
AN ORDINANCE AMENDING THE CITY OF BERLIN ZONING CODE RELATING TO CERTAIN REGULATIONS AFFECTING THE LOCATION AND OPERATION OF ADULT AND CHILD DAY CARE FACILITIES

WHEREAS, the City of Berlin Plan Commission has held a public hearing regarding the ordinance change, as set forth herein, on November 17, 2020; and

WHEREAS, the Plan Commission recommended to the Common Council the approval of the ordinance change, as set forth herein.

NOW THEREFORE, the Common Council of the City of Berlin do ordain as follows:

Sec. 82-286 of the City of Berlin Code of Ordinances shall be amended as follows:

Sec. 82-286. - Use regulations.

The R-1 residential district is intended to provide for single-family residential development and to protect such areas from the encroachment of incompatible uses. The following uses shall be permitted in the R-1 district:

...
(6) Home occupations, except for child day care facilities which do not meet the definition of a "family child care home" under Wis. Stat. § 66.1017.
...

Sec. 82-287 of the City of Berlin Code of Ordinances shall be amended as follows:

Sec. 82-287. - Conditional uses.

In the R-1 district, conditional uses shall be as follows:

...
(3) Subject to the limitations described herein, child day care facilities which do not meet the definition of a "family child care home" under Wis. Stat. § 66.1017, even if such a facility otherwise meets the definition of a home occupation. However, a child day care facility may only be allowed as a conditional use on a lot (or multiple lots owned or controlled by the same person) of a minimum size depending on the maximum number of children for which the facility is licensed by the state of Wisconsin as follows:

9-18 children: .5 acre minimum lot size

19-27 children: .75 acre minimum lot size

28-36 children: 1 acre minimum lot size

Child day care facilities licensed for more than 36 children shall not be allowed as a conditional use in the R-1 district. Also, for conditional use applications for child day care facilities hereunder, the board of appeals shall, pursuant to and in addition to any other standards or conditions imposed under Sec. 82-641(b), impose the following standards and conditions:

- a. All outside areas used as part of the operation of the child day care facility shall be bounded on all sides by a closed, privacy fence of the maximum height permitted under Sec. 82-567. However, if closed, privacy fencing is not allowed in certain portions of the lot under Sec. 82-567, then fencing which contains open gaps as small as possible without meeting the definition of closed, privacy fencing under Sec. 82-567 shall be used in such portions of the lot.
- b. Operation of the child day care facility shall be limited to 5:00 a.m. to 10:00 p.m. daily.
- b.c. Approval of the conditional use permit is contingent on the facility being licensed in good standing by the state of Wisconsin as a child day care facility.

Sec. 82-312 of the City of Berlin Code of Ordinances shall be amended as follows:

Sec. 82-312. - Conditional uses.

In the R-2 district, conditional uses shall be as follows:

...

- (3) Subject to the limitations described herein, child day care facilities which do not meet the definition of a “family child care home” under Wis. Stat. § 66.1017, even if such a facility otherwise meets the definition of a home occupation. However, a child day care facility may only be allowed as a conditional use on a lot (or multiple lots owned or controlled by the same person) of a minimum size depending on the maximum number of children for which the facility is licensed by the state of Wisconsin as follows:

9-18 children: .5 acre minimum lot size

19-27 children: .75 acre minimum lot size

28-36 children: 1 acre minimum lot size

Child day care facilities licensed for more than 36 children shall not be allowed as a conditional use in the R-2 district. Also, for conditional use applications for child day care facilities hereunder, the board of appeals shall, pursuant to and in addition to any other standards or conditions imposed under Sec. 82-641(b), impose the following standards and conditions:

- a. All outside areas used as part of the operation of the child day care facility shall be bounded on all sides by a closed, privacy fence of the maximum height permitted under Sec. 82-567. However, if closed, privacy fencing is not allowed in certain portions of the lot under Sec. 82-567, then fencing which contains gaps as small as possible without meeting the definition of closed, privacy fencing under Sec. 82-567 shall be used in such portions or the lot.
- b. Operation of the child day care facility shall be limited to 5:00 a.m. to 10:00 p.m. daily.
- c. Approval of the conditional use permit is contingent on the facility being licensed in good standing by the state of Wisconsin as a child day care facility.

