounds Commission is required for all vendors selling beer and/or wine on City property.

(f) Loudspeaker Permit.

[1] Special events containing amplified music on City Property, public rights-of-way, and/or private property shall obtain a Loudspeaker Permit from the Clerk's Office. Applicants shall abide by the provisions of §152-9 of the Municipal Code.

[2] Approval from the Common Council is required for any variance to the hours outlined in this permit.

(g) Fireworks Permit.

[1] Special events using fireworks on City Property, public rights-of-way, and/or private property shall obtain a Fireworks Permit from the Fire Department. Applicants shall abide by the provisions of §124-12G of the Municipal Code.

[2] Approval from the Common Council is required for fireworks.

(h) Sign Permit.

[1] Signs on City Property, public rights-of-way, and/or private property shall obtain a Sign Permit from the Department of Community Development. Applicants shall abide by the provisions of §275-61 of the Municipal Code.

[2] Approval from the Plan Commission/CDA is required for any sign waivers.

(i) Inspection Permits.

[1] Obtain the necessary building, plumbing and electric permits from the Department of Community Development.

(j) Fire Department Permits.

[1] Obtain necessary permits for tents, canopies, and temporary structures over 120 square feet from the Fire Department.

D. Permit conditions.

- (1) Liability insurance. For a Class I or Class II event, the group sponsoring the event is required to supply the City with a certificate of liability insurance at least 30 days prior to the event. The certificate shall be written on a per-occurrence basis, and while the amount of coverage will vary depending on the size and nature of the event, the minimum coverage required by the City is \$1,000,000 and \$2,000,000 in the aggregate. The City also requires evidence of a policy endorsement naming the City of New Berlin and any and all of its officers and employees as an additional insured on a primary and noncontributory basis.
- (2) Indemnification. The applicant and event sponsor(s) shall agree to hold the City, its officers, employees, agents and contractors harmless against all claims, liability, loss, damage or expense (including but not limited to actual attorney's fees) incurred by the City for any damage or injury to person or property caused by or resulting directly or indirectly from the activities for which the permit is granted. Any change to coverage requires City approval.
- (3) City services. All requests by the applicants for City services must be made at the time of application. The applicant shall be responsible for reimbursement to the City for any city personnel, services, equipment, and facilities provided for the special event. Reimbursement costs shall be calculated to include wages, overtime and fringe benefits

and is due within 30 days of receipt of invoice. The City reserves the right to require full or partial payment of estimated costs in advance. All permit, signage and barricade costs are due prior to the special event. City Clerk will prepare an invoice based on the City resources required for the event.

- (4) Cleaning/damage deposit. The applicant may be required to submit to the City a deposit depending on the size and number of attendees. The deposit will be refunded to the applicant after an inspection of the premises is conducted and the City determines there is no loss or cleaning costs. The applicant shall be fully responsible for necessary cleanup associated with the permitted event, which must be completed no later than 12 hours after the conclusion of the event. The City reserves the right to retain the entire deposit if cleanup is not satisfactorily completed in the time frame specified.
 - (a) A deposit of \$5,000 shall be submitted for a Class I Special Event.
 - (b) A deposit of \$200 shall be submitted for a Class II Special Event.
- (5) Site requirements.
 - (a) All tents, canopies or temporary structures over 120 square feet require approval from the Department of Community Development and must apply for a permit with the Fire Department.
 - (b) Electricity requirements will be reviewed by the Department of Community Development to determine if an inspection is needed. Electric service must meet all City of New Berlin Code requirements.
 - (c) Attendees and staffing shall not exceed the maximum number which can reasonably attend at the location of the special event.
 - (d) It is the responsibility of the special event sponsor for arranging any inspections required to meet these standards or requirements prior to the event. Any fees for such inspections shall be the responsibility of the special event sponsor.
 - (e) No staking or poles other than fasteners may be placed in any City street.
 - (f) Special events requiring a road closure shall comply with §230-6 of the Municipal Code.
- (6) Notification to residents. The City may require that the permit holder provide written notice 15 days in advance of the special event to any property owners or tenants as determined during the City department's review. Notice shall include the type of event, name of the special event sponsor(s), date, time and location, event coordinator's name and contact information during the event.
- (7) Class IV Special Events. The following regulations shall apply for Class IV Special Events, including Neighborhood Block Parties:
 - (a) An applicant that requests the blockading of a public street, but only for a period of less than 12 hours and for recreational purposes.
 - (b) The applicant shall provide evidence of written consent of not less than 80% of the property owners abutting the portion of the street to be closed. The applicant is also required to provide evidence that all abutting property owners have been advised of the request for closure.
 - (c) The blockade of a public street may only be of a neighborhood street, not City arterials. The applicant shall be required to provide a map showing the portion of the City street to be closed and where the barricades will be placed.
 - (e) Applicant must be the owner of a property on the street where the block party is to be held and must assume responsibility under the permit for the event and compliance with all City Ordinances, the clean-up of the public right of way after the event and that all City barricades are returned within 48 hours of the end of the event.
 - (f) Barricades to close the street must remain in place at all times during the block

party; however, the applicant must ensure that a drive lane through the blockaded street area of not less than 15' in width shall be provided so that all City emergency service vehicles are able to access property within the blocked street.

- (g) If alcohol is being served at the event, it may be to only persons of age and there must be no providing of alcohol to any uninvited guests. No alcohol can be sold to any person.
- (h) Grills may be permitted in the right-of-way subject to the other limitations of this section. However, smokers, fireplaces, fire pits and chimineas are prohibited. Inflatable play structures are also prohibited from being within the public right-of-way.
- (i) All waste and debris must be cleaned up and properly disposed of after the event ends. Public rights-of-way must be restored to the condition that existed prior to the commencement of the event.
- (j) If complaints are received by the Police Department which are not satisfactorily resolved, the Police Department shall have the authority to revoke the permit and to terminate the event.
- (k) A permit request may be denied if complaints have been received regarding Class IV Special Events on the same street in the past, or if the applicant has failed to comply with the requirements of any City Permits in the past.
- (l) Class IV Special Events shall not occur on holidays.

E. Termination of an event. The City reserves the right to shut down a special event that is in progress if it is deemed a public safety hazard and/or public nuisance by police services and/or Fire Department and/or Emergency Management and/or there is a violation of City ordinances, state statutes or the terms of the applicant's permit. The City Clerk and/or his/her designee may revoke an approved special event permit. Note: there are also revocation, enforcement and penalties provided for in Article X in § 275-66, 275-67, 275-68, and 275-69. If the zoning permit/temporary use permit is revoked, there ceases to be an event.

F. Denial of permit. No permit will be issued unless it is approved by all departments.

- (1) The event will disrupt traffic within the City beyond practical solution.
- (2) The event will create a likelihood of endangering the public.
- (3) The event will interfere with access to emergency services.
- (4) The location or time of the special event will cause undue hardship or excessive noise levels to adjacent businesses or residents.
- (5) The event will require the diversion of City resources that would unreasonably affect the maintenance of regular City service levels.
- (6) The application contains incomplete or false information.
- (7) The application fails to provide proof of insurance when required.
- (8) Inadequate provision for garbage or debris removal.
- (9) Inadequate provision of temporary restroom facilities.
- (10) Inadequate provisions for parking.
- (11) A denial of a permit by the Parks Buildings and Grounds Commission where the event is no longer viable.
- (12) A denial of a temporary use permit by the Department of Community Development or the Plan Commission/Community Development Authority.
- (13) Applicant fails to submit the required fees and/or deposit.

