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Sheboygan, Wisconsin
City Hall

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proceedings of the City of Sheboygan.


City Clerk

**CITY OF SHEBOYGAN
GENERAL ORDINANCE 14-23-24 SUBS. OF**

BY ALDERPERSONS DEKKER AND RUST.

AUGUST 7, 2023.

AN ORDINANCE repealing Article 14-III, Article 14-IV, Article 48-II-3, and Article 48-VI, and creating Article 48-VIII so as to simplify regulations for utilizing public property.

THE COMMON COUNCIL OF THE CITY OF SHEBOYGAN DO ORDAIN AS
FOLLOWS:

SECTION 1: **REPEAL** Article 14-III of the Sheboygan Municipal Code entitled
“Sidewalk Cafes” is hereby *repealed* as follows:

~~ARTICLE 14-III SIDEWALK CAFES~~

~~**Sec. 14-87 Definitions.**~~

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Sidewalk cafe* means any group of tables, chairs, benches, barriers or partitions, trash containers and suitable decorative devices maintained upon any part of the public right of way for use by an establishment in the sale to the public of food, refreshments, and beverages of all kinds.~~

~~**Sec 14-88 Permit Required**~~

~~(a) Except as otherwise specifically provided in this Code, it shall be unlawful for any person to sell or serve, or offer to sell or serve any food, refreshment, or beverage upon any public street, sidewalk, parking lot, or public way within the city, except in areas holding a sidewalk cafe permit pursuant to this division.~~

~~(b) It is unlawful for any person to sell or serve or offer to sell or serve any alcoholic beverage upon any public street, sidewalk, parking lot, or public way within the city unless the street, sidewalk, public lot, or public way is part of a licensed premises pursuant to chapter 16.~~

~~**Sec 14-89 Sidewalk Cafe Permit**~~

~~(a) Annual license. The fee for an annual sidewalk cafe permit shall be the greater of \$50.00 or \$1.00 per square foot but shall not exceed \$2,500.00.~~

~~(b) License fee. The license fee shall be paid to the city finance director/treasurer. Annual licenses shall be issued on April 15 each year or thereafter when applied for and shall expire on the April 14 of the year following its issuance.~~

~~(c) Application. Each application for a sidewalk cafe permit shall be filed with the city clerk's office. The application for new and returning sidewalk cafes shall include the following:~~

~~(1) A layout, drawn to scale, which accurately depicts the dimensions and measurements of the existing area, including all adjacent streets, avenues, and adjacent private property; the proposed location of the sidewalk cafe; the size and number of tables, chairs, steps, planters, and umbrellas; and the location of all furniture, equipment, doorways, trees, gratings, parking meters, benches, trash receptacles, light poles, and any other amenities or obstructions, either existing or proposed, within the sidewalk cafe. This layout shall be submitted on 8 1/2-inch by 11-inch paper, suitable for reproduction.~~

~~(2) Photographs, drawings, or manufacturer's brochures fully describing the appearance and dimensions of all proposed tables, chairs, umbrellas, barriers or other objects related to the sidewalk cafe.~~

~~(3) An indication of whether the applicant intends to sell or serve alcoholic beverages; those indicating such an intention shall submit proof that they have the required alcohol beverage license and that the site of the sidewalk cafe is part of the licensed premises.~~

~~(4) Proof of insurance as required pursuant to section 14-90(e).~~

~~(5) An agreement that the applicant and the applicant's heirs and assigns shall:~~

- ~~a. Become primarily responsible and liable for all and any damage to persons or property caused by and arising from the grant and exercise of the privilege to encroach upon city right of way;~~
- ~~b. Remove the encroachment allowed by the permit within ten days after notice to remove given by the state or the city;~~
- ~~c. In the event of the failure to remove the encroachment, pay the cost of removal by the state or the city;~~
- ~~d. Waive all claims for damages resulting from removal of the encroachment whether the removal is done by the applicant, the applicant's heirs or assigns, the state or the city;~~
- ~~e. Make such construction or alterations and maintain the same subject to the approval of the city building inspector and director of public works and shall waive the right to contest in any manner the validity of the encroachment agreement.~~

(d) The city clerk shall grant or deny all applications for sidewalk cafe permits. However, no such permit shall be granted until the city attorney, the chief of police, the director of public works, and the city planner (or their designees) have reviewed the application and made a recommendation to the city clerk.

(e) If the city planner, in the planner's sole discretion, determines that plan commission approval is required or appropriate, the city planner may withhold recommendation until such time as the plan commission has considered and approved the activity, structures, or modifications related to the permit application.

See 14-90 Regulations

(a) Each sidewalk cafe shall remain within the approved boundaries of the sidewalk cafe site as set forth on the approved application.

(b) No person shall consume, nor shall any holder of any sidewalk cafe permit consumption of alcohol beverages in a sidewalk cafe unless the person consuming the alcohol is seated at a table in the sidewalk cafe site.

(c) No container of alcohol beverages shall be present in a sidewalk cafe between 10:00 p.m. and 10:00 a.m.