Sec. 82-337 of the City of Berlin Code of Ordinances shall be amended as follows:

Sec. 82-337. - Conditional uses.

In the R-3 district, conditional uses shall be as follows:

...

- (3) Subject to the limitations described herein, child day care facilities which do not meet the definition of a “family child care home” under Wis. Stat. § 66.1017, even if such a facility otherwise meets the definition of a home occupation. However, a child day care facility may only be allowed as a conditional use on a lot (or multiple lots owned or controlled by the same person) of a minimum size depending on the maximum number of children for which the facility is licensed by the state of Wisconsin as follows:

9-18 children: .5 acre minimum lot size

19-27 children: .75 acre minimum lot size

28-36 children: 1 acre minimum lot size

Child day care facilities licensed for more than 36 children shall not be allowed as a conditional use in the R-3 district. Also, for conditional use applications for child day care facilities hereunder, the board of appeals shall, pursuant to and in addition to any other standards or conditions imposed under Sec. 82-641(b), impose the following standards and conditions:

- a. All outside areas used as part of the operation of the child day care facility shall be bounded on all sides by a closed, privacy fence of the maximum height permitted under Sec. 82-567. However, if closed, privacy fencing is not allowed in certain portions of the lot under Sec. 82-567, then fencing which contains gaps as small as possible without meeting the definition of closed, privacy fencing under Sec. 82-567 shall be used in such portions or the lot.
- b. Operation of the child day care facility shall be limited to 5:00 a.m. to 10:00 p.m. daily.
- c. Approval of the conditional use permit is contingent on the facility being licensed in good standing by the state of Wisconsin as a child day care facility.

Sec. 82-554 of the City of Berlin Code of Ordinances shall be amended as follows:

Sec. 82-554. - Residential use restrictions.

Accessory uses or structures in residential districts within the city shall not involve the conduct of any business, trade or industry, except for home occupations as defined in [section 82-4](#) or as otherwise expressly allowed as a permitted or conditional use. Accessory buildings shall not be used for residential purposes.

Sec. 82-682 of the City of Berlin Code of Ordinances shall be amended as follows:

Sec. 82-682. - Off-street parking.

- ...
- (f) *Number of stalls.* The number of parking stalls required shall be as shown in the following table:

Use	Minimum Parking Required
Single-family dwellings	1 stall for dwelling unit
Duplex and multifamily dwellings	1.5 stalls for each dwelling unit
Housing for the elderly	0.75 stall for each dwelling unit with one-half of such spaces to be built before occupancy and the balance of such spaces shall be reserved until such time as the city may order them to be installed
Hotels, motels	1 stall for each guest room, plus 1 stall for each 2 employees
Sororities, dormitories, roominghouses and boardinghouses	1 stall for each 2 sleeping rooms, plus 1 stall for each 2 employees
Retirement homes, orphanages, convents and monasteries	1 stall for each 2,000 feet of principal floor area

