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Memorandum

March 8, 2016

To: Ordinances and Licenses Committee
From: Brian Running
Re: Block Party, Parade, Street Closure and Special Event Ordinances

With this memo are drafts of the following:

- A new block-party ordinance
- Revised parade ordinance
- Revised street closure ordinance
- Revised special events ordinance

The origin of these drafts is the practical difficulties we ran into in administering the current ordinances, particularly the amount of discretion left to the City Clerk in making the call whether to issue permits or not based on factors such as traffic safety, parking, sanitation, etc. There is a lot of balancing that has to take place between the interests of the City, the practicality of administering the ordinances, and constitutional-law considerations.

Also, the City currently has no ordinance authorizing block parties, which are a very popular thing.

These drafts are the result of input from the Police Department, Fire Department, Public Works Department, Community Development Department, the City Clerk, the City Administrator, the Mayor, and the City Attorney's office. Many of their suggestions had to be balanced against one another, and all had to be balanced against First Amendment court decisions. We think we have created draft ordinances that are easier for the public to understand, easier to administer, take into account various City and public interests, and accommodate individuals' First Amendment rights.

This memo will discuss some of the features of each draft. Please read through each proposed ordinance carefully.

1. Block Parties.

This ordinance requires a permit for block parties. There is no fee for a block-party permit, because the amount of administrative work required to issue one is minimal, and the City provides no services other than making barricades available. Section 6 contains regulations, most of which are aimed at keeping block parties from turning into

something much bigger. Parties are limited to one block, 100 participants, and only non-arterial residential streets. No additional insurance or indemnification requirement is imposed.

2. Parades.

This is the most First-Amendment-sensitive ordinance. Citizens have a free-speech right to use public streets and sidewalks for expression of ideas, and the City can only impose content-neutral, time and manner regulations. This draft is an attempt to provide the greatest possible free speech while still balancing important City interests.

The ordinance requires a permit, and the application mainly serves to give notice that a parade, march, demonstration, etc., is going to take place. Five days advance notice is required, and that's about as much notice as we can do under the case law. Three days is preferred by a number of courts. Our right to deny a permit is limited to only a few reasons.

Case law requires that we give a right of appeal for denied applicants, so there is an appeal process.

An important feature of these drafts is that parades, demonstrations, marches, protests, etc., all fall within the parade ordinance, unless the event will include stationary or immobile objects placed on City rights of way. If stationary or immobile objects are to be placed on right of way (or if the applicant wants the streets closed more than an hour in advance of the event), then a street-closure permit will also be required. As long as there are no stationary or immobile objects to be placed on the right of way, no street closure permit is required. It will then be in the discretion of the police department as to how they will handle traffic. The police may decide to close the streets on their own, but it's not required.

Certain events are exempted from the ordinance. If there are fewer than 15 participants and the event doesn't take place in a street, no permit is required. Same thing for marchers on sidewalks no more than two abreast, and events that happen spontaneously without advance planning. People have a constitutional right to take to the streets to react to events as they happen, we can't require a permit for that. Remember, everyone remains subject to all of our orderly-conduct laws whether they have a parade permit or not. The First Amendment doesn't require us to allow riots in the name of free speech.

3. Street Closures.

This ordinance is an umbrella for various events that can require a street closure: parades and demonstrations (if the organizer wants streets to be closed for longer than just the parade, or if stationary objects will be placed on the street), special events permitted under the Special Events ordinance, or uses by public schools. Other reasons for street closures, such as excavations, construction, etc., are dealt with in other ordinances.

Permits are required for street closures. The fee is shown in the draft as \$50 per block of closure. The amount and whether it is charged on a per-block basis is open for your consideration. The fee is not refundable, because it represents an administrative fee for processing the application, which happens whether the application is denied or not.

Applicants are limited to those who own or rent property adjacent to the street that is proposed to be closed. The current ordinance allows anyone, whether a resident of Waukesha or not, to close any street in the City, whether the residents like it or not.

The draft requires the application to be distributed to departments and the Buildings and Grounds Committee, and requires them to approve, deny or approve with conditions within 10 days. Reasons for denial have to be stated particularly, and approvable alternatives have to be identified. Denials can't be for arbitrary reasons, and bases for denial are spelled out in the ordinance.

There is a requirement for posting the applications and an opportunity for public objection. The current ordinance does not allow any input from residents that would be affected by the closure. If objections are filed, then a special, ad hoc panel convenes to evaluate the objection, and make recommendations to alleviate the effects of the closure. A permit can be denied only if there is no reasonable way to address the issues raised by the objector, otherwise, conditions can be placed on the permit.

The draft requires applications to be filed no sooner than 120 days before the closure, and no later than 35 days before the closure. The Clerk is required to act on the application within 14 days of its submission. In practical application, this timeline will be tight, but if we push out the 35 days any further, we may start to run into First Amendment problems again. These time limits are open for your consideration, but changing them can be tricky.

There is an appeal procedure for denials, similar to the appeal procedure in the other ordinances.

4. Special Events.

The special events ordinance is an overlay on the street closure ordinance. A special event is defined as an event that takes place on a closed public right of way, so a street closure permit is required before a special events permit can be issued.

Special events must be for a "public purpose." That means it's free to the public, or it's put on by a public school. For-profit activities that are not open to the public for free are not eligible for a special events permit. This is a policy matter that is open for your consideration.

Permits are required, and a separate fee is charged, on a sliding scale according to the size of the event. The dollar amounts shown in the draft are suggestions only, they are open for your consideration. Also, this draft treats special events as single events requiring a separate permit (up to three consecutive days), in other words, it does not provide for a "full-season" permit. This is also open for your consideration. Fees in this and the street closure ordinance could also be maintained on a separate schedule, and not be part of the ordinance.