(d) Each holder of a sidewalk cafe permit shall have in force adequate liability insurance and shall agree to indemnify, defend, and hold the city, its employees and agents harmless against all claims, liability, lawsuits, loss, damage, causes of action, or expense incurred by the city as the result of any injury to or death of any person or damage to property caused by or resulting from the activities for which the permit is granted. As evidence of liability insurance, the applicant shall annually prior to issuance of a permit furnish a certificate of insurance, on a form acceptable to the city, evidencing the existence of commercial general liability insurance (including contractual liability insurance) naming the city and its employees and agents as additional insureds, with minimum limits of \$1,000,000.00 in the aggregate. The certificate of insurance shall provide 30 days written notice to the city upon cancellation, non-renewal, or material change in the policy.

(e) Each sidewalk cafe serving alcoholic beverages shall be responsible for policing the area of the sidewalk cafe to be sure that customers are of the legal drinking age, that all laws related to the presence of underage persons on premises are being strictly followed, and that alcohol beverages are not removed from the premises.

(f) All sidewalk cafes shall be closed and all tables, chairs, and all other materials and equipment removed immediately upon request of a police officer or a representative of the department of public works for such a length of time as the officer or representative shall designate.

~~(g) No sidewalk cafes that is part of a licensed premises shall remain open during closing hours as set forth in sections 4-74 and 4-113. No patron shall remain or be permitted to remain within the sidewalk cafe area during closing hours, regardless of whether the sidewalk cafe has permanent facilities.~~

~~(h) No sidewalk cafe or the barriers or furniture within the cafe shall be arranged in such a way as to interfere with the free use of the sidewalk by pedestrians, and in no case shall placement of cafe barriers and furniture reduce the travelable width of the sidewalk to less than five feet pursuant to the federal Americans with Disabilities Act.~~

~~(i) In the event of failure to exercise the privilege granted by a sidewalk cafe permit within six months of granting, regardless of the date of issuance, the permit shall become null and void.~~

~~(j) Sidewalk cafe permit holders may exclude persons who are not customers from using the tables, chairs, and other materials and equipment that are part of the sidewalk cafe. However, no person shall in any way impede, prevent, or exclude any person from any legal use of the public sidewalk, including by in any way permitting the reduction of the accessible width of the walkway to less than five feet.~~

Sec 14-91 Revocation; Penalties

~~(a) The approval of a sidewalk cafe permit is conditional at all times. A sidewalk cafe permit may be suspended or revoked by the city clerk as a result of any violation of the provisions of this article or of violation of the provisions of any city ordinance or state or federal statute relating to activity occurring within the sidewalk cafe. Suspension or revocation shall be effective upon written notice to the holder of the permit which shall either be personally served upon the permittee or the permittee's agent or mailed to the permittee's address as contained in the most recent parklet permit application. Such written notice shall inform the permittee of the opportunity to be heard on the matter. Any hearing shall be before the licensing, hearings, and public safety committee of the common council.~~

~~(b) Any person, licensee, permit holder or applicant violating any provision of this article shall be subject to a forfeiture of not less than \$100.00 nor more than \$500.00 for each separate violation, and in default of payment thereof to imprisonment in the county jail until such forfeiture is paid, but not to exceed 30 days.~~

SECTION 2: **REPEAL** Article 14-IV of the Sheboygan Municipal Code entitled "Street Festivals" is hereby *repealed* as follows:

ARTICLE 14-IV STREET FESTIVALS

Sec 14-111 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Street festival means a public event sponsored by one or more individuals, businesses, or organizations held within a city street right-of-way or other public thoroughfare that has been temporarily closed for the occasion. Block parties, as defined in section 48-281, are not street festivals.

Temporarily means for a period of less than 72 hours. Individuals, businesses, or organizations who wish to close a city street right-of-way or other public thoroughfare for more than 72 hours may wish to consider obtaining a parklet permit pursuant to this Code.

Sec 14-112 Penalty

Any violation of or noncompliance with this article shall subject the violator to a forfeiture of not less than \$50.00 or more than \$500.00, together with the costs of prosecution and, in default of payment thereof, to imprisonment in the county jail until such forfeiture and costs are paid, but not to exceed 15 days.

Sec 14-113 Application For Permit

(a) An application for a street festival permit shall specify and include the following:

(1) The time and date during which the street will be closed.

(2) The exact portion of the street to be closed.

(3) The full name and address of the sponsors of the street festival; if any such sponsor is a partnership, the full names and addresses of each partner; and if any such sponsor is a corporation or limited liability company, the full name and address of each director of the corporation or company.

(4) A list of all adults who reside or do business on that portion of the street.

(5) A statement that all such adults have been contacted concerning the proposed closing, together with a list of all those who objected to the closing.

(6) A statement as to whether alcohol will be served, sold, or given away during the street festival.

(7) A statement as to whether alcohol will be permitted in the closed right-of-way.

(8) If any alcoholic beverages are to be served, sold, or given away during the festival, the following shall also be included:

- a. The name and address of the licensed agent for the sale of alcohol beverages.
- b. A specific plan indicating where alcohol will be served, where patrons will be permitted to carry the beverages, and how underage persons will be prevented from obtaining such beverages illegally.
- c. Evidence that the sponsor of the street festival has the proper licenses and permits to serve alcohol and has obtained the proper documentation (such as a temporary change of premises) to allow them to serve, sell, or give away alcoholic beverages in the right of way.