SECTION XIV

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

SECTION XV

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 XVI

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 23rd day of July, 2024.

APPROVED:

David Ament, Mayor

Countersigned:

Rubina Medina, City Clerk

§ 152-4. Intoxicating liquor and fermented malt beverages.

- A. State statutes adopted.
- (1) The provisions of Ch. 125, Wis. Stats., describing and defining regulations with respect to alcohol beverages, exclusive of any provisions thereof relating to the penalty to be imposed, are hereby adopted and made a part of this section by reference. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this section. Any future amendments, revisions or modifications of the statutes incorporated herein are intended to be made a part of this section to secure uniform statewide regulation of alcoholic beverages. [Amended 8-22-2006 by Ord. No. 2328]
 - (2) The City Clerk is authorized to issue temporary Class "B" licenses, pursuant to § 125.26(6), Wis. Stats., to the Chamber of Commerce as defined under § 125.02(3u), Wis. Stats.; bona fide clubs; county or local fair associations or agricultural societies, churches, lodges or societies that have been in existence for at least six months before the date of application; and posts of veteran's organizations. The fee for such license shall be set by the Common Council. Application for temporary Class "B" shall be filed at least three days prior to issuance of the license. [Amended 11-10-2015 by Ord. No. 2556]
- B. License fees. [Amended 8-27-2013 by Ord. No. 2508; 11-10-2015 by Ord. No. 2556]
- (1) Fermented malt beverages: see § 152-2.
 - (2) Fermented fruit beverages: see § 152-2.
 - (3) Intoxicating liquor: see § 152-2.
 - (4) Late filing fee. Any renewal liquor license application which is submitted after April 30 of the licensing year shall be assessed, in addition to any other fee provided for under this section, a late fee of \$100.
- C. Election to permit volume liquor sales. The City elects to come under the provision of § 125.51(3)(b), Wis. Stats.
- D. Premises must be business property. No license shall be issued hereunder for any premises which is not improved as business property, having a store or business front.
- E. Disclosure of offenses required. Every applicant for a retail Class "B" license and for an operator's license shall make full disclosure to the Council of any prior conviction of any violation of any state or federal law or any municipal ordinance, and applicants may be required to submit to fingerprinting at the option of the Police Department after that Department has conducted a background check.
- F. Closing hours.
- (1) Sections 125-32(3) and 125.68(4), Wis. Stats., shall apply except that no premises for which a retail Class A intoxicating liquor license has been issued shall be permitted to remain open for the sale of intoxicating liquor between 9:00 p.m. and 8:00 a.m. The owner of the premises shall implement electronic cash register restrictions to preclude the sale of Class A intoxicating liquor during these hours and also shall establish procedures to require the verification of the age eligibility of each purchaser. [Amended 4-12-2011 by Ord. No. 2450]

- (2) Hotels and restaurants whose principal business is the furnishing of food or lodging to patrons, and bowling alleys and golf courses, may remain open for the conduct of their regular business, but no intoxicating liquors or fermented malt beverages shall be sold or consumed during prohibited hours as specified in Subsection F(1).
- (3) Except as provided in Subsection F(2) above, no person other than employees of the licensee or persons performing business or repair services for the licensee shall remain on the licensed premises during any of the time during which the premises are required to be closed as provided in Subsection F(1). No open containers containing alcoholic beverages shall be permitted on the licensed premises during those hours the premises are required to be closed.

G. Regulation of underage persons.

- (1) Definition. An underage person is a person who has not attained the legal drinking age. [Amended 6-19-2001 by Ord. No. 2142]
- (2) Sale of liquor or beer to underage persons prohibited. No person shall sell or give any fermented malt beverage or intoxicating liquor to any underage person unless accompanied by an adult parent, guardian or spouse of legal drinking age.
- (3) Purchase or possession of beer or liquor by underage persons prohibited. No underage person shall purchase or receive, or have in his possession, any fermented malt beverage or intoxicating liquor unless accompanied by an adult parent, guardian or spouse of legal drinking age.

H. Prohibited practices and places of sale.

- (1) (Reserved)
- (2) No retail Class A license for the sale of intoxicating liquor beverages shall be used for any premises upon which fuel for motor vehicles is sold and directly dispensed into such motor vehicle. The retail Class A license for the sale of fermented malt beverages and intoxicating liquor may be issued for such a premises, provided the license holder submits a plan of operation at the time of the initial application or renewal thereof with a diagram or photograph of the proposed display area for fermented malt beverages and intoxicating liquor on premises upon which fuel for motor vehicles is sold. Such plan of operation shall be reviewed by the Committee of the Whole, which shall approve or disapprove of the same without referral to the Common Council. In addition to the other grounds for revocation set forth in this chapter, the failure to obtain approval of the plan of operation required hereunder shall be grounds for license revocation. It shall further be grounds for revocation if the holder of the liquor license fails to implement electronic cash register restrictions to preclude the sale of intoxicating liquor beverages after 9:00 p.m. and before 8:00 a.m. [Amended 1-23-2007 by Ord. No. 2337; 4-12-2011 by Ord. No. 2450]
- (3) No Class "B" license or permit may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" license or permit is issued is connected to premises where other business is conducted by a secondary doorway which serves as a safety exit and is not the primary entrance to the Class "B"

premises. No other business may be conducted on premises operating under a Class "B" license or permit. These restrictions do not apply to any of the following:

- (a) A hotel.
 - (b) A restaurant, whether or not it is a part of or located in any mercantile establishment.
 - (c) A combination grocery store and tavern.
 - (d) A combination sporting goods store and tavern in Towns, villages and fourth class cities.
 - (e) A combination novelty store and tavern.
 - (f) A bowling alley or recreation premises.
 - (g) A club, society or lodge that has been in existence for six months or more prior to the date of filing application for the Class "B" license or permit.
 - (h) A movie theater. [Added 11-10-2015 by Ord. No. 2556]
 - (i) A painting studio. [Added 11-10-2015 by Ord. No. 2556]
 - (j) Premises for which a temporary Class "B" license is issued under § 125.26(6), Wis. Stats.; if the license is one of multiple licenses issued by the municipality to the same licensee for the same date and times, the license is the sponsor of an event held at multiple locations within the municipality on this date and at these times, and an admission fee is charged for participation in the event and no additional fee is charged for service of alcohol at the event. [Added 11-10-2015 by Ord. No. 2556]
- (4) Restriction on sales in residential property. No license shall be issued to any person or entity for the purpose of possessing, selling or offering for sale any intoxicating liquor or fermented malt beverage in any dwelling, house, flat or residential apartment. [Added 8-27-2013 by Ord. No. 2508]
- (5) ~~Abandonment of license. Any licensee granted or issued a license to sell alcohol beverages who abandons such business shall forfeit any right or preference the licensee may have to the holding or renewal of such license. Abandonment shall be sufficient grounds for revocation or nonrenewal of any alcohol beverage license. In this section, "abandon" and "abandonment" shall mean a continuing refusal or failure of the licensee to use the license for the purpose or purposes for which the license was granted by the City Council for a period of one year. The Common Council may, for good cause shown, extend the period of permitted nonuse. [Added 8-27-2013 by Ord. No. 2508]~~ Abandonment of license. Any licensee granted or issued a license to sell alcoholic beverages who abandons such business shall forfeit any right or preference the licensee may have to the holding or renewal of such license. Abandonment shall be sufficient grounds for revocation or nonrenewal of any alcohol beverage license. For purposes of this section, "abandon" and "abandonment" shall be defined as a continuing refusal or failure of the licensee to use the license for the purpose or purposes for which the license was granted by the Common Council for a period of 180 days or more individually or in the aggregate during the course of any one twelve-month period. In order for the

licensee to avoid a finding of abandonment their establishment must be actively operated for the sale of alcoholic beverages for consumption on site as provided for in the Class B License issued to the owner/operator, specifically the establishment shall be open for sale of alcohol to the public for consumption on site a minimum of 25 hours per week and the licensee must main stock of alcohol to operate the bar as a going concern and such beer/liquor shall be purchased from a wholesaler. The Common Council may, for good cause shown, extend the period of permitted nonuse.