Application timing and appeals are similar to the other ordinances.

All damages are reimbursable to the City, and the applicant is required to indemnify the City from damages arising from the event. There are also sound-level restrictions in this draft, which is open for consideration.

Finally, for events of greater than 400 attendees and participants, there are special additional rules. Liability insurance is required, and a standby letter of credit has to be posted for clean-up and damage security. All of these limits are open for consideration.

The sanitation, solid waste and recyclables, health, safety, and security provisions that were developed for the current ordinance are now incorporated directly into the ordinance.

5. Conclusion.

Please read the drafts carefully, and note any questions or comments you have. Feel free to contact me for clarifications or explanations. There's a lot of material there. We should be able to have a good discussion at the meeting on Monday, March 14.

6.185 Block Parties

- (1) **Definitions.** In this Section, the following terms have these meanings:
 - (a) Arterial means a Public Right of Way that is designated as an Arterial by the Fire Department, Police Department and Public Works Department, as a main route for emergency vehicles across the City.
 - (b) Block means the distance between intersections on a City street, or 125 yards, whichever is shorter.
 - (c) Block Party means a purely social gathering among the residents of a residential neighborhood.
 - (d) Public Right of Way means public streets, sidewalks, parking lots, pedestrian paths, bicycle paths, and similar City vehicle ways over which the public has a right to travel.
 - (e) Section means this Municipal Code §6.185.
- (2) **Applicability.** This Section applies to Block Parties that take place on Public Rights of Way. It does not apply to Special Events as defined in Municipal Code §6.18.
- (3) **Permit Required.** No Block Party may take place unless a permit is first issued under this Section. Applicants to whom a permit is issued under this Section shall comply with all of the terms and provisions of this Section and the permit. There is no fee for a Block Party permit.
- (4) **Application for Permit.** Applications shall be made on forms provided by, and shall be submitted to, the City Clerk no later than 14 days before the date of the planned Block Party, and shall contain at least the following information:
 - (a) The names, addresses and telephone numbers of the persons conducting the Block Party.
 - (b) The date, time, duration and location of the Block Party.
 - (c) The expected number of participants.
 - (d) A description of all items that will be placed within Public Right of Way.
 - (e) Any other information reasonably requested on the application form.
- (5) **City Clerk Action.** If all of the application requirements of this Section are complied with by the Applicant, and the application shows that the Block Party would comply with all regulations in this Section, the City Clerk shall issue the permit for the Block Party.
- (6) **Regulations.** Block Parties are subject to the following regulations:
 - (a) No more than one linear Block of street may be closed for a Block Party.
 - (b) Block Parties are limited to no more than 100 participants.
 - (c) Block Parties may not take place Monday through Thursday, except for holidays; or between the hours of 11:00 p.m. and 9:00 a.m.
 - (d) Block Parties may only take place in residential-zoned districts, and only on streets that are designated by the Department of Public Works as suitable for Block Parties.

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- (e) Block Parties may not take place on Arterials, detour routes, areas under construction, or any other streets designated as unsuitable for Block Parties by the Police Department or Department of Public Works, in those departments' sole discretion.
 - (f) Barricades to close the street must remain in place at all times during the Block Party, however, residents of closed streets shall be allowed vehicular access to their driveways, as necessary. Barricades will be provided by the Department of Public Works if enough are available, and if not, Applicants shall provide sufficient barricades at their own expense, of a design satisfactory to the Police Department for safe control of vehicular traffic. Applicants must pick up and return barricades, delivery will not be provided by the City.
 - (g) A clear, 15-foot path must be maintained at all times in closed streets for emergency vehicle access.
 - (h) Objects placed on Public Rights of Way must be portable enough so that they can be moved without the use of machinery.
 - (i) Charcoal, wood or gas-fueled grills or smokers; fireplaces; fire pits; chimineas and other, similar fire-containing objects shall not be placed within Public Rights of Way.
 - (j) Bounce houses and other similarly-large inflatable structures shall not be placed on Public Right of Way.
 - (k) Noise and music shall be limited to levels that will not cause unreasonable disturbance to residents in the area.
 - (l) Alcoholic beverages may be served in Public Rights-of-Way within the Block party area only with permission of the district's alderman, pursuant to Municipal Code §11.27.
 - (m) All waste and debris must be cleaned up and properly disposed of after the Block Party ends, and the Public Right of Way restored to its prior condition.
 - (n) No additional insurance is required.
 - (o) All participants shall be responsible for compliance with the requirements of this Section.
- (7) **Penalty.** Any person violating any of the provisions of this Section or a permit issued hereunder shall be subject to forfeiture as provided by Municipal Code §25.05.