(9) A description of the steps that will be taken to ensure the safety of all concerned.

(10) Evidence that the sponsor has obtained liability insurance in the amount of at least \$100,000.00 per individual and \$300,000.00 per incident or occurrence and has named the city as an additional insured.

(11) Any other rules promulgated by the common council.

(b) If any person who resides or does business in the blocked-off portion of the street objects to such closing, application for the permit shall be denied.

~~Sec 14-114 Street Closing~~

Upon application for a street festival permit, the chief of police may grant a permit to close a definite and limited portion of a city street. No such permit shall be granted when the chief of police or the chief's designee determines, in the chief's discretion, that closing a street or portion thereof:

- (a) Would be illegal or unsafe;
- (b) Would cause, be likely to cause, or tend to cause unreasonable traffic congestion;
- (c) Would result in a disturbance of the peace;
- (d) Would endanger the public health, welfare and safety; or
- (e) Would unreasonably hamper access to a residence or business place.

~~Sec 14-115 Responsibilities Of Applicant~~

(a) Acceptance of a permit required by this article shall make the applicant primarily liable for damages to persons or property because of the closing. The city shall not be liable for any damage caused by the street closing.

~~(b) An applicant issued a permit under this article shall notify the police and fire departments, bus companies and private ambulance services no less than three business days prior to the street closing.~~

~~(c) The applicant shall be responsible for procurement, placement and maintenance of barricades used to barricade streets under this article.~~

~~(d) It shall be unlawful to hold a street festival under circumstances where barricades do not completely block off vehicular traffic from the portion of the street being closed by authority of the permit.~~

~~(e) If the street is barricaded during hours in which vehicles are required to use headlights, lights and reflectors must be clearly and visibly placed and maintained on the barricades by the applicant, and it shall be unlawful to fail to have such light or reflectors on the barricades.~~

~~(f) Music or noise levels must be kept at a reasonable level as not to disturb others. Failure to keep music or noise to a reasonable level is a violation of section 36-89.~~

~~(g) Upon denial of an application for a street festival permit, an appeal may be made to the common council.~~

See 14-116 Permit Hours

~~(a) Street festivals and all activities connected therewith shall start no earlier than 10:00 a.m.~~

~~(b) No alcoholic beverages may be served, sold, or given away outdoors at a street festival after 10:00 p.m.~~

~~(c) All outdoor music at street festivals shall end no later than 10:30 p.m.~~

~~(d) All streets and rights of way closed by a street festival shall be cleared and reopened to public travel by 12:00 midnight. However, if the applicant applies for street closure on consecutive days, and if the chief of police has approved the application, the street may remain blocked overnight from the first until the last consecutive day of the street festival; however, no person, other than the applicant or a bona fide employee thereof while performing duties related to the street festival, shall be permitted within the street or its right of way between 12:00 midnight and 10:00 a.m.~~

SECTION 3: AMENDMENT Article 40-II of the Sheboygan Municipal Code entitled "Use of Public Parks and Facilities" is hereby *amended* as follows:

A M E N D M E N T

ARTICLE 40-II USE OF PUBLIC PARKS AND FACILITIES

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Sec 40-45 Use Of Park By Permit.

(a) *Requirement for rental use.* The department of public works may grant the use of an entire park or any portion thereof to groups or organizations for the purpose of ~~annual~~ celebrations, private picnics, or special events upon payment of the amount set forth in subsection (b) of this section. All city park rules and regulations shall govern the use of any city park under this section. Renter understands that any unrented portion of a park shall remain open to the public.

(b) *Fees.* The Special Events Fee Schedule, which shall be on file with the department of public works and city clerk, shall outline the fees applicable for renting a park, enclosed park building, park shelter, equipment, and other related materials or equipment. Applicable taxes shall be added to the fee at time of payment. Fees and taxes shall be paid in full before a reservation is confirmed. The director of public works may, upon written request submitted at least 30 days prior to the desired rental date, waive or reduce the applicable fees for a non-profit entity that is formally recognized by the state or the federal government, which:

- (1) Is holding an event open to the general public without an admission fee;
- (2) Is not using the park rental as a fundraiser;
- (3) Has provided good cause as to the financial hardship that would be caused by requiring the payment of the applicable full park rental fee; and
- (4) Has established why the event benefits the city and its citizens such that the park rental fee, which is set in a manner to reflect the costs incurred by the city as a result of the rental, should not be charged for the park rental; so long as the event does not significantly impact city departments, services, operations, or activities.

- ~~(1) Enclosed park building rentals shall be made at the following per-day rates:~~
- ~~a. Roosevelt Pavilion: \$225.00 for city resident; \$350.00 for non-city resident.~~
 - ~~b. Deland Home: \$225.00 for city resident; \$350.00 for non-city resident.~~
 - ~~c. Kiwanis Fieldhouse: \$250.00 for city resident; \$425.00 for non-city resident.~~

- d. King Park Pavilion: \$250.00 for city resident; \$425.00 for non-city resident.
- e. Jaycee Quarryview Center: \$250.00 for city resident; \$425.00 for non-city resident.
- f. Deland Community Center: \$250.00 for city resident; \$425.00 for non-city resident.

