

**City of Waukesha, Wisconsin**

**Ordinance No. \_\_\_\_\_-16**

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**An Ordinance Repealing Section 6.18 of the Waukesha Municipal Code,  
and Repealing and Recreating Section 6.16 of the Waukesha Municipal Code,  
Regarding Parades and Demonstrations**

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The Common Council of the City of Waukesha do ordain as follows:

**Section 1.** Section 6.18 of the Waukesha Municipal Code is repealed in its entirety.

**Section 2.** Section 6.16 of the Waukesha Municipal Code is repealed and recreated to read in its entirety as follows:

**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 7 days before the planned starting time for the Event, by the filing with the City Clerk of an Application for Permit. Demonstrations or Parades shall not be conducted without a permit, unless excepted from the permit requirement under subsection (11). The Application form shall be provided by the City and be obtained from the City Clerk. There shall be no fee for the filing of the Application or for the permit. Applications shall be processed in the order in which they are received by 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 location of the Event, the route of the Event, the ending point of the Event, and the expected duration of the Event.
  - (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; the Department of Parks, Recreation and Forestry; and the City Attorney; and the departments shall respond within 3 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-day time period shall be deemed a waiver

of the right to make a recommendation on 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; Waukesha Metro Transit; or the Department of Parks, Recreation and Forestry have indicated in writing that the size, place or time of the Event indicated in the Application will substantially and unnecessarily interfere with traffic or construction 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 take action on the application by either issuing a permit or giving 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 1 day 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 give the Applicant notice of the right to appeal under subsection (9) and 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. The timetable for the application process shall be re-set upon the filing of re-submitted applications, and it is the Applicant's responsibility to submit the application long enough in advance of the requested Closure to allow for revisions and re-submissions, if they are necessary.
- (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 1 business day 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.

**(10) Regulations.** All Parades and Demonstrations, whether required by this Section to have a permit or not, 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) Applicants shall be responsible for clean-up and restoration of the Public Right of Way promptly after the Parade or Demonstration, shall reimburse the City for all damage to City property occurring during the Parade or Demonstration, and shall reimburse the City for all costs of clean-up incurred by the City as a result of the Parade or Demonstration.
- (g) 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.
- (h) 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.
- (i) Permits may be revoked if the Applicant fails to comply with any conditions placed on the permit, the requirements of this Section, or any other applicable laws.

**(11) Exceptions.** The following Events are excepted from the requirement of a permit under 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.
- (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.

**Section 3.** All portions of the Municipal Code that are inconsistent with, or contravene the provisions of this Ordinance are repealed.

**Section 4.** This Ordinance shall be effective immediately upon its publication.

Passed the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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Shawn N. Reilly, Mayor

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Attest: Gina L. Kozlik, City Clerk