6.16 Parades and Demonstrations

- (1) **Definitions.** In this Section, the following terms have these meanings:
 - (a) Arterial means a Public Right of Way that is designated as an Arterial by the Fire Department, Police Department and Public Works Department, as a main route for emergency vehicles across the City.
 - (b) Demonstration means a gathering of people on a Public Right of Way whose intent is to communicate ideas and opinions in an exercise of free speech, and includes rallies, speeches, protests, vigils, pickets, and similar activities which may reasonably be anticipated to interfere with normal traffic; but does not include activities for which immobile or stationary objects will be placed on Public Rights of Way.
 - (c) Event means a Demonstration or Parade.
 - (d) Parade means a march or other moving procession of people, animals or vehicles across Public Rights of Way, including the usual and customary usage of the term parade, and other similar activities which may reasonably be anticipated to interfere with normal traffic; but does not include activities for which immobile or stationary objects will be placed on Public Rights of Way.
 - (e) Public Right of Way means public streets, sidewalks, parking lots, pedestrian paths, bicycle paths, and similar City vehicle ways over which the public has a right to travel.
 - (f) Section means this Municipal Code §6.16.
- (2) **Applicability.** This Section applies to Parades and Demonstrations that take place on Public Rights of Way, where the Parades or Demonstrations may reasonably be expected to interfere with normal vehicle and pedestrian traffic. Parades and Demonstrations that take place entirely on private property are not subject to this Section. Further exceptions are listed in subsection (11).
- (3) **Purpose.** The purpose of this Section is to protect the rights of the public to assemble peaceably and exercise their First Amendment free-speech rights, while allowing for reasonable regulation of the time, place and manner of those activities to protect the safety and welfare of participants and the general public, by requiring notice to be given to the City so that provisions can be made for traffic control and security. Though traffic control and security may result in closure of Public Rights of Way for an Event in the sole discretion of the Police Department, compliance with this Section does not necessarily result in closure of Public Rights of Way. If closure of a Public Right of Way more than 60 minutes before the beginning of an Event is desired, or if the Event will involve the placement of immobile, stationary physical objects within a Public Right of Way, then a permit for Closure of Public Right of Way must be obtained under Municipal Code §6.17.
- (4) **Requirement of Notice and Permit.** Persons or organizations organizing a Demonstration or Parade that will take place within the City of Waukesha, referred to in this Section as Applicant, shall give notice of their intent to conduct a Parade or Demonstration, no later than 5 business days before the planned starting time for the Event, by the filing with the City Clerk of an Application for Permit. The Application form shall be provided by the City and be obtained from the City Clerk. The Application shall contain the following information:
 - (a) The names, addresses and telephone numbers of the persons or organization organizing and conducting the Event.

- (b) The date and time of the Event.
 - (c) The locations of the Event, gathering of the participants, the beginning of the Parade, the route of the parade, and the ending point of the parade.
 - (d) The expected number of participants.
 - (e) A description of the Event, including whether it will include vehicles or animals.
- (5) **Distribution of Application, Recommendations of Departments.** Copies of Applications submitted to the City pursuant to subsection (4) shall immediately be distributed to the Police Department, the Fire Department, the Department of Public Works, Waukesha Metro Transit, and the City Attorney; and the departments shall respond within 3 business days in writing to the City Clerk and the City Attorney, indicating their approval of the Application or their bases for denial as listed in subsection (6). A failure to respond within the 3-business-day time period shall be deemed an approval of the Application. Denials shall describe the bases for denial in reasonable detail, and shall describe possible alternatives or conditions which, if adopted by the Applicant, would remove their bases for denial.
- (6) **Issuance of Permit.** The City Clerk shall issue a permit unless any of the following conditions exist:
- (a) The Application indicates the Event would be in violation of any of subsections (10)(a) through (10)(d) of this Section.
 - (b) The Police Department has indicated in writing that at the time and place of the Event indicated in the Application there will not be a sufficient number of officers available to protect participants in and attendees of the Event from traffic and other safety hazards, considering other demands for police protection at the proposed time and location of the Event.
 - (c) The Police Department, the Fire Department, the Department of Public Works, or Waukesha Metro Transit have indicated in writing that the size, place or time of the Event indicated in the Application will substantially and unnecessarily interfere with traffic in the area of the Event, and there are no reasonable alternatives, or conditions that could be placed on the Event to mitigate the interference.
 - (d) The Fire Department has indicated in writing that the Event, as described in the Application, would prevent proper fire or ambulance service by the concentration of people, animals, vehicles or other physical objects.
- (7) **Time for City Action.** The City Clerk shall either issue a permit or give notice of denial of the Application no later than 5 business days after receipt of an Application. If no notice of denial is given within that time period, the Application shall be deemed approved, and a permit shall be issued.
- (8) **Notice of Action, Conditions and Alternatives.** The City Clerk shall notify Applicant in writing of the action taken on the application within 3 days of the action. Notifications shall be delivered to Applicant by email at the email address shown on the application or by first-class US Mail to the address shown on the application. Denials of applications shall explain the bases for denial in sufficient detail for the Applicant to evaluate possible revisions, alternatives or conditions that would address the bases for denial, and the Applicant shall be given the opportunity to revise the application to include such revisions, alternatives and conditions, and to re-submit the application.

Notices of action regarding re-submitted applications shall be done similarly, and Applicants may revise and re-submit as many times as they wish to.