(2) Park shelter rentals shall be made at the following per-day rates:

- a. Cleveland Park: \$100.00 for city resident; \$175.00 for non-city resident.
- b. End Park: \$100.00 for city resident; \$175.00 for non-city resident.
- c. Veterans Park: \$100.00 for city resident; \$175.00 for non-city resident.
- d. Vollrath Park: \$100.00 for city resident; \$175.00 for non-city resident.
- e. Richardson Shelter: \$100.00 for city resident; \$175.00 for non-city resident.
- f. Lakeview Park: \$100.00 for city resident; \$175.00 for non-city resident.
- g. Optimist Park: \$100.00 for city resident; \$175.00 for non-city resident.
- h. Evergreen Park (areas 1, 4, or 5): \$100.00 for city resident; \$175.00 for non-city resident. These rates are per area.
- i. Evergreen Park (areas 3 or 6): \$50.00 for city resident; \$100.00 for non-city resident. These rates are per area.
- j. Fountain Park Bandshell: \$100.00 for city resident; \$200.00 for non-city resident. An additional \$50.00 shall be added for use of the sound system.

(3) All applicable taxes shall be added to the fees set forth in this subsection.

(4) The director of public works may, upon written request submitted at least 30 days prior to the park rental, waive or reduce the park rental fees set forth in this subsection (b) of this section for a non-profit entity that is formally recognized by the state or the federal government which:

- a. Is holding an event open to the general public without an admission fee;
- b. Is not using the park rental as a fundraiser;
- c. Has provided good cause as to the financial hardship that would be caused by requiring the payment of the applicable full park rental fee; and
- d. Has established why the event benefits the city and its citizens such that the park rental fee, which is set in a manner to reflect the costs incurred by the city as a result of the rental, should not be charged for the park rental; so long as:

1. The event does not significantly impact city departments, services, operations, or activities; and
2. The event is the first event held by the non-profit entity in the city.

The decision of the director of public works shall be issued in writing.

(5) A non-profit entity whose park rental fee waiver request is denied by the director of public works may, within seven calendar days of the date of the denial, submit a written request to appeal the director's decision of the director of public works to the public works committee, which shall consider the appeal as soon as is practicable. Any waiver of fees under this subsection shall not constitute waiver of any other fee related to the event, and which may waive or reduce the park rental fees set forth in this subsection (b) of this section if it finds the criteria set forth in subsection (b)(4) of this section are met.

(6) ~~In the event that an event receives a park rental fee reduction or waiver under subsection (b)(4) or (5) of this section, that shall not serve as a waiver of any other fee related to the rental of the park, including the security deposit in subsection (c) of this section.~~

~~(c) Security deposits. In addition to the fee set forth in subsection (b) of this section, enclosed park building rentals require a \$100.00 security deposit, which is due the business day before the event.~~

~~(d)~~(c) *City-sponsored events.* Events planned, coordinated, and executed primarily by the city employees in the scope of their official duties shall not be subject to the fees set forth in this section.

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Sec. 40-59 Picnics

~~Picnic parties shall be permitted only in such parks or sections of parks as may be designated by the department of engineering and public works. Persons obtaining picnic permits for designated areas on specific days shall have a prior right to use such areas.~~

SECTION 4: AMENDMENT Division 48-II-3 of the Sheboygan Municipal Code entitled "Temporary Obstructions" is hereby *amended* as follows:

A M E N D M E N T

DIVISION 48-II-3 TEMPORARY OBSTRUCTIONS

Sec 48-95 Prohibition

No person shall ~~may~~ encroach upon, occupy, obstruct or encumber any public street or highway or part thereof, unless expressly authorized to do so by the common council, or by permit in accordance with this Code, or as specifically allowed by state law or another section of this Code. No encroachment may reduce the pedestrian path of travel to less than a continuous width of five

feet or extend into the frontage of adjacent properties.

Sec 48-96 **Temporary Occupancy Permit Required**

- (a) For any obstruction in place for less than 90 days, the director of public works or their designee may grant a temporary occupancy permit upon application submission and payment of a fee according to the fee schedule. The director or director's designee may grant the permit if the applicant assumes primary liability for damages to person(s) or property by reason of the granting of the permit; agrees to remove the obstruction upon ten days' notice by the state or the city; waives the right to contest in any manner the validity of the amount of compensation charged; and complies with any other conditions placed upon the permit by the city engineer. Such permit shall expire after fifteen calendar days after which a new permit and fee shall be required. Consecutive permits shall be limited to a period of up to 90 days. No permit issued pursuant to this section may authorize the obstructing of more than one-third of the traveled portion of the street opposite the lot on which the work is performed. The common council or the department of public works may revoke a permit if deemed necessary for the interest of public welfare or safety, in the director's or director's designee's sole discretion.