Hospitals, sanitariums, institutions, rest homes and nursing homes	1 stall for each 3 beds, plus 1 stall for each 3 employees
Medical and dental clinics	5 stalls for each doctor or dentist
Theaters, auditoriums, community centers, sports arenas and other places of public assembly	1 stall for each 5 seats or spaces equal to 20% of the capacity in persons, whichever is greater
Restaurants	1 stall for each 100 square feet of floor area, excluding the kitchen
Bars and places of entertainment	1 stall for each 75 square feet of floor area
Office buildings and professional offices having less than 6,000 square feet of floor area	1 stall for each 150 square feet of floor area
Office buildings and professional offices having 6,000 square feet or more of floor area, banks and savings institutions	1 stall, at least, for each 200 square feet of floor area
Drive-in establishments	1 stall, at least, for each 15 square feet of floor area in the building
Manufacturing and processing plants, including meat and food processing, laboratories and warehouses	1 stall for each 2 employees (the number of employees shall be construed to mean the maximum number on the premises at one time)
Libraries, museums, art galleries, etc.	1 stall for each 3 employees, plus 1 stall for each 4 seats, plus 1 stall for each 500 square feet of floor area not having seats
Washing and cleaning establishments	1 stall for each 2 employees, plus 1 stall for each washing machine, or 1 stall for each 200 square feet of floor area, whichever is greater
Funeral homes, mortuaries and similar uses	1 stall for each 50 square feet of floor area in parlors or assembly rooms
Retail stores	1 stall for each 200 square feet of floor area
Other business and commercial uses	1 stall for each 300 square feet of floor area
Churches and other places of religious assembly	1 stall for each 5 seats, or 1 stall for each 90 lineal inches of pew space
Cartage, express and parcel delivery, freight terminals	1 stall for each 2 employees on the largest shift for which the building is designed, plus 1 stall for each motor vehicle maintained on the premises
Elementary and junior high schools	2 stalls for each classroom, plus 1 stall for each 8 seats in the auditoriums or assembly halls
High schools, colleges, universities and other institutions of higher learning	1 stall for each 6 students, plus 1 stall for each teacher, administrator and employee
Business, technical and trade schools	1 stall for each 5 students, plus 1 stall for each 2 employees
Motor vehicle sales, new and used	1 stall for each 500 square feet of floor area used, plus 1 stall for each 300 square feet of outdoor display area for each motor vehicle to be displayed, not including service garages
Retail repair or service shops(nonautomotive)	1 stall for each 150 square feet of net floor space
Automobile repair garages and service	1 stall for each 2 employees, plus 2 stalls for each

stations	service bay
Bowling alleys	4 stalls for each alley, plus additional spaces for affiliate uses
<u>Child day care facilities which do not meet the definition of a “family child care home” under Wis. Stat. § 66.1017</u>	<u>1 stall for each care worker required at the facility according to its state of Wisconsin licensing, and 1 stall for each 6 children based on the maximum number licensed by the state of Wisconsin at the facility.</u>

...

Sec. 82-800 of the City of Berlin Code of Ordinances shall be amended as follows:

Sec. 82-800 - Permitted signs rules.

...

(b) *Guide to Figure 82-800a.* If the letter "Y" appears for a sign type in a column, such sign is allowed without prior permit approval in the zoning districts represented by that column. If the letter "P" appears for a sign type in a column, such sign is allowed only with prior permit approval in the zoning districts represented by that column. If the letter "C" appears for a sign type in a column, such sign is allowed only with conditional use permit approval in the zoning districts represented by that column. Special conditions may apply in some cases. If the letter "N" appears for a sign type in a column, such a sign is not allowed in the zoning districts represented by that column under any circumstances.

...

(3) *Key to Figure 82-800a and Figure 82-800b.* Figure 82-800a and Figure 82-800b, the headings have the following meanings:

Abbreviations Used in Figures 82-800a and 82- 800b on the following page.	Zoning Districts or Uses
A	A-1 Agricultural District, Chapter 82 , Article II, Division 4 and A-2 Farmland Preservation District, Chapter 82 , Article II, Division 5
B	B-1 Business District, Chapter 82 , Article II, Division 9 and B-2 Business District, Chapter 82 , Article II, Division 10

Abbreviations Used in Figures 82-800a and 82-800b on the following page.	Zoning Districts or Uses
C	C-1 Conservancy District, Chapter 82 , Article II, Division 2 and C-2 Conservancy District, Chapter 82 , Article II, Division 3
INS	Institutional Uses. "Institutional Uses" shall mean, but shall not be limited to, public parks and playgrounds, schools, <u>adult and child day care centers which do not meet the definition of a "family child care home" under Wis. Stat. § 66.1017 even if such a facility would otherwise meet the definition of a home occupation</u> , churches, convents, libraries, hospitals, clinics, nursing homes, assisted living facilities, museums, and adaptive reuses of churches. For clarity, "Institutional Uses" shall <u>also</u> not mean single and two-family dwellings or bed and breakfast establishments.
M	M-1 Light Manufacturing District, Chapter 82 , Article II, Division 11, M-2 Medium Manufacturing District, Chapter 82 , Article II, Division 12, and M-3 Heavy Manufacturing District, Chapter 82 , Article II, Division 13
PUD	PUD Planned Unit Development District, Chapter 82 , Article II, Division 15
R1-2	R-1 Residential District, Chapter 82 , Article II, Division 6 and R-2 Residential District, Chapter 82 , Article II, Division 7
R-3	R-3 Residential District, Chapter 82 , Article II, Division 8
R-MH	R-MH Manufactured Home District, Chapter 82 , Article II, Division 14