- (6) Code compliance. No Class B license may be issued unless the premises in which the sale shall occur comply with and conform to all ordinances and health, sanitation and building regulations of the City, as well as the State of Wisconsin. [Added 8-27-2013 by Ord. No. 2508]
- I. Partnership and corporate licensees. Each application for a retail liquor license or a renewal thereof shall include, if a partnership, the names of all partners whether general or limited. Corporate applications shall include the exact name of the corporation, its principal place of business, its registered address, its registered agent, the names of its officers and all members of its board of directors. Each such partner, officer and director shall comply with the disclosure provisions of Subsection E of this section.
- J. Compliance. [Amended 8-27-2013 by Ord. No. 2508; 12-12-2017 by Ord. No. 2598]
- (1) Prior to acting upon any application or renewal of an intoxicating liquor or fermented malt beverage license, the applicant shall have fully paid all personal property taxes, real property taxes, assessments and fees of the City, and the premises to be licensed shall fully comply with all applicable codes, ordinances, rules and regulations regarding building, electrical and plumbing components thereof. In addition, the applicant shall obtain all other permits required to occupy the licensed premises or to conduct the operations permitted under the license from any and all City departments or other governmental entities with jurisdiction.
- (2) All applicants for renewal under this section shall, on or before April 30 of each year, demonstrate to the City's Committee of the Whole that such premises are fully in compliance with all applicable electrical, plumbing, building and zoning codes. Should the applicant fail to bring the building into compliance or fail to have scheduled a code inspection on or before April 30 of each year, in addition to nonrenewal of such license, the applicant shall pay an additional applicant fee as set by the Common Council prior to the application for renewal being considered by the Committee of the Whole.
- K. Certification. [Amended 8-28-2007 by Ord. No. 2355]
- (1) Definition. For the purpose of this section, "premises" shall mean that portion of a building with an entrance and an exit to a public walkway or parking area for all or a portion of which a "Class A" intoxicating liquor license has been granted.
- (2) Required. All holders of "Class A" liquor licenses shall be required, upon initial application and thereafter upon application for renewal, to certify to the City Clerk that percentage of the licensee's retail sales for the license holder which involves sales other than intoxicating liquors and fermented malt beverages.
- (3) (Reserved)

- (4) Partition and plan of operation.
 - (a) Partition. A license holder subject to the requirements of this section shall implement a crowd-control or other suitable barrier to preclude access to the merchandise area for the sale of intoxicating liquor and/or fermented malt beverage between the hours of 9:00 p.m. and 8:00 a.m. The license holder shall further be required to implement electronic cash register restrictions to preclude the sale of intoxicating liquor products during these hours, as well as procedures to require the verification of the age eligibility of the purchaser. [Amended 4-12-2011 by Ord. No. 2450]
 - (b) Plan of operation.
 - [1] All intoxicating liquor license holders shall submit a plan of operation at the time of initial application or renewal thereof, with a diagram or photograph of the proposed display area for intoxicating liquor. Such plan of operation shall be reviewed by the Committee of the Whole, which shall approve or disapprove the same, without reference to the City Council.
 - [2] In addition to other grounds for revocation as set forth in this chapter, failure to obtain approval of the plan of operation required hereunder shall be grounds for license revocation.

L. ~~Chief of Police City Clerk~~ to conduct investigation of applicants. Upon receipt of each application, the Clerk ~~will refer it immediately to the Chief of Police, who~~ will make and complete an investigation of the statements in such application and an investigation of each applicant within reasonable dispatch after the application has been filed with the ~~Chief of Police City Clerk~~. The ~~Chief of Police City Clerk~~ shall endorse his findings upon the application ~~and deliver the application to the City Clerk~~.

M. Temporary extension of licensed premises for special event. [Added 5-28-2013 by Ord. No. 2502]

- (1) The granting of a temporary extension of licensed premises for special events shall authorize the licensee to sell or serve intoxicating liquors or fermented malt beverages as permitted by the specific license held during the period of time and in the area described in the application for such temporary extension as expressly approved by the Common Council. Such authority is contingent upon and subject to the licensee obtaining any and all other special privileges and permits required for the conduct of the special event for which the temporary extension of the licensed premises is sought.
- (2) Any person holding a valid Class "B" fermented malt beverage license, Class B tavern license or "Class C" wine license may apply for the temporary extension of such licensed premises for a special event. The area which the licensee wishes to include in a temporary extension of licensed premises must be owned by or under the control of the licensee. The signature of both the licensee and the owner of the property must both appear on the application. If the applicant seeks a temporary extension of the licensed premises such that the extended licensed premises would extend into or encroach upon any public property or public right-of-way, the applicants shall also be required to obtain the applicable special privilege for use of

said public property or right-of-way for the document authorized in the temporary extension of the licensed premises to be issued by the City Clerk. The applicant shall also be required to comply with all other applicable statutes and ordinances.

- (a) Applicant's responsibility. Application for the temporary extension of licensed premises for special events shall be made by an individual, or an authorized agent, in the case of a corporation, partnership or limited liability company, who shall be personally responsible for compliance with all of the terms and provisions of this section.
- (b) Application. The application for the temporary extension of licensed premises shall be filed not less than 15 days prior to the date upon which the applicant wishes the matter to be considered by the Common Council, which date shall be not less than two weeks prior to the proposed special event. Applications shall be made on forms provided by the City Clerk and must be signed and sworn to by the applicant, if an individual, one partner of a partnership or by a duly authorized agent, officer or member of a corporation or limited liability company. The application shall include the following:
 - [1] The name, business address and telephone number of the applicant.
 - [2] The address of the existing licensed premises.
 - [3] The type of license currently held.
 - [4] Specific description of the site for which the temporary extension is sought, including the dimensions of the area.
 - [5] The location of exits.
 - [6] The manner in which the licensed premises area will be restricted and screened from underage persons.
 - [7] The name of the particular event or function for which the temporary extension of the licensed premises is sought.
 - [8] The date and period of time for which the particular event or function will be operated.
 - [9] Such other reasonable and pertinent information as the Common Council may require.
- (c) The completed application should be submitted to the Common Council, which shall consider the matter. As part of the consideration process, the Common Council will consider:
 - [1] The appropriateness of the location site for which the permit is sought; and whether the event for which the permit is sought will create undesirable neighborhood problems.
 - [2] The hours during which the event will be operated at the site and the likely effect of the event on the surrounding area.

[3] Whether previous permits granted to the same applicant or to other applicants for the same site have resulted in neighborhood problems, including, but not limited to, complaints of loud music, noise, litter, disorderly conduct, loitering, public urination or drunkenness, excessive refuse, parking in unpermitted locations, or such other factors as may reasonably relate to the public health, safety and welfare of the community.