- (9) **Appeal of Denial.** An Applicant may appeal a denial of an Application by filing a written notice of appeal with the City Clerk, no later than 5 business days after the date the written denial is delivered to the Applicant, which shall be determined by the postmark, if notice is delivered by US Mail, or by the date of the email, if notice is delivered by email. If an appeal is not so filed within the stated time period, then the denial shall be final. The appeal shall be conducted by the Mayor or the Mayor's designee, who shall hold a hearing within 7 business days of receipt of the notice of appeal by the City Clerk, and either affirm or reverse the denial. The decision of the Mayor or the Mayor's designee shall be appealable to circuit court by certiorari. If an appeal hearing is not held by the Mayor or Mayor's designee within 7 business days of receipt of the notice of appeal by the City Clerk, then the Application shall be deemed approved, and a permit shall be issued.
- (10) **Regulations.** Parades and Demonstrations are subject to the following regulations:
- (a) Events may not take place between the hours of 10:00 p.m. and 6:00 a.m.
 - (b) Events may not take place on Arterials, detour routes, or areas under construction.
 - (c) Immobile, stationary physical objects that will obstruct normal vehicle or pedestrian traffic may not be placed within Public Rights of Way, unless the Applicant has obtained a Closure Permit under Municipal Code §6.17.
 - (d) Events may not take place where and when another person or organization has already been issued a permit under this Section to conduct a Parade or Demonstration, or a Closure Permit under Municipal Code §6.17.
 - (e) Participants in Events shall remain subject to all laws, including those regarding orderly conduct.
 - (f) Organizers and participants shall comply with all laws applicable to the movement of pedestrians and vehicles on Public Rights of Way, and directions for control of traffic and safety given by police officers.
 - (g) Events may not take place, and shall be terminated if already underway, if an emergency requires that police officers controlling traffic and security respond and leave the site of the Event, such that there remains inadequate traffic control or security to protect the safety and welfare of Event participants and the public.
- (11) **Exceptions.** The following Events are excepted from the requirements of this Section:
- (a) Demonstrations with fewer than 15 participants and not taking place to any extent on a public street.
 - (b) Parades that take place entirely on public sidewalks, are not more than two participants abreast, and which obey all laws controlling pedestrian crossing of streets.
 - (c) Events that arise spontaneously without any advance planning by any person or organization.
 - (d) Events taking place entirely within Public Rights of Way that are closed pursuant to Municipal Code §6.17, during the time period of the permitted closure.

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- (e) Funeral processions consisting only of vehicles and complying with Wis. Stats. §346.20 or successor statutes.

(12) Penalty. Any person violating any of the provisions of this Section or a permit issued hereunder shall be subject to forfeiture as provided by Municipal Code §25.05.

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6.17 Closures of Public Rights of Way

(1) **Definitions.** In this Section, the following terms have these meanings:

- (a) Applicant means an owner or tenant of a parcel of real property adjacent to a Public Right of Way, who submits an application under this Section for a permit to close that adjacent Public Right of Way.
- (b) Arterial means a Public Right of Way that is designated as an Arterial by the Fire Department, Police Department and Public Works Department, as a main route for emergency vehicles across the City.
- (c) Block means the distance between intersections on a City street, or 125 yards, whichever is shorter.
- (d) Closure means the partial or complete barricading or occupation of a Public Right of Way, or the placement of immobile or stationary physical objects in a Public Right of Way, such that it is not available for its normal use for vehicle traffic. For purposes of this Section, Closure does not include such activities done by the City.
- (e) Partial Closure means a closure of a Public Right of Way that still allows vehicle traffic to pass; for example, the closure of only a parking lane, or the closure of only one driving lane where there are multiple driving lanes in that direction.
- (f) Permitted Closure means a Closure for any of the following reasons:
 - (i) Parades and Demonstrations, as defined in Municipal Code §6.16.
 - (ii) Special Events, as defined in Municipal Code §6.18.
 - (iii) Uses by public elementary, middle, or high schools.
- (g) Public Right of Way means all public rights-of-way identified by the Department of Public Works as such, and also includes for purposes of this Section public streets, sidewalks, parking lots, pedestrian paths, bicycle paths, and similar City vehicle ways over which the public has a right to travel.
- (h) Section means this Municipal Code §6.17.
- (i) Street Uses Panel means an *ad hoc* panel consisting of the City Administrator, the Common Council President, and the alderman of the district in which the Closure will take place. If the Common Council President is the alderman of that district, then an alderman from an adjacent district shall also be included in the panel.

(2) **Purpose and Applicability.** Public Rights of Way are held by the City in trust for the public. The City has a duty to maintain Public Rights of Way for their intended purposes as ways for vehicle and pedestrian traffic. However, the City may authorize the temporary Closure of Public Rights of Way, subject to reasonable regulation and control. The purpose of this Section is to provide for certain Permitted Closures of Public Rights of Way, and the regulation of activities within closed Public Rights of Way for the safety and well-being of participants and the public. Closure of Public Rights of Way is not a right of citizens, and the City may refuse to issue a permit, revoke an issued permit, or otherwise pre-empt the rights of any other party to close or use any Public Right of Way, for reasons of public purpose. The City may close streets at any time in its sole discretion. Closure of Public Rights of Way pursuant to this Section is not required for Parades and Demonstrations

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taking place under Municipal Code §6.16, however, if the organizers of a Parade or Demonstration desire a Closure of a Public Right of Way in conjunction with their Parade or Demonstration, then the requirements of this Section must be met. This Section does not apply to block parties under Municipal Code §6.185, street excavations under Municipal Code §6.03, or storage of construction materials and equipment under Municipal Code §6.14.

(3) General Rules.

- (a)** No Closure of a Public Right of Way shall take place unless a permit is first issued under this Section or the closure is authorized by other applicable law.
- (b)** Permits shall be issued only to Applicants, and only for Closure of Public Rights of Way adjacent to properties of which the Applicants are owners or tenants.
- (c)** Permits shall be issued only for Permitted Closures, as defined in subsection (1)(f). If permits required for the events associated with the Permitted Closures are not obtained by Applicants, then the Closure application may be denied or already-granted permits may be revoked.
- (d)** Permits for Closures are not exclusive, all closed Public Rights of Way shall remain open to the public at all times. Closures are to vehicle traffic only.