Pursuant to Wis. Stat. 66.0425(6), telecommunications carriers, telecommunications utilities, alternative telecommunications utilities, public service corporations, cooperatives organized under Wis. Stat. ch. 185 to render or furnish gas, light, heat, or power, and cooperatives organized under Wis. Stat. ch. 185 or 193 to render or furnish telecommunications service shall secure a permit under this subsection for temporary obstructions in a highway and are liable for all injuries to person or property caused by the obstructions or excavations.

(a) No person shall place or cause to be placed any building materials, machinery, tools, supplies or equipment used in construction work, the demolition, razing, removal of buildings, tree removal or trimming, or for excavating for any purpose whatsoever or deposit any debris or rubbish in connection with such projects in or upon any street, alley or public ground without first having obtained a written permit from the department of engineering and public works.

(b) No person shall place or cause to be placed a dumpster in or upon any street, alley or public ground without first obtaining a written permit from the department of engineering and public works.

(b) For any obstruction in place for 90 or more days, the common council may grant a privilege pursuant to Wis. Stat. s. 66.0425 upon application submission and payment of a fee according to the fee schedule. Any person interested in obtaining a temporary obstruction permit pursuant to this section shall file an application with the department of public works. The application shall include:

- (1) A layout, drawn to scale on 8 ½-inch by 11-inch paper suitable for reproduction, which accurately depicts the dimensions and measurements of the existing area, including all adjacent streets, avenues, and adjacent private property and the proposed location and size of all proposed obstruction(s);
- (2) Proof of insurance illustrating that applicant has in force adequate liability insurance with minimum limits of \$1,000,000 in the aggregate, identifying the City of Sheboygan as additional insured and providing the City with 30 days written notice upon cancellation, non-renewal, or material change to the policy;
- (3) An indication of whether the applicant intends to serve alcoholic beverages; those indicating such an intention shall submit proof that they have the required alcohol beverage license and that the site of the temporary obstruction is part of the licensed premises;
- (4) By submitting an application, applicant agrees to:
 - a. Indemnify, defend, and hold the City, its employees and agents harmless against all claims, liability, lawsuits, loss, damage, causes of action, or expense incurred by the city as a result of any injury to or death of any person or damage to property caused by or resulting from the activities for which the permit is granted;
 - b. Be primarily responsible and liable for any damage to persons or property caused by and arising from the grant and exercise of the privilege to encroach upon city right-of-way;
 - c. Remove the encroachment allowed by the permit within ten calendar days after notice to remove is given by the state or the city and to pay the cost of removal incurred by the state or city should the applicant not timely remove the encroachment;
 - d. Waive all claims for damages resulting from removal of the encroachment, whether such removal is performed by applicant, the applicant's heirs or assigns, the state, or the city;
 - e. Make such construction or alterations and maintain the same subject to the approval of the city building inspector or director of public works or director's designee and shall waive the right to contest in any manner the validity of the encroachment agreement.
 - f. Where alcohol service within the permitted area is requested through a licensed premise extension application, applicant further agrees to:

1. Not allow the consumption of alcohol beverages unless the person consuming the alcohol is seated at a table within the permitted area;
 2. Be responsible for policing the permitted area to ensure that customers are of legal drinking age, that all laws related to the presence of underage persons on premises are being strictly followed, and that alcohol beverages are not removed from the permitted area;
 3. Cease operation of alcohol or food service during closing hours as set forth in sections 4-74 and 4-113. No patron shall remain or be permitted to remain within the permitted area during closing hours regardless of whether the permittee has permanent facilities;
 4. Ensure the obstructions do not interfere with the free use of the sidewalks by pedestrians or that reduce the travelable width of the sidewalk to less than five feet pursuant to the federal Americans with Disabilities Act.
- g. Permittees may exclude persons who are not customers from using the tables, chairs, and other materials that are part of the permitted area but shall not impede, prevent or exclude any person from any legal use of the public sidewalk.

(c) The common council grants a privilege with no application, fee, or bond to the following obstructions:

- (1) A United States Post Office mailbox or newspaper consumer receptacle installed in a manner consistent with the guidelines and requirements set forth by the postmaster general.
- (2) Any obstruction that minimally extends beyond a lot line, does not present any hazard to the public, and will not interfere with the normal public use of the right-of-way, as solely determined by the director of public works or their designee.

Sec 48-97 Permit Fees

Permit fees, as set forth in the fee schedule on file with the department of public works and city clerk, to shall be paid by the applicant prior to issuance of a permit. required by this division shall be \$25.00. All permits shall be effective a maximum of 15 days, after which a new permit and \$25.00 fee shall be required.

Sec 48-98 Application Review.

The department of public works shall review submitted applications for completion and compliance with this section. Applications for obstructions longer than 90 days should be circulated among the departments of city clerk, transit, city attorney, police, and fire for review and comment. City departments should notify the department of public works that they recommend approving or denying the permit application or whether any modifications or conditions are desired in the interest of public safety and welfare. Applications shall then be forwarded to the City Council, pursuant to Wis. Stat. s. 66.0425, for final approval. If approved, the department of public works will notify the applicant of such approval in writing.

Sec 48-98 Permit Restrictions

The written permits issued under this division shall be restricted to matters stipulated in section 48-96, and permittees must notify the police and fire departments, bus companies and private ambulance services 24 hours prior to the use of the permit to barricade a street.