- (d) If the Common Council approves the application for the temporary extension of licensed premises, the City Clerk shall issue a permit to the applicant confirming that fact and specifying the date, period of time and specific location for which the temporary extension shall be in effect. The document may also contain any restrictions or conditions which the Council may place on such approval. The City Clerk shall not issue the permit if the applicant has not obtained all of the required permits for the premises or final inspection of the premises has not yet occurred.
- (e) The licensee granted a temporary extension of licensed premises for special events may not sell any alcohol or non-alcohol beverages for consumption in bottles and glass containers at the location of the extension of licensed premises. Beverages may only be sold in single-service cups or cans for on-premises consumption in the location of the temporary extension of the licensed premises. [Amended 4-12-2016 by Ord. No. 2563]
- (f) The permit for the temporary extension of licensed premises may only be issued during the time that the applicant holds a valid liquor license otherwise from the City of New Berlin.
- (g) Each application for extension of licensed premises will be viewed upon its own merit, and the granting of the existing alcohol beverage license or previous temporary extension to the licensed premises will not guarantee the issuance of a new temporary extension of licensed premises.
- (h) The applicant shall obtain liability insurance coverage for the event and such coverage shall provide for the City of New Berlin to be named as an additional insured, which coverage shall be evidenced by a policy endorsement. Said endorsement shall be filed with the Municipal Clerk and shall evidence the liability insurance limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
- (i) In such instances where the event is recurring and there has been a previous approved extension of premises permit issued, the applicant may simply provide an application noting the fact that this is a recurring, previously approved event, and giving the basic information about the event, the date, location and specifics, together with a certificate of liability insurance.
- (j) Failure to comply with the terms of the extension of premises permit may result in revocation of the license by the Common Council and prosecution of any ordinance violations and a denial of all future applications for extension of premises. Such circumstances will be considered at the time of renewal of the existing underlying alcohol beverage permit.

- (k) Any request for reconsideration of the denial of the extension of premises permit must be submitted to the City Clerk and be made within five days of the date of denial.

N. Catering services. Those alcohol beverage licensees who operate what are commonly known as catering services shall comply with the following: [Added 8-27-2013 by Ord. No. 2508]

- (1) The licensee shall deliver alcohol beverages to an event only when the licensee supplies full food catering service for all guests or participants in the event.
- (2) No licensee shall deliver alcohol beverages for an event that is held upon the premises of another alcohol beverage licensee.
- (3) No licensee shall sell, deal or traffic any alcohol beverages except face-to-face with the purchaser on the licensed premises of the licensee. This provision shall not prevent nor prohibit the licensee from delivering goods to the buyer as an accommodation.
- (4) The licensee may supply personnel to dispense alcohol beverages at the catered event.
- (5) No person shall engage in the individual sale of alcohol beverages to be consumed by the glass at a catered event (cash bar) when the alcohol beverages have been supplied by a retail licensee.
- (6) The event where catering occurs shall not occur over a period exceeding three days.
- (7) The distribution of alcohol beverages at the catered event is subject to all the provisions of this section.

O. Reserve licenses. ~~[Added 8-27-2013 by Ord. No. 2508] If an applicant applies for less than a full license year or terminates their license before the end of a license year, the reserve license fee and any portions thereof will not be refunded, nor will they be prorated.~~

- ~~(1) Applicants for Class B reserve liquor licenses may also apply for a grant from the City to cover part of the cost of licensure. The amount of grant money any one applicant may receive, if any, is in the discretion of the Common Council, but in no event shall exceed \$9,500. Grants shall be considered a community development grant to promote businesses within the City of New Berlin that apply for and receive Class B reserve liquor licenses.~~
- ~~(2) Applicants for Class B reserve liquor licenses seeking said grant must submit a completed application to the City Clerk's Office. Said application must be signed and notarized and the application fee must be included. Notarized signatures are required of an individual applicant, a partner, a partnership or an agent or owner if it is a corporation or LLC. The applicant shall be required to explain how the grant will be used to benefit the economic climate of the City of New Berlin and to be eligible for a grant, an applicant must meet all standard requirements for liquor license approvals including obtaining an occupancy permit from the Department of Community Development.~~

~~(3) Payment of reserve license fees. If an applicant applies for less than a full license year or terminates their license before the end of a license year, the reserve license fee and any portions thereof will not be refunded nor will they be prorated.~~

P. Provisional retailer licenses. [Added 1-13-2015 by Ord. No. 2535]

(1) The City Clerk may issue, upon application, a provisional retailer license to a person who has applied for a retailer license for the sale of fermented malt beverages, intoxicating liquor or wine, Class A, Class B or Class C. Such provisional license shall only authorize those activities that the type of retailer license applied for authorizes and shall be subject to the applicant meeting all licensing requirements set forth in this chapter and Wis. Stats. § 125.185, as amended. A provisional license shall expire 60 days after its issuance or when the alcohol beverage retailer establishment license is issued to the holder, whichever is sooner. Such provisional license may not be renewed and may be revoked by the City Clerk if the Clerk determines that a false statement was made on the application. The issuance of a provisional Class B license is subject to the availability of the license based upon the quota limitations of Wis. Stats. § 125.51.

Q. ~~Sales of beer at City parks. Officers and employees of the City are authorized to sell beer in municipal parks operated by the City pursuant to the authority granted under § 125.06(6) of the Wisconsin Statutes. [Added 7-25-2023 by Ord. No. 2680] Alcoholic beverages on City property or public rights-of-way.~~

~~(1) The sale of alcoholic beverages on City property or public rights-of-way is hereby prohibited except with an approved Special Event Permit. The sale of alcoholic beverages on City property for City-run events (i.e., Fourth of July Festival, Beer Gardens, Winterfest, etc.) does not require a Special Event Permit.~~

~~(2) An exception to this prohibition would be sales by City of New Berlin Staff in Municipal Parks as permitted pursuant to Wisconsin Statute Sec. 125.06(6).~~

~~(3) The prohibition against public consumption on City property and public rights-of-way is further limited where the City has issued an Extension of Premise Permit to a Class B alcohol beverage seller or where a Temporary Class B License has been issued.~~

R. Initiation of license use and abandonment of licenses. [Added 7-25-2023 by Ord. No. 2680]

(1) Initiation of license use. Within 180 days from the issuance of a Class B License, the licensee shall be open for business with adequate stock and equipment. If the business does not commence within such time, the license shall be subject to revocation by the Common Council after a public hearing. The Common Council may, for good cause shown, extend the deadline for initiation of the use of the license for up to a ninety-day period. Failure to commence doing business within 180 days (and any extension permitted by the Council thereto) from the issuance of the license constitutes cause for revocation under this chapter.

~~(2) Abandonment of license. Any licensee granted or issued a license to sell alcoholic beverages who abandon such business shall forfeit any right or preference the licensee may have to the holding or renewal of such license. Abandonment shall be sufficient grounds for revocation or nonrenewal of any alcohol beverage license. For purposes of this section, "abandonment" shall be defined as a continuing refusal or~~

failure of a licensee to use the license for the purpose or purposes for which the license was granted by the Common Council, which abandonment continues for a period of 180 days. The Common Council may, for good cause shown, extend the period of permitted nonuse. Abandonment of license. Any licensee granted or issued a license to sell alcoholic beverages who abandons such business shall forfeit any right or preference the licensee may have to the holding or renewal of such license. Abandonment shall be sufficient grounds for revocation or nonrenewal of any alcohol beverage license. For purposes of this section, "abandon" and "abandonment" shall be defined as a continuing refusal or failure of the licensee to use the license for the purpose or purposes for which the license was granted by the Common Council for a period of 180 days or more individually or in the aggregate during the course of any one twelve-month period. In order for the licensee to avoid a finding of abandonment their establishment must be actively operated for the sale of alcoholic beverages for consumption on site as provided for in the Class B License issued to the owner/operator, specifically the establishment shall be open for sale of alcohol to the public for consumption on site a minimum of 25 hours per week and the licensee must main stock of alcohol to operate the bar as a going concern and such beer/liquor shall be purchased from a wholesaler. The Common Council may, for good cause shown, extend the period of permitted nonuse.