(4) Application for Permit. Applications shall be made on forms provided by, and shall be submitted to, the City Clerk, and shall contain at least the following information:

- (a)** The names, addresses and telephone numbers of the Applicant requesting the Closure.
- (b)** The date, time and duration of the requested Closure.
- (c)** The location of the requested Closure.
- (d)** The purpose of the Closure, with a detailed description of the event for which the Closure is requested, including the expected number of participants and attendees, and whether the activities will involve vehicles or animals.
- (e)** Any other information reasonably requested on the application form.

(5) Timing of Applications. Applications for Closures shall be filed no earlier than 120 days before the date of the planned Closure, and no later than 35 days before the date of the planned Closure. Applications may not be amended after filing. Applications will be processed in the order in which they are received.

(6) Fees. The Fee for filing an application shall be \$50 per block or portion of blocks to be closed. Fees shall be paid at the time of filing of applications. Fees shall not be refundable, except that half of fees paid shall be refundable if the City denies an application, or revokes an issued permit without cause. The retained portion shall be an administrative fee for review of the application.

(7) Distribution of Application, Recommendations of Departments. Copies of Applications submitted to the City pursuant to subsection (4) shall immediately be distributed to the Police Department, the Fire Department, the Department of Public Works, the Department of Parks, Recreation and Forestry, Waukesha Metro Transit, the Buildings and Grounds Committee, and the City Attorney; and the departments and committee shall respond within 10 days in writing to the City Clerk and the City Attorney, indicating their approval of the Application or their bases for denial as listed in subsection (8). Recommendations for denial shall describe the bases for denial in

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reasonable detail, and shall describe possible alternatives or conditions which, if adopted by the Applicant, would remove the bases for denial.

- (8) **Standards for Department Recommendations.** Departments to which the Application is distributed may recommend denial for the following reasons:
- (a) In the determination of the Police Department, at the time and place of the Closure indicated in the application there will not be a sufficient number of officers available to control traffic and provide security and protection for persons in and near the Closure, considering the nature of the activities to be held within the Closure area and other demands for police protection at the proposed time and location of the Closure.
 - (b) In the determination of the Buildings and Grounds Committee, Police Department, Fire Department, Department of Public Works, Department of Parks, Recreation and Forestry, or Waukesha Metro Transit, the size, place or time of the Closure indicated in the application will substantially and unnecessarily interfere with traffic in the area of the Closure or will substantially and unnecessarily interfere with City-conducted activities, and there are no reasonable alternatives or conditions that could be placed on the Closure to mitigate the interference.
 - (c) In the determination of the Fire Department, the Closure, as described in the application, would substantially and unnecessarily interfere with adequate fire or ambulance service in the area of the City near the Closure.
 - (d) In the determination of the Department of Public Works or the Buildings and Grounds Committee, the area for which a Closure application is made will be under construction or repair, or that the Closure will substantially and unnecessarily interfere with repairs, construction or other City work in areas near the Closure.
 - (e) Any other reason rationally related to an articulated, legitimate public purpose.
- (9) **Public Notice and Opportunity for Objection.** Notice of the filing of applications shall be posted immediately upon their receipt on the City's web site and on the notices bulletin board at City Hall. Owners and tenants of properties adjacent to the Public Rights-of-Way proposed to be closed may file their written objections to the closure within 7 days of the posting of the notice. If objection is made, then the objection shall be referred to the Street Uses Panel, which shall conduct an investigation and shall determine whether the closure would be an unreasonable interference with the rights of the objecting parties. If the Street Uses Panel finds that the closure would be an unreasonable interference, then it shall recommend conditions to the closure to mitigate the interference. The Street Uses Panel may only recommend denial of the application if it finds that there are no reasonable conditions which would sufficiently mitigate the interference. The Street Closure Panel shall make its recommendation to the City Clerk either to deny the application, approve the application, or approve the application with conditions, within 5 days of the filing of the objection.
- (10) **City Clerk Action.** The City Clerk shall act upon applications no later than 14 days after the filing of the applications, as follows:
- (a) The City Clerk shall deny the application if any of the following occur:
 - (i) If the Application is incomplete or is not accompanied by the required fees.

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- (ii) If the Application indicates that the Closure would be in violation of any part of subsection (11) of this Section.
 - (iii) If the reason for the Closure is not a Permitted Closure.
 - (iv) If there is a previously-issued permit for simultaneous closure of any of the Public Rights-of-Way that are the subject of the application.
 - (b) If the City Clerk does not deny the application under subsection (10)(a), then the City Clerk shall further act on the application as follows:
 - (i) If any City department to which an application is distributed or the Street Uses Panel recommends denial of the application, then the City Clerk shall deny the application.
 - (ii) If all City departments to which an application is distributed and the Street Uses Panel, if necessary, approve the application without conditions, then the City Clerk shall approve the application and issue the permit.
 - (iii) If any City department to which an application is distributed or the Street Uses Panel recommends approval of the application with conditions, and no departments or the Street Uses Panel recommend denial of the application, then the City Clerk shall approve the application and issue the permit subject to the recommended conditions.
 - (c) The City Clerk shall notify the applicant of the action taken in writing within 3 business days of the action.
- (11) **Notice of Action, Conditions and Alternatives.** The City Clerk shall notify Applicant in writing of the action taken on the application within 3 days of the action. Notifications shall be delivered to Applicant by email at the email address shown on the application or by first-class US Mail to the address shown on the application. Denials of applications shall explain the bases for denial in sufficient detail for the Applicant to evaluate possible revisions, alternatives or conditions that would address the bases for denial, and the Applicant shall be given the opportunity to revise the application to include such revisions, alternatives and conditions, and to re-submit the application. Denials of re-submitted applications shall be done similarly, and Applicants may revise and re-submit as many times as they wish to.
- (12) **Appeal of Denial.** An Applicant may appeal a denial of an application by filing a written notice of appeal with the City Clerk, no later than 5 business days after the date the written denial is delivered to the Applicant, which shall be determined by the postmark, if notice is delivered by US Mail, or by the date of the email, if notice is delivered by email. If an appeal is not so filed within the stated time period, then the denial shall be final. The appeal shall be conducted by the Mayor or the Mayor's designee, who shall hold a hearing within 5 business days of receipt of the notice of appeal by the City Clerk, and either affirm or reverse the denial. The decision of the Mayor or the Mayor's designee shall be appealable to circuit court by certiorari. If an appeal hearing is not held by the Mayor or Mayor's designee within 5 business days of receipt of the notice of appeal by the City Clerk, then the Application shall be deemed approved, and a permit shall be issued.
- (13) **Additional Regulations.** Closures of Public Rights-of-Way are subject to the following regulations:
 - (a) Closures may not take place between the hours of 10:00 p.m. and 6:00 a.m.

