



TEMPORARY USES & SPECIAL EVENTS

§ 275-43. Temporary uses, structures and special events.

- A. Application process. As applicable, temporary uses, structures and special events shall obtain a permit. Applications and necessary materials shall be submitted to staff and may be subject to application fees and developer deposit fees. The temporary use, structure or special event shall be reviewed in accordance with the provisions of this section and other applicable sections of this chapter. Temporary uses, structures, and special events requiring a permit include:
- (1) Festivals, food truck festivals, art/craft fairs, outdoor markets, plant/flower sales, circuses, concerts, wine/food tastings, beer gardens, races, parades, block parties, sporting events, exhibitions, outdoor seating/dining, pop up live music, car shows, fundraisers/outings (e.g., golf outings/company picnics), game day/nights (bingo/trivia), outdoor movie theater, material storage and associated work for Municipal projects as approved by the City, and/or other similar events unless approved as part of an existing plan of operation or an approved calendar of events.
 - (2) The use of public streets, rights-of-way or sidewalks.
 - (3) An event that creates a substantial impact on the operations of the City, surrounding neighbors or neighborhoods and requires public safety and City services above and beyond their normal functions, at the discretion of City staff.
 - (4) 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. Submittal requirements. An application will be considered complete if it contains all the information required under this section.
- (1) Completed application shall be submitted prior to the event.
 - (a) **Class I events**, as outlined in DHS 110.44(20r), with more than 5,000 people, including personnel, volunteers, vendors, and attendees shall be filed with the City **at least 120 days prior to the proposed event.**
 - (b) **Class II** events with 501-5,000 people, including personnel, volunteers, vendors, and attendees shall be filed with the City **at least 90 days prior to the proposed event.**
 - (c) **Class III** events with 151-500 people, including personnel, volunteers, vendors, and attendees shall be filed with the City **at least 45 days prior to the proposed event.**
 - (d) **Class IV** events with 150 people or less, including personnel, volunteers, vendors, and attendees shall be filed with the City **at least 15 days prior to the proposed event.**
 - (2) **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.
 - (3) Detailed **plan of operation** including the following information:
 - (a) A description, date, time and location of the event. Special events in residential neighborhoods may require notification of adjacent neighbors. Include proposed site requests, including but not limited to: amplified music or entertainment and the hours, fireworks, closure of public streets or rights-of-way meeting the requirements of §230-6 of the Municipal Code, parking, electricity, temporary structures, temporary fencing, waste/recycling collection and disposal, and portable restrooms and

hand wash stations. Additional items to consider include additional security personnel, emergency plan for inclement weather, potable water for consumption on site, and medical/first aid kits.

- (b) 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.
- (c) Whether alcohol will be sold or served at the event.
- (d) Whether food and/or merchandise will be sold at the event.

C. Time limits. Temporary use, structure and special event permits shall be valid for a specified period of time. A permit shall lapse if not used within the dates approved.

D. Required findings. The application shall be approved as submitted or in a modified form if the Director of the Department of Community Development finds that:

- (1) The proposed temporary use, structure, or special event will be located, operated, and maintained in a manner consistent with the policies of the New Berlin Comprehensive Plan and the provisions of this chapter;
- (2) The approval of the application will not be detrimental to property or improvements in the surrounding area or detrimental to public health, safety or general welfare. 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; and
- (3) The proposed temporary use, structure or special event complies with all applicable standards of this section, unless otherwise expressly stated.
- (4) Special Events requiring a **road closure**, except for City run events, shall comply with the following standards:
 - (a) A public street shall not be barricaded for recreational purposes for more than 12 hours.
 - (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) Road closures are only permitted for local streets that are public, not arterial streets that are public. The applicant shall be required to provide a map showing the portion of the street to be closed and where the barricades will be placed.
 - (e) The applicant must be the owner of a property on the street where the event is to be held and shall assume responsibility under the permit for the event, which includes compliance with all City Ordinances, the clean-up of the public right of way, and the return of all City barricades within 48 hours of the event.
 - (f) Barricades to close the street must remain in place for the duration of the event. 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 properties within the blocked street.
 - (g) If alcohol is being served at the event, it may only be to persons of age and may not be provided to any uninvited guests. Alcohol cannot be sold.
 - (h) Grills may be permitted in the right-of-way, subject to the limitations of this section. Smokers, fireplaces, fire pits, chimineas, and inflatable play structures are prohibited in the 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 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) Special Events requiring a road closure shall not occur on holidays.
- (5) The City may approve temporary **events on City property or within public rights-of-way** if the additional conditions are met:
- (a) A **certificate of insurance (COI)** is required to be submitted for the event prior to the event occurring. It shall include the following:
 - [1] COI limits shall name the City of New Berlin as additionally insured.
 - [2] The parties agree to indemnify and hold harmless the other from any and all claims for injury or property damage to the extent that such claims arise out of the negligence of their employees, representatives, agents, contractors or officers as a result of this Agreement. Any indemnity that the City would agree to would be subject to the following limitations: Notwithstanding the forgoing, nothing contained within this agreement is intended to be a waiver or estoppel of the City of New Berlin or its insurer's ability to rely upon the limitations, defenses and immunities contained within Wisconsin law, including, but not limited to, those contained within §§ 893.80, 895.52 and 345.05, Wis. Stats. To the extent that indemnification is available and enforceable, the City of New Berlin or its insurer shall not be liable in indemnity or contribution for an amount greater than the limits of liability for municipal claims established by Wisconsin law. The City's obligation to indemnify hereunder is subject to the availability and limits of applicable insurance coverage. Under no circumstances shall the City of New Berlin be required to indemnify the contractor for its own negligent or intentional conduct.
 - [3] Each party shall provide the other with a certificate of insurance naming each other as an additional insured. The amount of such insurance shall be mutually agreed between the parties. Each party waives their right of subrogation against the other. Both parties' insurance policies shall have a noncancellation provision except upon 30 days' written notice to the other party.
 - (b) 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.
 - (c) **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.
 - [1] **A deposit of \$5,000** shall be submitted for a **Class I Special Event.**
 - [2] **A deposit of \$200** shall be submitted for a **Class II Special Event.**
 - (d) And any other conditions that may be established by the Mayor, City Attorney, Board or Commission, and/or City staff that seeks to protect the City.
- E. Conditions of approval. In approving a temporary use, structure, or special event permit, the Director of the Department of Community Development may impose reasonable conditions, including, but not limited to, limitations on hours, illumination, storage, and parking, necessary to:
- (1) Achieve the general purposes of this section and the specific purposes of the zoning district in which the temporary use will be located or be consistent with the New Berlin Comprehensive Plan;
 - (2) Protect the public health, safety, and general welfare; and

- (3) Ensure the operation and maintenance of the temporary use, structure, or special event in a manner compatible with existing uses on adjoining properties and in the surrounding area.
- F. Temporary construction, security, or real estate sales offices.
- (1) General. The owner of a construction project may place on the construction site a temporary office for use by construction, security, or real estate sales personnel.
 - (2) Location. The temporary office shall be located on the lot on which construction or development is occurring and shall not be located within 25 feet of any abutting residential use.
 - (3) Sanitation. Sanitation and plumbing requirements may be waived by the Director, provided that adequate facilities are available elsewhere on the site.
 - (4) Time limits. The office shall be removed within 15 days after final inspection of the permanent structure or expiration of the corresponding building permit, whichever event occurs first. In the case of residential development projects, the office must be removed within 15 days of the sale or lease of all dwelling units.
- G. Staff shall have the authority to review and send items to the appropriate board, commission and/or Council for their review and approval if there are potential effects on surrounding land uses.

AMPLIFIED MUSIC/ENTERTAINMENT

Per § 152-9 of the Municipal Code, noise shall comply with the standards set forth in Chapter 275-60 of the Zoning Code.

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 Director of Community Development 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.