§ 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. A copy of the direct sellers permit and mobile retail license shall be posted on the mobile unit for public view.
- 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. Food trucks are considered mobile vendors.

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: Cathoun Road, Cleveland Avenue, Greenfield Avenue, Lincoln Avenue, Moorland Road, National Avenue, Howard Avenue, Beloit Road, Coffee Road, Lawnsdate 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. 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: § 152-5D(2)(d), (3)(c) and (3)(d). [Added 1-25-2022 by Ord. No. 2658]~~

~~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:~~

D. License requirement.

- (1) Direct Sellers Permit. All mobile vendors doing business in the City will be required to obtain a direct sellers permit. The following information shall be provided:
- (a) Application. A completed application shall contain the following information:
 - [1] Name, including middle initial, permanent address and telephone number and, if any, temporary address and telephone number.
 - [2] Age, date of birth, height, weight and color of hair and eyes.
 - [3] 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.
 - [4] Contact information for the business, including temporary address, phone number and/or website.
 - [5] Nature of business to be conducted and a brief description of the goods and any services offered.
 - [6] Proposed method of delivery of goods, if applicable.
 - [7] Make, model and license number of any vehicle to be used by the applicant in the conduct of his/her business.

- [8] Last cities, villages and/or towns, not to exceed three, where the applicant conducted similar business.
 - [9] Place where the applicant can be contacted for at least seven days after leaving this City.
 - [10] 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.
- (b) Driver's license, or other proof of identity.
 - (c) Fees. 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.
 - [1] An additional fee shall be collected for Direct Sellers operating on or along City property for non-City sponsored events.
 - (2) Obtain a mobile retail license from either the State of Wisconsin or another jurisdiction. A copy of this license shall be on file with the City of New Berlin Clerk's Office.

E. General regulations for Mobile vendors.

- (1) Parking.
 - (a) Vendors must follow all City parking regulations and posted signage. Overnight parking within the city limits is not permitted unless the mobile vendors place of business is a registered New Berlin business.
 - (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) Operating within the public right-of-way.
 - [1] 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.
 - [2] Vendors are prohibited from selling within public right-of-way along single family residential streets without a special event permit. Mobile vendors shall be limited to operate a maximum of 6 days per year along such streets. Vendors must provide written evidence of the consent of all immediately adjacent property owners.
- (d) Operating on or along City property.

[1] Approval from the Parks, Buildings and Grounds Commission is required for Direct Sellers operating on or along City property. Direct seller applicants operating on City property as part of a City-run event (i.e., Fourth of July Festival, Beer Gardens, Winterfest, etc.) shall be exempt.

[2] An additional fee shall be collected for each event the Direct Seller is operating on or along City property. This additional fee shall not apply to direct seller applicants operating on City property as part of a City-run event (i.e., Fourth of July Festival, Beer Gardens, Winterfest, etc.).

(e) Operating on private property.

[1] No more than 2 mobile vendors are allowed to operate on private property at any given time, unless approved as part of a special event permit.

[2] For properties directly adjacent to single family residential zoning districts, excluding the right-of-way, no more than 1 mobile vendor is allowed to operate on private property at any given time, unless approved as part of a special event permit. Mobile vendors shall be limited to operate a maximum of 6 days per year on such property. Vendors must provide written evidence of the consent of all immediately adjacent property owners.

[3] The vehicle utilized by mobile vendors shall be setback a minimum of 50' from the lot line, excluding the right-of-way, of a lot with an existing restaurant or business which sells food prepared on site. The vehicle shall provide a trash receptacle and remove all trash from the site upon the conclusion of the event.

(2) 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) Mobile vendors may only operate between 7:00 a.m. and 10:00 p.m. Direct seller applicants operating on City property as part of a City-run event (i.e., Fourth of July Festival, Beer Gardens, Winterfest, etc.) shall be exempt.

(d) Vendors cannot place coolers on the ground or provide tables or chairs for their customers. Direct seller applicants operating on City property as part of a City-run event (i.e., Fourth of July Festival, Beer Gardens, Winterfest, etc.) shall be exempt.

(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.

- 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. [Amended 1-25-2022 by Ord. No. 2658]
 - (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]

§ 152-6. Charitable solicitors. Reserved.

A. ~~Permit required. Any charitable organization, society, association or corporation may solicit upon obtaining a permit subject to the regulations and conditions herein provided. Such solicitation may be for money, donations of money or property, in public places, or in private places that are not posted against such solicitation. The applicant shall furnish the City Clerk a sworn application which shall give the following information:~~

~~(1) Name of the organization.~~

~~(2) Proof that the applicant is recognized as a tax-exempt charitable organization by federal and state authorities.~~

~~(3) The name and address of the officers of the organization.~~

~~(4) The dates during which the solicitation is to be conducted.~~

~~(5) If an organization, a copy of the resolution authorizing the solicitation.~~

~~(6) Total amount of funds proposed to be raised and the use and disposition thereof.~~

~~(7) Identity and address of person in charge.~~

~~(8) Name and address of person who will disburse receipts.~~

~~(9) Outline of method of solicitation.~~

~~(10) Estimated cost of solicitation in dollars and percentage of amount collected.~~

~~(11) (Reserved)[1]~~

~~[1] Editor's Note: Subsection A(11), amount of wages and fees, was repealed 1-23-2007 by Ord. No. 2335.~~

~~(12) Financial statement for last preceding fiscal year.~~

~~(13) Documents showing the amounts distributed in the last fiscal year by the organization for its charitable purposes as well as the percentage that amount represents of the total amounts collected. If the organization has been in operation less than one year, a statement of the preceding operating month may be substituted in its place.~~

~~(14) A statement that the license will not be used or in any way represented as an endorsement by the City.~~

B. ~~Processing procedure:~~

~~(1) At the time the application is submitted to the City Clerk, a fee shall be paid to the Clerk to cover the cost of processing the application. Such fee may be waived by the City Council.~~

~~(2) The applicant shall be given a copy of this section and shall sign a receipt therefor.~~

~~(3) Chief of Police to conduct investigation of solicitors. Upon receipt of each application, the Clerk will refer it immediately to the Chief of Police, who will make and complete an investigation of the statements in such application and an investigation of each representative of the organization and each solicitor within one week after the application has been filed with the Chief of Police. The Chief of Police shall endorse his findings upon the application and deliver the application to the City Clerk.~~

~~C. Issuance of permit. Upon being satisfied that the applicant is a qualified charitable organization, that the costs of solicitation do not exceed 50% of the total collected and that none of the solicitors have been convicted of a felony, misdemeanor or other offense, the circumstances of which substantially relate to the activity of engaging in charitable solicitations, the City Clerk shall issue a license without charge except for the application fee. If not so satisfied, the City Clerk shall, within 10 days of filing, refer the application to the Common Council. Upon being satisfied that the applicant is a qualified charitable organization, that the costs of solicitation do not exceed 50% of the total collected and that none of the solicitors have been convicted of a felony, misdemeanor or other offense, the circumstances of which substantially relate to the activity of engaging in charitable solicitations, the Common Council shall order the City Clerk to issue the license. If not so satisfied, the Common Council shall deny the application.~~

~~D. Regulations for charitable solicitors. No charitable solicitor shall solicit:~~