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- (b) Arterials shall not be closed, unless specifically approved by the Police Department, Fire Department and Public Works Department.
 - (c) Closures are at all times subject to cancellation or modification due to emergencies, in the City's sole discretion.
 - (d) A path of at least 15 feet in width, having no obstacles within it other than pedestrians, must be maintained through closed areas at all times, to allow for passage of emergency vehicles.
 - (e) Closures, and all activities and participants within closed areas, are at all times subject to the direction and orders of police.
 - (f) Organizers and participants shall comply with the direction of police officers controlling traffic and security.
 - (g) Closures are not exclusive, all closed Public Rights of Way shall remain open to the public at all times. Closures are to vehicle traffic only.
 - (h) Closures may not take place, and shall be terminated if already underway, if an emergency requires that police officers required for traffic controlling and security respond and leave the site of the Closure, such that there remains inadequate traffic control or security, in the City's sole discretion.
- (14) **Penalty.** Any person violating any of the provisions of this Section or a permit issued hereunder shall be subject to forfeiture as provided by Municipal Code §25.05.

6.18 Special Events

- (1) **Definitions.** In this Section, the following terms have these meanings:
 - (a) Applicant means the organizer of a Special Event, who applies for a permit under this Section.
 - (b) Public Purpose means a use which is open to the public without fee. Public Purpose also includes uses by public elementary, middle, or high schools, regardless of whether a fee is charged to the public for entry.
 - (c) Public Right of Way means public streets, sidewalks, parking lots, pedestrian paths, bicycle paths, and similar public property over which the public has a right to travel. For purposes of this Section, Public Right of Way does not include properties under the jurisdiction of the Department of Parks, Recreation and Forestry.
 - (d) Section means this Municipal Code §6.18.
 - (e) Special Event means an event organized, sponsored, and conducted by an entity other than the City, which takes place on a Public Right of Way that is closed by a permit issued under Municipal Code §6.17, and which is for a Public Purpose. Special Event does not include parades and demonstrations as defined in Municipal Code §6.16, Block Parties as defined in Municipal Code §6.185, or large-scale public gatherings in parks as defined in Municipal Code §8.115. Separate permits are required for Special Events and events taking place in parks.
- (2) **Purpose.** Public Rights of Way are held by the City in trust for the public. The City has a duty to maintain Public Rights of Way for their intended purposes as ways for vehicle and pedestrian traffic. However, the City may authorize Special Events to take place in closed sections of Public Rights of Way, subject to reasonable regulation and control. The purpose of this Section is the regulation of such Special Events for the safety, security, health and well-being of participants and the public, the protection of City property, and adequate sanitation.
- (3) **Permit Requirement.** No Special Event may take place unless a permit is first issued under this Section. Applicants to whom a permit is issued under this Section shall comply with all of the terms and provisions of this Section and the permit.
- (4) **Application for Permit.** Applications shall be made on forms provided by, and shall be submitted to, the City Clerk, and shall contain at least the following information:
 - (a) The names, addresses and telephone numbers of the Applicant and all persons or organizations sponsoring or organizing the Special Event.
 - (b) The date, time and duration of the proposed Special Event.
 - (c) The location of the proposed Special Event.
 - (d) A detailed description of the proposed Special Event.
 - (e) The expected number of participants and attendees.
 - (f) Whether there will be sound amplification of any kind, and a description of all activities involving sound amplification and their locations.
 - (g) The indemnification agreement required by subsection (13).