Sec 48-99 Time Limitations On Permit

The department of engineering and public works may grant a permit, as provided in section 48-96 for a period not to exceed three months;

Sec 48-~~99~~100 Removal Of Material

Every person to whom permission is granted, as provided in this division shall cause all such materials to be removed from the street public right-of-way at the expiration of the time limited in the permit. If, before the expiration of the time set forth, it shall no longer be necessary to keep such street obstructed, all obstructions shall be removed within 24 hours thereof.

Sec 48-101 Temporary Sidewalk And Fence

Every person to whom a permit is granted under section 48-96(a) shall construct a temporary sidewalk at least two feet in width around the obstruction placed in the street under such permit. Such sidewalks shall be constructed with a fence and overhead protection to pedestrian traffic whenever there exists a dangerous condition because of the building, demolition, excavation or removal. The type and need of such protection shall be determined by the department of engineering and public works.

Sec 48-102-100 Obstructing Gutters Prohibited

The person holding a permit granted under this division and all contractors with the city doing work in city streets are prohibited from placing any obstruction to the free passage of water in or within three feet of any gutter of any street or alley or so placing any material that the material is liable to be washed into any gutter. The department of engineering and public works may grant a written license to a permit holder to place temporary bridges over any gutters to permit the free passage of surface water thereunder.

Sec 48-103 Lights Required

~~Every person who shall a permit provided for in section 48-96(a) shall cause a light to be placed and kept burning during the whole of every night such excavation or obstruction shall be continued, so as to cause light to shine upon such excavation or obstruction. Whenever a permit is issued as provided in this article~~

Sec 48-104~~101~~ Reflectors Required On Dumpsters

No person shall ~~may~~ allow a dumpster to be left standing upon or in any street or alley during the night unless such dumpster is equipped with red reflectors not less than three inches in diameter in size on the left and right rear sides facing traffic and the left and right front sides facing traffic of any such dumpster and unless a band of black and white reflectorized tape not less than three inches in width is affixed three to four feet from ground level on the three sides of such dumpster which face traffic. The reflectors and reflectorized tape shall remain visible at all times while the dumpster is in the street or alley.

Sec 48-105 Buildings, Fences

~~No building or fence or portion thereof or other structure shall be erected or placed into, upon or over any public street or alley right of way without proper common council authorization, pursuant to Wis. Stats. § 66.0425. After council authorization, the applicant shall obtain a permit from the manager of planning and inspection services.~~

Sec 48-106~~102~~ Compensation For Encroachments

~~Compensation Fees paid~~ for encroachments or privileges in streets pursuant to Wis. Stat. § 66.0425 shall be paid into the general fund and shall be fixed by a board consisting of the mayor, city attorney and director of public works and engineering.

Sec 48-103 Revocation; Penalties

- (a) The approval of a temporary obstruction permit is conditional at all times and may be suspended or revoked by the city as a result of any violation of the provisions of this article or of violation of the provisions of any city ordinance or state or federal law relating to activity occurring with the encroachment area or when the public welfare, health, or safety requires it, in the director of public works' or their designee's sole discretion. Suspension or revocation shall be effective upon written notice to the permittee, which shall either be personally served upon the permittee or the permittee's agent or mailed to the permittee's address as contained in the most recent permit application. Such written notice shall inform the permittee of the opportunity to be heard on the matter upon filing a request for hearing within ten calendar days of the notice date with the city clerk. Any hearing shall be before the licensing, hearings, and public safety committee of the common council as soon as practicable.
- (b) Any person, licensee, permit holder or applicant violating any provision of this article shall be subject to a forfeiture of not less than \$100.00 nor more than \$500.00 for each separate violation, and in default of payment thereof to imprisonment in the county jail until such forfeiture is paid, but not to exceed 30 days.

SECTION 4: **REPEAL** Article 48-VI of the Sheboygan Municipal Code entitled "Block Parties" is hereby *repealed* as follows:

ARTICLE 48-VI BLOCK PARTIES.

Sec. 48-281 Definitions

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Block party means a gathering of abutting neighbors and their relatives and friends held within a city street right-of-way or other public thoroughfare located within a primarily residential neighborhood that has been temporarily closed for the occasion.

Sec 48-282 Penalty

Any violation of or noncompliance with this article shall subject the violator to a forfeiture of not less than \$10.00 nor more than \$100.00, together with the costs of prosecution and, in default of payment thereof, to imprisonment in the county jail until such forfeiture and costs are paid, but not to exceed 15 days.

Sec 48-283 Application For Permit

- (a) An application for a block party permit shall specify and include the following:
- (1) The time and date during which the street will be closed.
 - (2) The exact portion of the street to be closed.
 - (3) A list of all adults who reside or do business on that portion of the street.
 - (4) A statement that all such adults have been contacted concerning the proposed closing, together with a list of all those who objected to the closing.
 - (5) A description of the steps that will be taken to ensure the safety of all concerned.
 - (6) Any other rules promulgated by the common council.
- (b) If any person who resides or does business in the blocked-off portion of the street objects to such closing, application for the permit shall be denied.