~~(1) In groups of more than two persons for each residence called upon.~~

~~(2) By holding out that the City permit is an endorsement of the solicitation in any way.~~

~~(3) On the traveled portion of any public street.~~

~~(4) Before 9:00 a.m. or after 9:00 p.m., but in no situation shall a charitable solicitor solicit for more than 14 nonconsecutive days in a calendar year.~~

~~(5) On any premises, whether residential, commercial or industrial, that is posted in such a manner as to prohibit solicitation. Any sign or poster that contains the words "No Soliciting," "No Peddlers" or "No Peddlers or Solicitors," or a combination thereof, shall constitute a prohibition under this section.~~

~~(6) By remaining on premises after being requested to leave by the owner or occupant, or any member of his family. The solicitor shall leave immediately and without protest.~~

~~(7) On the grounds or in the buildings of any private or public school without the prior consent of the school authorities.~~

~~(8) Outside of the authorized solicitation period, nor within 12 months thereafter.~~

~~(9) By affixing a flower, pin or medallion, or similar device, to the person of another without the prior consent of such person.~~

- ~~(10) — By refusing to make change for a bill or coin of a larger denomination than the donor wishes to contribute, or by keeping more than the donor wishes to contribute.~~
- ~~(11) — Inside the public library, police station or fire station.~~
- ~~(12) — Inside the City Hall, in City parks or in or upon any other City-owned or -operated property, without the permission of the Mayor and City Council, who shall designate the areas, times and duration of solicitation, which shall not exceed two weeks for any one organization in a calendar year.~~
- ~~(13) — 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 either below the house street number or attached to or suspended from the mail box.~~

§ 152-9. Loudspeakers.

- A. No person shall operate any loudspeakers or sound-amplifying devices in open-air theaters, places of amusement, upon the public highways or elsewhere within the City without first obtaining a permit therefor from the ~~Chief of Police~~ City Clerk.
- B. Application for such permit shall be made in writing to the ~~Chief of Police~~ City Clerk, ~~and if he is satisfied that such~~. If the loudspeaker and sound-amplifying device will be operated at such volume and be so located as not to constitute a public nuisance, ~~he may issue a permit therefor~~ a permit may be issued.
- C. This section does not apply to public address systems and sound amplifiers operated within buildings which are completely enclosed so that the sound amplification does not cause disturbance outside of the building.
- D. Any amendment to a permit issued under this section shall require Common Council approval. In the event that any amendment to an existing permit is issued, City Clerk shall so advise the Chief of Police of that change. [Added 8-28-2007 by Ord. No. 2355]
- ~~E. Loudspeaker Permits may only be issued for use between the hours of 9:00 a.m. and 11:00 p.m. Loudspeaker Permits outside of these hours may only be issued with the approval of the Common Council.~~
- ~~F. Amplified music or noise being generated pursuant to a Permit under this Section shall only be permitted to the extent that it does not cause unreasonable disturbance to residents and businesses in the surrounding area. In the event the Police Department determines, in its reasonable discretion, that noise or music is causing an unreasonable disturbance to residents and businesses in the surrounding area, the Police Department shall have the authority to revoke the Permit and the noise/music being generated under the Permit must immediately cease.~~

§ 152-23. Special event permit. [Added 7-24-2018 by Ord. No. 2610]

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

CLASS I

~~A special event which may have the attributes of a Class II event but in addition meet the following criteria: more than 500 people (any/all personnel, including volunteers, vendors and attendees) attend; one or more roadways will need to be blocked off (The City Clerk may determine the event to be a Class II depending on the closure and the size of the event); City resources and/or staff are to be utilized beyond their normal required duties. Any activities under Class II permits are permissible under the Class I permit.~~

CLASS I

~~A special event as outlined in DHS 110.44(20r) with more than 5,000 people, including personnel, volunteers, vendors, and attendees. Some of the following may also occur:~~

- ~~• City resources and/or staff are to be utilized beyond their normal required duties~~
- ~~• alcohol is sold or served as a publicly open event~~
- ~~• the event will include amplified music or outdoor entertainment~~
- ~~• any direct or indirect charge for food, merchandise or services~~
- ~~• donations are solicited/collected~~

CLASS II

~~A special event in which more than 150 people (This includes any/all personnel, volunteers and attendees.) and any of the following occurs: alcohol is sold or served as a publically open event; the event will include amplified music or outdoor entertainment; any direct or indirect charge for food, merchandise or services; donations are solicited/collected.~~

CLASS II

~~A special event with 501-5,000 people, including personnel, volunteers, vendors, and attendees. Some of the following may also occur:~~

- ~~• City resources and/or staff are to be utilized beyond their normal required duties~~
- ~~• alcohol is sold or served as a publicly open event~~
- ~~• the event will include amplified music or outdoor entertainment~~
- ~~• any direct or indirect charge for food, merchandise or services~~
- ~~• donations are solicited/collected~~

CLASS III

~~A special event with 151-500 people, including personnel, volunteers, vendors, and attendees. Some of the following may also occur:~~

- ~~• alcohol is sold or served as a publicly open event~~
- ~~• the event will include amplified music or outdoor entertainment~~
- ~~• any direct or indirect charge for food, merchandise or services~~
- ~~• donations are solicited/collected~~

CLASS IV

~~A special event with 150 people or less, including personnel, volunteers, vendors, and attendees.~~

SPECIAL EVENT

Is any event held in the City that requires the use of public streets, rights-of-way, sidewalks or City property or are otherwise likely at the discretion of the City to create substantial impacts on the operations of the City, surrounding neighbors or neighborhoods. Special events include but are not limited to sporting events, festivals, fairs, parades, walks, runs/marathons, bike-a-thons, races, markets, block parties, exhibitions, motion picture filming and other events similar in nature. "Special events" can also be classified as any event that may require public safety and City services above and beyond their normal functions. Events held on private property that are open to the public may require a special event permit if the event has a significant impact on the City's operations and residents.

SPECIAL EVENT

An event held in the City that requires the use of public streets, rights-of-way or sidewalks, or are otherwise likely at the discretion of the City to create substantial impacts on the operations of the City, surrounding neighbors or neighborhoods. Special events include but are not limited to sporting events, festivals, fairs, parades, walks, runs/marathons, bike-a-thons, races, markets, block parties, exhibitions, motion picture filming and other events similar in nature. Special events can also be classified as any event that may require public safety and City services above and beyond their normal functions. Events held on private property that are open to the public may be classified as a special event if there is a significant impact on the City's operations and residents.

- B. Permits required: Special Event Permit. No person or organization shall conduct a special event as defined herein within the City of New Berlin without first having obtained a Special Event Permit. Permits are valid only for the dates, times and locations specified in the permit application. This provision shall apply to all events proposed after the date of the adoption of this section, regardless of if the event is a reoccurring event within the City.
- (1) No person or organization shall conduct a special event as defined herein within the City of New Berlin without first having obtained a special event permit. Permits are valid only for the dates, times and locations specified in the permit application. This provision shall apply to all events proposed after the date of the adoption of this section, whether or not the event in question has been a reoccurring event within the City.
- (2) A park rental permit may be required depending on the special event location and is available through the Recreation Department.
- (3) Permits for vendors. All vendors operating as part of a special event permit obtained under this section shall obtain and display a direct sellers permit and abide by the provisions under § 152-5 of the Municipal Code. Food trucks and mobile vendors are also required to obtain a direct sellers permit under this section.
- (4) Charitable solicitors. All charitable solicitors operating as part of a special event permit obtained under this section shall obtain and display a charitable solicitors permit and abide by the provisions under § 152-6 of the Municipal Code.
- (5) Permits for sale of beer/wine. The sale of beer and/or wine requires a temporary Class "B" license available through the City Clerk's office and there must be either a licensee or a person holding an operator's license on site in accordance with §§ 125.17(1), 125.32(2), and 125.68(2), Wis. Stats.