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- (h) The damage and clean-up security required by subsection (12)(b), if applicable.
 - (i) Any other information reasonably requested on the application form.
- (5) **Timing of Applications.** Applications for Special Events shall be filed no earlier than 120 days before the date of the Special Event, and no later than 35 days before the date of the Special Event. Applications may not be amended after filing. Applications will be processed in the order in which they are received.
- (6) **Fees.** The following fees shall be paid at the time of filing of applications, as applicable. The Administrative Fee shall not be refundable, and Event Fees shall be refundable if written notice of cancellation of the Special Event is delivered to the City Clerk no later than 24 hours before the stating time stated in the application. Fees shall be as follows, per Special Event: **[Alternative: fees according to separate schedule set by Council, maintained by City Clerk]**
- (a) Administrative Fee for all Special Events, \$50.00.
 - (b) Event Fee, between 1 and 99 attendees and participants, none.
 - (c) Event Fee, between 100 and 499 attendees and participants, \$100.00.
 - (d) Event Fee, between 500 and 999 attendees and participants, \$150.00.
 - (e) Event Fee, between 1000 and 4999 attendees and participants, \$200.00.
 - (f) Event Fee, greater than 5000 attendees and participants, \$400.00.
 - (g) Numbers of attendees and participants shall be as stated in the application. If actual counts show greater numbers, Applicant shall pay the difference between the amount paid and the amount corresponding to the actual count.
 - (h) If a Special Event will be conducted on no more than 3 consecutive days, then only one Event Fee shall be payable for the Special Event.
- (7) **Distribution of Application, Recommendations of Departments.** Copies of Applications submitted to the City pursuant to subsection (4) shall immediately be distributed to the Police Department, the Fire Department, the Department of Public Works, Waukesha Metro Transit, and the City Attorney; and departments shall respond within 10 days in writing to the City Clerk and the City Attorney, indicating their approval of the Application or their bases for denial as listed in subsection (8). Recommendations for denial shall describe the bases for denial in reasonable detail, and shall describe possible alternatives or conditions which, if adopted by the Applicant, would remove the bases for denial.
- (8) **Issuance of Permit.** The City Clerk shall issue a permit unless any of the following conditions exist:
- (a) The Application is incomplete or is not accompanied by the required fees and security for damage or clean-up.
 - (b) The Application indicates the Event would be in violation of any part of subsection (14) of this Section.
 - (c) The Police Department has indicated in writing that at the time and place of the Event indicated in the Application there will not be a sufficient number of officers available to

provide adequate security and protection to participants in and attendees of the Event, considering other demands for police protection at the proposed time and location of the Special Event.

- (d) The Police Department, the Fire Department, the Department of Public Works, or Waukesha Metro Transit have indicated in writing that the size, place or time of the Special Event indicated in the Application will substantially and unnecessarily interfere with traffic in the area of the Special Event, and there are no reasonable alternatives, or conditions that could be placed on the Special Event to mitigate the interference.
 - (e) The Fire Department has indicated in writing that the Special Event, as described in the Application, would prevent adequate fire or ambulance service by the concentration of people, animals, vehicles or other physical objects.
- (9) **Time for City Action.** The City Clerk shall either issue a permit or give notice of denial of the Application no later than 14 business days after receipt of an Application. If no notice of denial is given within that time period, the Application shall be deemed approved, and a permit shall be issued.
- (10) **Notice of Action, Conditions and Alternatives.** The City Clerk shall notify Applicant in writing of the action taken on the application within 3 days of the action. Notifications shall be delivered to Applicant by email at the email address shown on the application or by first-class US Mail to the address shown on the application. Denials of applications shall explain the bases for denial in sufficient detail for the Applicant to evaluate possible revisions, alternatives or conditions that would address the bases for denial, and the Applicant shall be given the opportunity to revise the application to include such revisions, alternatives and conditions, and to re-submit the application. Notice of action regarding re-submitted applications shall be done similarly, and Applicants may revise and re-submit as many times as they wish to.
- (11) **Appeal of Denial.** An Applicant may appeal a denial of an Application by filing a written notice of appeal with the City Clerk, no later than 5 business days after the date the written denial is delivered to the Applicant, which shall be determined by the postmark, if notice is delivered by US Mail, or by the date of the email, if notice is delivered by email. If an appeal is not so filed within the stated time period, then the denial shall be final. The appeal shall be conducted by the Mayor or the Mayor's designee, who shall hold a hearing within 5 business days of receipt of the notice of appeal by the City Clerk, and either affirm or reverse the denial. The decision of the Mayor or the Mayor's designee shall be appealable to circuit court by certiorari. If an appeal hearing is not held by the Mayor or Mayor's designee within 5 business days of receipt of the notice of appeal by the City Clerk, then the Application shall be deemed approved, and a permit shall be issued.
- (12) **Damage to City Property, Reimbursement of Costs.** The Applicant shall reimburse the City for all damage to City property occurring during the Special Event, and all costs of clean-up incurred by the City as a result of the Special Event.
- (13) **Indemnification, Release of Liability.** The Applicant shall execute, as part of the application, a contract indemnifying and holding the City harmless from any and all liabilities arising from Applicant's acts or omissions in conducting the Special Event, in a form approved by the City Attorney.
- (14) **General Regulations.** All Special Events are subject to the following regulations, and Applicants shall be responsible for compliance:

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- (a) Special Events may only be held in Public Rights-of-Way that have been issued a permit for closure under Municipal Code §6.17. Special Events may not take place on any other public property, except for events in parks that are in compliance with all applicable laws.
 - (b) Special Events may not operate between the hours of 10:00 p.m. and 6:00 a.m., and shall have a maximum daily duration of 16 hours.
 - (c) Special Events shall be open to all members of the public.
 - (d) Sound levels generated by the Special Event shall not exceed a level which unreasonably disturbs the peace and quiet of residents in the vicinity of the Special Event, taking all circumstances into consideration. For purposes of this subsection, sound levels originating in the Special Event in excess of 80 dB(A) SPL average at any time, measured at any point 100 feet from the boundaries of the Special Event, shall be presumed to be unreasonable.
 - (e) The Applicant shall collect and properly dispose of all waste and debris generated by the Special Event, and return all Public Rights of Way to their prior condition, no later than 2 hours after the end of the Special Event, at the Applicant's sole expense.
 - (f) Special Events are at all times subject to cancellation or modification due to emergencies, in the City's sole discretion.
 - (g) Special Events, and all activities and participants in the Special Event, are at all times subject to the direction and orders of police.
 - (h) If the Closure of a Public Right of Way in which the Special Event takes place is cancelled or terminated as provided in Municipal Code §6.17, then the Special Event shall also be cancelled or terminated.
- (12) **Additional Regulations for Large Special Events.** Special Events at which it is reasonably expected that more than 400 people will be present on Public Rights of Way at any given time shall be subject to the following regulations, in addition to the General Regulations in subsection (14):
- (a) **Insurance.** The Applicant shall obtain, at Applicant's sole expense, a policy of public liability insurance from an insurer licensed to issue policies in the State of Wisconsin, with limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate, with an endorsement naming the City of Waukesha as an additional insured and loss payee. The Applicant shall file with the City Clerk a certificate of insurance showing such coverage to be in place before the Special Event occurs, and in any event no later than 10 days after the permit is issued. Failure to file a certificate of insurance shall result in a revocation of the permit.
 - (b) **Security for Damage and Clean-Up.** For Special Events with 5000 or more attendees and participants as stated in the application, the Applicant shall deliver to the City a standby letter of credit from a commercial bank in the amount of \$5000.00, naming the City as beneficiary, conditioned upon the Applicant's complete performance of the requirements of subsections (12) and (14)(e).
 - (c) **Toilets and Sanitation Facilities.** The Applicant shall ensure that adequate toilet and sanitation facilities are available to all attendees during the Special Event, at the Applicant's sole expense.

