

ORDINANCE NO. 2022-07

An Ordinance Amending the Standards for Temporary Uses

The Common Council of the City of Cedarburg, Wisconsin, hereby ordains as follows:

SECTION 1. Section 13-1-22(f) of the Zoning Code of the City of Cedarburg is hereby repealed and recreated to be as follows:

SEC. 13-1-22(f) USE RESTRICTIONS

(1) ~~Temporary uses, such as food sales, nursery stock sales, fireworks sales, and real estate sales, and field offices or shelters for materials and equipment being used in the construction of a permanent structure may be permitted with conditions and/or restrictions established by the City Plan Commission after review and approval.~~ Structures or uses that are in place for a one-time two (2) week period or fourteen (14) cumulative days. Any such use or structure may be permitted subject to the approval of the City Planner and Building Inspector, and upon their review of potential impacts of the use and/or structure, except for the following uses:

- (a) Plant material and nursery stock sales may be allowed according to the seasonal duration of the plant materials being sold.
- (b) Christmas tree sales may be allowed according to the seasonal nature of the product being sold.
- (c) Temporary uses associated with a community festival may be allowed for the period concurrent with the festival.
- (d) Temporary uses associated with Maxwell Street Days may be allowed for a period concurrent with Maxwell Street Days.
- (e) Temporary use permits shall state that no unattended merchandise stands, displays or material shall be allowed.

(2) Tents and temporary structures:

Definitions:

Tents: Any collapsible shelter with side walls, of which the roof and/or one-half or more of the walls, are constructed of silk, cotton, canvas, fabric, or other material attached to or draped over a frame of poles.

Temporary Structure: Any constructed or erected structure, including a tent other enclosure used for commercial or business purposes and which any person or business intends to place on the same lot with or on any lot adjacent to, any permanent structure used for business or commercial purposes.

Conformance. Tents and other temporary structures and their uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation, and sanitary requirements of the Code, or County, State or Federal codes and regulations, as necessary to ensure the public health, safety, and welfare. These categories of the Code must be complied with, despite the fact that the structure will be removed, or the use discontinued at some time in the future. These criteria are essential for measuring the safety of any structure or use, temporary or permanent. Therefore, the application of these criteria to tents and other temporary structures cannot be waived.

Conflict with Other Laws. Whenever the regulations in this Chapter are either more or less restrictive than regulations or restrictions imposed by statute, codes, other ordinances of the City of Cedarburg or other regulations, the regulations which are more restrictive or which impose higher standards or requirements shall govern.

The City Planner, City Building Inspector, or the Fire Department, in its sole discretion, is authorized to terminate such permit for a tent or other temporary structure or use and order the tent or other temporary structure or use to be discontinued.

Requests, other than those described in Section 13-1-22 (f)(a), for a tent or other temporary structure that is in place for a period exceeding fourteen (14) days are permitted annually only from October 1 through April 30, and only after the request is reviewed and approved by the Plan Commission and, if the property is located in the Historic Preservation District, the Landmarks Commission.

Information and conditions required by the City of Cedarburg or as otherwise required under applicable regulations, ordinances, or statutes, shall be submitted for review by the City Planner, City Building Inspector and the Fire Department, including, without limitation, the following:

- (a) The applicant shall submit a scaled site plan showing the location of existing structures, property lines, dedicated rights-of-way, public easements, the proposed tent or other temporary structure, parking areas, and driveway.
- (b) Tents and other temporary structures shall be located in the rear or side yard as defined in the Zoning Code and shall be completely on private property and shall be at least ten (10) feet setback from the plane of the principal structure that faces the front yard and otherwise in compliance with all applicable setbacks.
- (c) Ingress and egress to the tent or other temporary structure shall be only through the principal structure and otherwise in accordance with the Americans With Disabilities Act of 1990, any comparable state or local law, and all regulations issued pursuant thereto.
- (d) Exits shall be clearly marked and in such quantity and in such locations as directed by the Fire Department.
- (e) All tent or other temporary structure fabric shall be flame resistant and located in accordance with the adopted International Building Code Table 602 based on the fire-resistance rating of exterior walls for the proposed type of construction. Markings or certificates of flame resistance shall be provided upon request by the Building Inspector and/or Fire Inspector.

- (f) The use of fuel-fired equipment for the purpose of heating shall be reviewed and approved by the City Building Inspector and Fire Inspector.
- (g) Smoking shall not be permitted in tents or other temporary structures. Approved "No Smoking" signs shall be conspicuously posted.
- (h) Portable fire extinguishers shall be furnished and maintained in tents and other temporary structures in such quantity and in such locations as directed by the Fire Department.
- (i) Electrical installations in all tents and other temporary structures shall be installed and maintained in accordance with the requirements of the Wisconsin Administrative Code SPS 316 Electrical. Without limiting the foregoing, all electrical installations shall be installed and maintained in a workmanlike manner, shall be properly grounded, with GFCI protection to all outlets with UL approved enclosures, and cables on the ground in areas traversed by the public shall be protected by approved covers.
- (j) Tents and other temporary structures shall not be located on or restrict access to dedicated right-of-way, public easements of any kind, fire lanes, fire department connections, or any other life safety elements that are required to be accessible.

SECTION 2. Severability. If any provision of this ordinance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other provision of this ordinance. Upon such determination that any provision is invalid or unconstitutional, the City of Cedarburg reserves the right to modify this ordinance so as to effect the original intent of the City of Cedarburg as closely as possible in order that the restricted use permitted hereby be enforced as originally contemplated to the greatest extent possible.

SECTION 3. This ordinance shall take effect upon its passage and publication as provided by law.

Passed and adopted this 14th day of March, 2022.

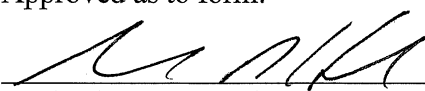

Michael O'Keefe, Mayor

Attest:



Tracie Sette, City Clerk

Approved as to form:



Michael P. Herbrand, City Attorney