- ~~(6) Loudspeaker permit. Special events containing amplified music are required to obtain a loudspeaker permit from the Police Department and abide by the provisions under § 152-9 of the Municipal Code. Any variance to the hours outlined in this permit must be approved by the Common Council.~~
- ~~(7) Fireworks. Special events using fireworks must obtain a permit from the Fire Department and requires Common Council approval. Fireworks permit applicants must abide by the provisions under § 124-121 of the Municipal Code.~~
- ~~(8) Road closures. Special events requiring a road closure must obtain a road closure permit from the Police Department.~~
- ~~(9) A zoning permit from the department of Community Development and/or the Plan Commission to the extent required under Chapter 275 of the Municipal Code.~~
- ~~(10) Sign permit(s) shall be applied for with the department of Community Development pursuant to Municipal Code § 275-61.~~

C. Application.

- (1) Application requirements. An application will be considered complete if it contains all the information required under this section.
 - ~~(a) Application for a Class I special event permit shall be filed with the City Clerk's office at least 90 days prior to the proposed event. (An application will not be deemed to have been filed until it is complete and contains all of the information required under this section.)~~
 - ~~(b) Application for a Class II special event permit shall be filed with the City Clerk's office at least 45 days prior to the proposed event.~~
 - ~~(c) Permit fees shall be set from time to time by resolution of the Common Council.~~
 - (a) Application timing.
 - [1] Class I Special Event Permits shall be filed with the City Clerk's office at least 120 days prior to the proposed event.
 - [2] Class II Special Event Permits shall be filed with the City Clerk's office at least 90 days prior to the proposed event.
 - [3] Class III Special Event Permits shall be filed with the City Clerk's office at least 45 days prior to the proposed event.
 - [4] Class IV Special Event Permits shall be filed with the City Clerk's office at least 14 days prior to the proposed event.
 - ~~(b) Fees. Fees are established by the Common Council and shall be on file in the City Clerk's Office. The City Clerk may waive the permit fees for public agencies, nonprofit agencies or as deemed appropriate by the City Clerk.~~
 - ~~(c) Deposits for Class I Events. Application fee in the form of a deposit shall be submitted to the City for all Class I events. The deposit shall be used to cover City staff review, planning time and coordination to review the application itself and through the completion of the event. Staff will use their direct billable hours to debit the submitted deposit amount. Should the~~

deposit itself go down to zero, the applicant shall replenish the deposit to the original amount. Any remaining deposit funds after the permit is issued or denied shall be returned to the applicant. The deposit will start at \$1,000.

- (d) The application shall include the following:
- [1] The name, address and phone number of the person, entity or organization sponsoring the event.
 - [2] The name and address of the special event sponsor's contact or agent.
 - [3] The name, date, time and location of the event in question.
 - [a] Special events in residential neighborhoods may require notification of adjacent neighbors.
 - [4] A description of the event and its purpose.
 - [5] The estimated maximum number of participants, spectators and vendors at the proposed event. If the event is a multi-day event, it should be noted the estimated attendance per day.
 - [6] Whether alcohol will be sold or served at the event.
 - [7] Whether food and/or merchandise will be sold at the event.
 - [8] Plans and description of the following, as necessary for the event:
 - [a] Amplified music or entertainment and the hours;
 - [b] Fireworks;
 - [c] Closure. The use of public streets or rights-of-way meeting the requirements of §230-6 of the Municipal Code;
 - [d] Parking size and location;
 - [e] Electricity and lighting plan;
 - [f] Erecting tents, canopies or temporary structures;
 - [g] Temporary fencing locations;
 - [h] Waste/recycling collection and disposal;
 - [i] Portable restrooms and hand wash stations.
 - [9] Additional items to consider:
 - [a] Additional security personnel;
 - [b] Emergency plan for inclement weather;
 - [c] Potable water for consumption on site;
 - [d] Medical/first aid kits.
 - [10] Certification that by signing the application, the applicant is authorized to act on behalf of the event sponsor(s).

[11] Applicant's acknowledgement that by signing and submitting the application, they accept and comply with the provisions of § 152-23D.

(2) Application process.

~~(a) Upon receipt of an application for a permit, the City Clerk shall immediately distribute the complete application to the following departments for review: Police, Fire, Buildings and Grounds, Recreation, Community Development and Streets. Department review and comments shall be returned to the City Clerk within 15 days of distribution of the application.~~

~~(b) Permit review:~~

~~[1] The City Clerk shall review all comments and recommendations provided by the departments and determine if the event requires Board or Commission approvals. The City Clerk will follow up with the applicant to ensure the appropriate licenses and permits are obtained for the event.~~

~~[2] The Department of Community Development will review applications to determine if a temporary use permit may be required according to Chapter 275 of the Municipal Code. Additionally, Plan Commission or the Community Development Authority approval may be required for an event that is not customarily a permitted use under the current zoning of the property.~~

~~[3] The City Clerk will send any permits that pertain to the sale of alcohol, merchandise, or food on City property to the Parks, Buildings and Grounds Commission for approval.~~

~~[4] Common Council approval may be required depending on the size and scope of the special event.~~

~~[5] The City Clerk will issue or deny the permit dependent on whether the applicant has fulfilled the requirements as set forth by the Departments and, if applicable, the boards and commissions.~~

~~(a) Facility Rental Permit.~~

~~[1] Special events held on City Property shall obtain a Facility Rental Permit from the Recreation Department prior to applying for a Special Event Permit.~~

~~[2] Approval from the Parks, Buildings and Grounds Commission is required for Facility Rentals requiring a Special Event Permit.~~

~~(b) Temporary Use Approval Permit.~~

~~[1] Special events on private property may require a Temporary Use Approval Permit from the Department of Community Development prior to applying for a Special Event Permit. Applicants shall abide by the provisions of §275-43 of the Municipal Code.~~

~~[2] Approval from the Plan Commission/CDA may be required.~~

(c) Special Event Permit.

- [1] Within three business days of receipt of an application, the City Clerk shall distribute the complete application to the following departments for review and recommendation: City Attorney, Police, Fire, Public Works, and Community Development. Department review and comments shall be returned to the City Clerk within 15 days of distribution of the application.
- [2] Common Council approval may be required depending on the size and scope of the special event.

(d) Direct Sellers Permit.

- [1] All vendors, including mobile vendors, operating on City Property, public rights-of-way, and/or private property shall obtain a Direct Sellers Permit from the Clerk's Office. The permit shall be displayed. Vendors shall abide by the provisions of §152-5 of the Municipal Code.
- [2] Approval from the Parks, Buildings and Grounds Commission is required for Direct Sellers operating on City property.

(e) Temporary Class B Retailer's License.

- [1] The sale of beer and/or wine on City Property, public rights-of-way, and/or private property is prohibited unless the applicant can secure a Temporary Class B Retailer's License from the Clerk's Office. There must be either a licensee or a person holding an operator's license on site in accordance with §§ 125.17(1), 125.32(2), and 125.68(2), Wis. Stats. Applicants shall abide by the provisions of §152-4 of the Municipal Code.
- [2] Approval from the Parks, Buildings and Grounds Commission is required for all vendors selling beer and/or wine on City property.

(f) Loudspeaker Permit.