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- (i) Refer to the following table for the required number of toilets available for attendees:

Duration of event in hours	≤1	1-2	2-3	3-4	4-5	5-6	6-7	7-8	8-9	9-10
Attendee Count										
400-999	0	4	4	6	6	6	8	8	8	8
1000-1999	4	6	6	6	6	8	8	8	8	12
2000-2999	4	8	8	8	8	12	12	12	12	16
3000-3999	8	8	10	10	10	12	16	16	20	20
4000-4999	8	8	12	12	16	16	20	24	24	28
5000-5999	12	12	12	16	20	30	30	30	30	34
6000-6999	12	12	16	16	20	30	30	36	36	40
7000-7999	12	12	16	20	30	32	40	40	52	52
8000-8999	12	12	20	24	32	32	40	44	52	54
9000-9999	16	16	24	28	40	40	52	52	60	64
10000 and up	16	16	28	40	40	52	52	60	60	72

- (ii) The required number of toilets may be met with toilets in private or public restrooms, with portable toilets, or any combination. Toilet facilities must comply with ADA requirements for accessibility.
- (iii) If private restrooms are to be used to satisfy the toilet and sanitation requirement, then the following must be met: (1) There must be a written agreement from the owner, agreeing to make the restrooms available to the public free of charge at all times that the event is underway, with a copy provided to the City; (2) the restrooms must be within 200 feet of the boundaries of the event area, (3) the location of the restrooms must be clearly indicated with signs.
- (iv) If food will be consumed at the event, then hand-washing facilities must be available. If any number of the toilet requirement is met by portable toilets, then a portable hand-washing station must be provided, at least 1 for every 6 portable toilets.

(13) Waste and Recyclables. The Applicant shall provide adequate solid-waste and recyclables collection and disposal, at the Applicant's sole expense. Applicant may not rely on City waste containers to meet this requirement.

- (a) Adequately-sized trash and recyclable receptacles shall be positioned within the event area so that no attendee has to move more than 75 feet to reach them. Applicant shall be responsible for disposing of trash and recyclables at Applicant's expense and according to law, promptly upon conclusion of the Special Event. Receptacles must be marked to indicate waste or recyclables, reasonably sufficiently to prevent recyclables from being put into waste receptacles.
- (b) The required size and number of solid-waste and recyclables receptacles shall be according to standards determined by the Department of Public Works, approved by the Common Council, and published by the Department of Public Works.

- (14) Health, Safety and Security.** Applicants shall be responsible, at Applicant's sole expense, for ensuring that facilities are available for contacting emergency services, for crowd control, and for pedestrian safety, according to the following standards:
- (a)** Applicant shall be responsible for ensuring that activities conducted at the Special Event comply with all applicable health and safety laws. Applicant must ensure that there is adequate access for emergency vehicles. Applicant must provide communications facilities and assigned personnel within the event area for communicating with police, fire and emergency medical services. Applicant's plans for health and safety, submitted with their permit applications, will be reviewed by the Police and Fire Department for determination of adequacy on a case-by-case basis. Fire Department review shall include, but not be limited to, the requirements of International Fire Code Sections 403 and Chapter 24. Applicant shall comply with all Police and Fire Department directions for health and safety requirements.
 - (b)** Crowd control and pedestrian safety measures will be dependent on the circumstances of the particular event. Applicants shall submit a proposed crowd-control and pedestrian safety plan with their permit applications, which will then be reviewed by the Police Department for adequacy in light of all circumstances. Applicants shall provide information in addition to that provided on the application, as the Police Department reasonably requests.
 - (c)** If the Police Department determines that the crowd control and pedestrian safety requirements of the Special Event exceed the Police Department's capacity, in the Police Department's sole discretion, then the Applicant shall provide, at Applicant's sole expense, private security personnel that are employed by a firm that is approved by the Police Department.
 - (d)** Depending on circumstances, the City may require that additional sanitation, health, safety and security measures be provided by the Applicant. All additional measures shall be provided at the Applicant's sole expense.
 - (e)** Applicant shall indemnify the City from, and shall reimburse the City for, all expenses incurred by the City in providing necessary health, safety and security services that are the responsibility of the Applicant under this Section.
- (15) Penalty.** Any person violating any of the provisions of this Section or a permit issued hereunder shall be subject to forfeiture as provided by Municipal Code §25.05.