

**City of Waukesha, Wisconsin**

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

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**An Ordinance Creating Section 6.18 of the Waukesha Municipal Code,  
Regarding Special Events on Public Rights of Way**

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

**Section 1.** Former Section 6.18 having been repealed by Ordinance \_\_\_\_\_-16, Section 6.18 of the Waukesha Municipal Code is created to read in its entirety as follows:

**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 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. For purposes of this Section, Public Right of Way does not include recreational trails and paths designated for pedestrian and bicycle use only or properties under the jurisdiction of the Department of Parks, Recreation and Forestry.
- (c)** Section means this Municipal Code §6.18.
- (d)** 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 open for admission by the public. Special Event does not include parades and demonstrations as defined in Municipal Code §6.16, Block Parties as defined in Municipal Code §6.185, large-scale public gatherings in parks as defined in Municipal Code §8.115, or uses by educational institutions located within the City of Waukesha during which no more than 400 persons will be on closed Public Right of Way at any given time. Special Events taking place on both Public Right of Way and property under the jurisdiction of the Department of Parks, Recreation and Forestry may require both a permit under this Section and a permit from the Department of Parks, Recreation and Forestry.

**(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 (14).
  - (h)** The damage and clean-up security required by subsection (16)(d)(v), 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 270 days before the date of the Special Event, and no later than 30 days before the date of the Special Event. Only one application may be filed for Special Events, regardless of the number of occasions on which the Special Event may recur. 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, per Special Event, and shall not be refundable.

  - (a)** Event Fee, between 1 and 1000 attendees and participants, \$50.00.
  - (b)** Event Fee, between 1001 and 2000 attendees and participants, \$150.00.
  - (c)** Event Fee, between 2001 and 5000 attendees and participants, \$350.00.
  - (d)** Event Fee, greater than 5000 attendees and participants, \$550.00.

- (e) Seasonal Event Fee for Special Events held within the B-2 Central Business District zoning, up to a maximum of 30 events and any number of attendees, \$350.00.
  - (f) If the application is filed fewer than 45 days before the date of the Special Event, then an additional \$50.00 shall be added to the total fee.
  - (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, the Department of Parks, Recreation and Forestry, Waukesha Metro Transit, and the City Attorney; and departments shall respond within the applicable time period in subsection (12) 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, if required by subsection (17)(a).
  - (b) The Application indicates the Event would be in violation of any part of subsection (15) 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, the Department of Parks, Recreation and Forestry, 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 within the applicable time period in subsection (12). 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 the applicable time period in subsection (12). 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, within the applicable time period in subsection (12), 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 the applicable time period in subsection (12), 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 the stated time period, then the Application shall be deemed approved, and a permit shall be issued.
- (12) **Timetable for Application Process.** The schedule for the Application review process shall be as follows, depending on whether the Application is filed more than 45 days in advance of the requested Closure or not:
- (a) **Applications Filed More than 45 Days in Advance of the Requested Closure.**
- (i) Applications shall be distributed by the Clerk to departments, and post notice of the application to the City web site, no later than 3 days after receipt of the application.
  - (ii) Departments shall complete their review of applications, and provide their responses to the Clerk, no later than 14 days after receipt of the applications from the Clerk.
  - (iii) The Clerk shall act on the application, and give notice to the Applicant, no later than 24 days after receipt of the application.
  - (iv) Appeals of the Clerk's action shall be filed no later than 3 days after the Clerk gives notice of action on the application to the Applicant.
  - (v) A hearing of the Applicant's appeal and a decision on the appeal shall be done no later than 7 days after the filing of an appeal by the Applicant.

**(b) Applications Filed 45 Days or Fewer in Advance of the Requested Closure.**

- (i) Applications shall be distributed by the Clerk to departments, and post notice of the application to the City web site, no later than 1 day after receipt of the application.
- (ii) Departments shall complete their review of applications, and provide their responses to the Clerk, no later than 7 days after receipt of the applications from the Clerk.
- (iii) The Clerk shall act on the application, and give notice to the Applicant, no later than 14 days after receipt of the application.
- (iv) Appeals of the Clerk's action shall be filed no later than 3 days after the Clerk gives notice of action on the application to the Applicant.
- (v) A hearing of the Applicant's appeal and a decision on the appeal shall be done no later than 3 days before the date of the requested Closure.

**(13) 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.

**(14) 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.

**(15) General Regulations.** All Special Events are subject to the following regulations, and Applicants shall be responsible for compliance:

- (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 for admission to all members of the public, but may charge an entry fee.
- (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.
- (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 or if public safety requires, 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.
- (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.

**(16) 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 (15):

- (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) **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.
  - (i) Refer to the following table for the required number of toilets available for attendees. The number of attendees is at any given time, not aggregate.

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 requirements 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.
- (c) **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.
- (i) 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.
  - (ii) 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.
- (d) **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:
- (i) 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.

- (ii) 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.
- (iii) 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.
- (iv) 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.
- (v) 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.

**(17) Additional Regulations for Very Large Special Events.**

- (a) **Security for Damage and Clean-Up.** For Special Events with 5000 or more attendees and participants present at any given time, 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 (13) and (15)(e).
- (b) **Other Requirements.** For Special Events with 5000 or more attendees and participants present at any given time, the City may require such other terms and conditions as the City determines in its sole discretion to be necessary for the safety, health, general welfare and security of the Special Event, attendees, participants, the general public and the City. The City may require the execution of a contract between the City and the Applicant containing these additional terms and conditions.

**(18) 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 2.** All portions of the Municipal Code that are inconsistent with, or contravene the provisions of, this Ordinance are repealed.

**Section 3.** 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