Sec 48-284 Street Closing

Upon application by a resident of the affected portion of the street, the chief of police may grant a permit to close a definite and limited portion of a city street for a block party in a primarily residential neighborhood. No such permit shall be granted when:

- (a) The street sought to be closed or portion thereof is part of the federal, state or county trunk highway system or is a major through street as determined by the chief of police or the chief's designee.
- (b) Such closure will, will be likely or will tend to cause unreasonable traffic congestion; result in a disturbance of the peace; or endanger the public health, welfare and safety.
- (c) Access to a business place would be hampered.

~~Sec 48-285 Responsibilities Of Permittee~~

- (a) Acceptance of a permit required by this article shall make the applicant primarily liable for damages to persons or property because of the closing. The city shall not be liable for any damage caused by the street closing.
- (b) A permittee issued a permit under this article shall notify the police and fire departments, bus companies and private ambulance services 24 hours prior to the street closing.
- (c) The permittee shall be responsible for procurement, placement and maintenance of barricades used to barricade streets under this article.
- (d) It shall be unlawful to hold a block party under circumstances where barricades do not completely block off vehicular traffic from the portion of the street being closed by authority of the permit.
- (e) If the street is barricaded during hours in which vehicles are required to use headlights, lights and reflectors must be clearly and visibly placed and maintained on the barricades by the permittee, and it shall be unlawful to fail to have such light or reflectors on the barricades.
- (f) Music or noise levels must be kept at a reasonable level as not to disturb others. Amplified noise or music is prohibited at block parties.
- (g) Upon denial of such application for the permit, an appeal may be made to the common council.

~~Sec 48-286 Permit Hours~~

~~Block parties shall start no earlier than 10:00 a.m. and end no later than 10:00 p.m~~

SECTION 5: **CREATION** Article 48-VIII of the Sheboygan Municipal Code entitled "Special Events" is hereby *created* to read as follows:

"ARTICLE 48-VIII SPECIAL EVENTS"

Sec 48-320 Legislative Intent

The City of Sheboygan, in recognition of the growing demand for public spaces, intends to establish a process for gaining City approval and assistance for events open to the public and conducted on City property. The City hopes that through this ordinance, event organizers will be guided through the planning and application process and will be treated fairly and uniformly.

Sec 48-321 Definitions

The following words, terms, and phrases, when used in this division, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means any person applying for permission to conduct a special event on City property.

Block party means a gathering of abutting neighbors and their relatives and friends, held within a city street right-of-way or other public thoroughfare located within a primarily residential neighborhood that has been temporarily closed for the occasion.

City property means property owned, leased or controlled by the City of Sheboygan and includes but is not limited to municipal buildings, parks, beaches, athletic fields and complexes, streets and other rights of way, parking lots, boating and docking facilities, and green spaces.

Person means any person, firm, partnership, association, corporation, company, government entity or organization of any kind.

Resident means any individual who maintains their primary living quarters within the City of Sheboygan city limits.

Special event means an event that is open to the public and is scheduled in advance to occur on City property and which has any of the following:

- Alcohol, beverages, food, and/or merchandise are sold, or dispensed in exchange for donations;
- Fireworks display;
- Offers amusement rides, inflatables, music (live or pre-recorded), etc.;
- Involves the closure of any street, parking lane, or right-of-way;
- Involves the temporary installation of structures such as tents, staging, bleachers, signs, etc.;
- An expected attendance of fifty (50) or more persons

Examples of special events include but are not limited to competition and athletic events; music, theater, film performances or filming; carnivals; fairs; cultural events; religious services; classes; meetings; parties; and other gatherings meeting the above criteria.

Street festival means a public event sponsored by one or more individuals, businesses, or organizations held within a city street right-of-way or other public thoroughfare that has been temporarily closed for the occasion. Block parties, as defined herein, are not street festivals.

Temporarily means for a period of less than 72 hours. Individuals, businesses, or organizations who wish to close a city street right-of-way or other public thoroughfare for more than 72 hours may wish to consider obtaining a parklet permit pursuant to Sheboygan Municipal Code Section 110-600.

Sec. 48-322 General Regulations

- (a) *Permit Required.* No person shall conduct, manage, or engage in a special event, block party, or street festival without first having obtained a rental or special event permit issued by the department of public works.
- (b) *Indemnification & Hold Harmless.* By submitting an application and to the extent permitted by law, event organizer(s) agrees to indemnify the City of Sheboygan for, and hold it harmless from all liability, claims and demands on account of personal injuries, property damage and loss of any kind whatsoever, including worker's compensation claims arising out of or in any manner connected to the event, based on any injury, damage or loss caused by any wrongful, intentional, or negligent acts or omissions of the event organizer, its agents or employees. The event organizer shall, at its own expense, investigate all claims and demands, attend to their settlement or disposition, defend all actions based thereon, and pay all charges of attorneys and other costs and expenses arising from any such injury, damage or loss, claim, demand or action.
- (c) *Application.* Any person interested in organizing a special event, block party, or street festival shall file an application for a special event permit with the department of public works. Such complete application shall be submitted at least 60 days prior to the event's anticipated date, be signed by the applicant, and be accompanied by a non-refundable application fee as set forth in the Fee Schedule. Applications received less than 60 days before the event date shall incur a late fee as set forth in the Fee Schedule. A completed application shall include the following:
- (1) The name, address, and telephone number for the event organizer and the name and telephone number for the primary and secondary contacts designated by the event organizer to be the City's contact immediately before, during and after the event;
 - (2) The date(s), time(s) and purpose of the special event, the activities planned for the event, and the anticipated number of participants and spectators;
 - (3) A written description of the event location or route to be traveled;
 - (4) A detailed map/ diagram of the event identifying each of the following, if applicable:
 - a. Concessions area(s);
 - b. Any location(s) where alcohol will be sold and the enclosure for same;