- [1] Special events containing amplified music on City Property, public rights-of-way, and/or private property shall obtain a Loudspeaker Permit from the Clerk's Office. Applicants shall abide by the provisions of §152-9 of the Municipal Code.
- [2] Approval from the Common Council is required for any variance to the hours outlined in this permit.

(g) Fireworks Permit.

- [1] Special events using fireworks on City Property, public rights-of-way, and/or private property shall obtain a Fireworks Permit from the Fire Department. Applicants shall abide by the provisions of §124-12G of the Municipal Code.
- [2] Approval from the Common Council is required for fireworks.

(h) Sign Permit.

[1] Signs on City Property, public rights-of-way, and/or private property shall obtain a Sign Permit from the Department of Community Development. Applicants shall abide by the provisions of §275-61 of the Municipal Code.

[2] Approval from the Plan Commission/CDA is required for any sign waivers.

(i) Inspection Permits.

[1] Obtain the necessary building, plumbing and electric permits from the Department of Community Development.

(j) Fire Department Permits.

[1] Obtain necessary permits for tents, canopies, and temporary structures over 120 square feet from the Fire Department.

D. Permit conditions.

- (1) Liability insurance. ~~For a Class I or Class II event, the~~ group sponsoring the event is required to supply the City with a certificate of liability insurance at least 30 days prior to the event. The certificate shall be written on a per-occurrence basis, and while the amount of coverage will vary depending on the size and nature of the event, the minimum coverage required by the City is \$1,000,000 and \$2,000,000 in the aggregate. The City also requires evidence of a policy endorsement naming the City of New Berlin and any and all of its officers and employees as an additional insured on a primary and noncontributory basis. ~~The City Clerk may waive the insurance requirement depending on the size and scope of the event.~~
- (2) Indemnification. The applicant and event sponsor(s) shall agree to hold the City, its officers, employees, agents and contractors harmless against all claims, liability, loss, damage or expense (including but not limited to actual attorney's fees) incurred by the City for any damage or injury to person or property caused by or resulting directly or indirectly from the activities for which the permit is granted. Any change to coverage requires City approval.
- (3) City services. All requests by the applicants for City services must be made at the time of application. The applicant shall be responsible for reimbursement to the City for any city personnel, services, equipment, and facilities provided for the special event. Reimbursement costs shall be calculated to include wages, overtime and fringe benefits and is due within 30 days of receipt of invoice. The City reserves the right to require full or partial payment of estimated costs in advance. All permit, signage and barricade costs are due prior to the special event. City Clerk will prepare an invoice based on the City resources required for the event.
- (4) Cleaning/damage deposit. The applicant may be required to submit to the City a deposit ~~of \$200 for a Class I event~~ depending on the size and number of attendees. The deposit will be refunded to the applicant after an inspection of the premises is conducted and the City determines there is no loss or cleaning costs. The applicant shall be fully responsible for necessary cleanup associated with the permitted event, which must be completed no later than 12 hours after the conclusion of the

event. The City reserves the right to retain the entire deposit if cleanup is not satisfactorily completed in the time frame specified.

(a) A deposit of \$5,000 shall be submitted for a Class I Special Event.

(b) A deposit of \$200 shall be submitted for a Class II Special Event.

(5) Site requirements.

(a) All tents, canopies or temporary structures over 120 square feet require approval from the Department of Community Development ~~Department approval~~ and must apply for a permit with the Fire Department.

(b) Electricity requirements will be reviewed by the Department of Community Development ~~Department's Inspection Services~~ to determine if an inspection is needed. Electric service must meet all City of New Berlin Code requirements.

(c) Attendees and staffing shall not exceed the maximum number, which can reasonably attend at the location of the special event.

(d) It is the responsibility of the special event sponsor for arranging any inspections required to meet these standards or requirements prior to the event. Any fees for such inspections shall be the responsibility of the special event sponsor.

(e) No staking or poles other than fasteners may be placed in any City street.

(f) Special events requiring a road closure shall comply with §230-6 of the Municipal Code.

(6) Notification to residents. The City may require that the permit holder provide written notice 15 days¹ in advance of the special event to any property owners or tenants as determined during the City department's¹ review. Notice shall include the type of event, name of the special event sponsor(s), date, time and location, event coordinator's name and contact information during the event.

(7) Class IV Special Events. The following regulations shall apply for Class IV Special Events, including Neighborhood Block Parties:

(a) An applicant that requests the blockading of a public street, but only for a period of less than 12 hours and for recreational purposes.

(b) The applicant shall provide evidence of written consent of not less than 80% of the property owners abutting the portion of the street to be closed. The applicant is also required to provide evidence that all abutting property owners have been advised of the request for closure.

(c) The blockade of a public street may only be of a neighborhood street, not City arterials. The applicant shall be required to provide a map showing the portion of the City street to be closed and where the barricades will be placed.

(e) Applicant must be the owner of a property on the street where the block party is to be held and must assume responsibility under the permit for the event and compliance with all City Ordinances, the clean-up of the public

right of way after the event and that all City barricades are returned within 48 hours of the end of the event.

- (f) Barricades to close the street must remain in place at all times during the block party; however, the applicant must ensure that a drive lane through the blockaded street area of not less than 15' in width shall be provided so that all City emergency service vehicles are able to access property within the blocked street.
- (g) If alcohol is being served at the event, it may be to only persons of age and there must be no providing of alcohol to any uninvited guests. No alcohol can be sold to any person.
- (h) Grills may be permitted in the right-of-way subject to the other limitations of this section. However, smokers, fireplaces, fire pits and chimineas are prohibited. Inflatable play structures are also prohibited from being within the public right-of-way.
- (i) All waste and debris must be cleaned up and properly disposed of after the event ends. Public rights-of-way must be restored to the condition that existed prior to the commencement of the event.
- (j) If complaints are received by the Police Department which are not satisfactorily resolved, the Police Department shall have the authority to revoke the permit and to terminate the event.
- (k) A permit request may be denied if complaints have been received regarding Class IV Special Events on the same street in the past, or if the applicant has failed to comply with the requirements of any City Permits in the past.
- (l) Class IV Special Events shall not occur on holidays.

E. Termination of an event. The City reserves the right to shut down a special event that is in progress if it is deemed a public safety hazard and/or public nuisance by police services and/or Fire Department and/or Emergency Management and/or there is a violation of City ordinances, state statutes or the terms of the applicant's permit. The City Clerk and/or his/her designee may revoke an approved special event permit. Note: there are also revocation, enforcement and penalties provided for in Article X in § 275-66, 275-67, 275-68, and 275-69. If the zoning permit/temporary use permit is revoked, there ceases to be an event.

F. Denial of permit. No permit will be issued unless it is approved by all departments.

- (1) The event will disrupt traffic within the City beyond practical solution.
- (2) The event will create a likelihood of endangering the public.
- (3) The event will interfere with access to emergency services.
- (4) The location or time of the special event will cause undue hardship or excessive noise levels to adjacent businesses or residents.
- (5) The event will require the diversion of City resources that would unreasonably affect the maintenance of regular City service levels.
- (6) The application contains incomplete or false information.

- (7) The application fails to provide proof of insurance when required.
- (8) Inadequate provision for garbage or debris removal.
- (9) Inadequate provision of temporary restroom facilities.
- (10) Inadequate provisions for parking.
- (11) A denial of a permit by the Parks Buildings and Grounds Commission where the event is no longer viable.
- (12) A denial of a temporary use permit by the Department of Community Development or the Plan Commission/Community Development Authority.
- (13) Applicant fails to submit the required fees and/or deposit.