- c. Service tent(s);
- d. Vendor area(s);
- e. Other structures such as inflatables, staging, etc.;
- f. Street or lane closures;
- g. Garbage and recycling bins;
- h. Parking area(s) or parking plan if relying on off-site parking;
- i. Restroom and sanitation facilities;
- j. Activity area(s);
- k. Points of egress and ingress;
- l. Any other information that would be helpful for the City as it prepares for the event.

(5) The estimated number of attendees;

(6) The start and end time of the event and of activities scheduled during the special event;

(7) Equipment and/or services desired of the City;

(8) Emergency management plan (severe weather, medical emergency, etc.)

(9) If streets or lanes will be closed, the following information shall also be provided with the application:

a. The time and date during which the street will be closed;

b. The exact portion of the street to be closed;

c. A list of all adults who reside or do business on the to-be-closed portion of the street and a statement that all of the identified adults have been contacted about and do not object to the temporary street closure;

d. A description of the steps that will be taken to ensure the safety of all concerned;

(d) *Application Review.* Received applications shall be reviewed by the department of public works for completion and compliance with this section. The application should then be circulated among the departments of city clerk, transit, city attorney, police, and fire for review and comment. Additional City officials may need to review the application as may be warranted by specific circumstances of the proposed event. City departments should notify the department of public works that they recommend approving or denying the permit application or whether any modifications or conditions are desired and the estimated costs for extraordinary services that may be necessary for the event.

Applications to close a street or lane may be denied if:

- a. The street sought to be closed, or portion thereof, is part of the federal, state or county trunk highway system or is a major through street as determined by the Police Chief or his/her designee.

- b. Such closure will, will be likely or will tend to cause an unreasonable traffic congestion; result in a disturbance of the peace; endanger the public health, safety and welfare.
- c. Access to a business place would be hampered.
- d. Any adult residing or establishment conducting business at the to-be-closed portion of the street objects to the temporary street closure.

Large events, new events, or applications requesting unique or complex extraordinary services may be reviewed by City officials during a special meeting, which shall be scheduled with priority. The event organizer may be invited to participate in this meeting to answer questions and provide additional information. The purpose of the meeting will be to discuss the Special Event and its potential impacts, the City services requested, and the City services which may be required.

The approval of any Special Event permit application shall be conditioned upon the approval of all other necessary permits, licenses, and inspections by City departments..

- (e) *Appeals.* Any applicant who has been denied a special event may, upon written request to the city clerk, have the denial reviewed by the Licensing, Hearings, and Public Safety Committee, which shall either affirm or reverse the initial action taken on the application. Such determination by the Committee shall constitute final action.
- (f) *Cancellation & Changes.* Cancellation of any event, for any reason, shall result in charges for actual services provided, forfeiture of permit fees and fees related to facility or equipment rental. Any changes to the event requiring a modification to services rendered, equipment provided, or additional City review may result in the additional charges to the applicant.
- (g) *Fees.* Fees for services, venues, equipment and the like shall be established by resolution of the Common Council via Fee Schedule. Such fees may change from time to time but in no event, shall an event organizer be required to pay a different fee than what was noted on the schedule at the time of permit approval.
- (h) *Other Regulations.* Applicant shall be solely responsible for obtaining any licenses or permits otherwise required for the event, such as alcohol licenses or food service licenses.
- (i) *Compliance With Laws.* Applicant shall ensure that the special event complies with all City ordinances unless their application was waived by the City Council, and that the special event complies with any applicable county, state or federal regulations.

Sec 48-323 Penalty

Any violation or noncompliance with this Chapter shall subject the violator to a forfeiture of not less than \$50.00 nor more than \$500.00, together with the costs of prosecution."

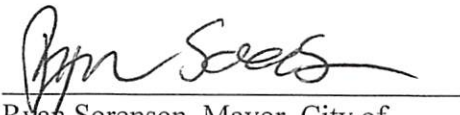
SECTION 6: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 7: **EFFECTIVE DATE** This Ordinance shall be in effect from and after its passage and publication according to law.

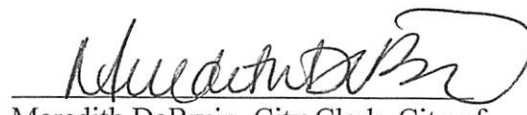
PASSED AND ADOPTED BY THE CITY OF SHEBOYGAN COMMON COUNCIL

August 7, 2023

Presiding Officer


Ryan Sorenson, Mayor, City of
Sheboygan

Attest


Meredith DeBruin, City Clerk, City of
Sheboygan

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