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Figure 82-800b: Permitted Sign Characteristics for Permanent Business Signs by Zoning District

Zoning Districts ¹									
	C	R-1/2	R-3	INS	B	R-MH	PUD ⁸	M	A
Permanent Business Sign Group									
Freestanding Sign Category (includes Dual Post, Monument, and Pylon Sign Types)									
Sign Area Calculation	1 square foot of sign area per 1 lineal foot of public right-of-way frontage; or at least 50 square feet per lot ²								
Maximum Area of all Freestanding Signs (per side)	50 sq ft	8 sq ft	25 sq ft	<u>25/50</u> /100/150 sq ft ³	100/150 sq ft ³	100 sq ft	100/150 sq ft ³	100/150 sq ft ³	100 sq ft
Maximum Height - Dual Post or Monument Sign ⁶	6 ft	6 ft	6 ft	8 ft	10 ft	6 ft	10 ft	10ft	6 ft
Maximum Height Pylon Sign	—	—	—	8 ft	25/40 ft ⁴	—	25/40 ft ⁴	25 ft	—
Number per Lot	1/2 ⁵								
On-Building Sign Category (includes Awning/Canopy, Marquee, Projecting, Suspended, Wall, and Window Sign, if allowed in a zoning district)									
Maximum Area per Building Facade (except Window)	1 square foot per linear foot of building frontage. ⁷ Not to exceed 20% of wall area per building facade (or 10% in R1-2 zoning districts).								
Window Signs	There is no limit in the number of Window Signs per lot or per building..								
Daily Notice Sign Category - If allowed in a zoning district, one Daily Notice Sign is permitted per business.									

Zoning Districts ¹									
	C	R-1/2	R-3	INS	B	R-MH	PUD ⁸	M	A
Permanent Business Sign Group									
Bulletin Board Sign (Max Area)	8	—	8	8	16	8	16	—	—
Bulletin Board Sign (Max Height)	8	—	8	8	8	8	8	—	—
Drive-Through Sign	Maximum Area: 24 sq ft Maximum Height: 8ft								
Menu Board Sign	Maximum Area: 8 sq ft Maximum Height: 4 ft								
Sandwich Board Sign	Maximum Area: 8 sq ft Maximum Height: 4 ft Maximum Width: 3ft								
Electronic Message Boards (in addition to maximum permitted signage area)									
Maximum Area (per side)	—	—	—	10 sq ft	25 sq ft	—	25 sq ft	10 sq ft	—

Footnotes for Figure 82-800b:

1. See section 82-797(b) for additional regulations for specific sign types.
2. For lots with narrow public right-of-way frontages, an alternative method, based on the width of the lot at the building facade, may be used to calculate maximum freestanding sign area. See Figure 82-201b.
3. For lots less than or equal to .5 acres: 25 square feet. For lots greater than .5 acres but less than or equal to .75 acres: 50 square feet. For lots greater than .75 acres but less than or equal to one acre: 100 square feet. For lots greater than one acre: 150 square feet.
4. For lots less than or equal to one acre: 25 feet. For lots greater than one acre: 40 feet.
5. For lots less than or equal to one acre: 1 sign per lot. For lots greater than

one acre: 2 signs per lot.

- 6. See section 82-801(b) for sign height measurement.
- 7. Regardless of the length of the building frontage, each tenant with exterior frontage is allowed a minimum of 30 square feet for on-building signage (subject to further reduction of size if needed to meet the wall area limitation). There is no limit to the number of on-building signs per lot or per building.
- 8. All sign characteristics in a PUD District may further be restricted as part of an authorized development plan pursuant to Chapter 82, Article II, Division 15.

...

This ordinance shall take effect the day after publication.

The numeric section numbers and headings of any portions of the Code of Ordinances affected by this Ordinance shall be subject to modification in the discretion of the codifier, and the approval of the City Attorney, during codification into the City's current Code of Ordinances.

Passed, approved and adopted this ___ day of _____, 2020.

ROLL CALL VOTE:

CITY OF BERLIN

_____ AYES
 _____ NAYS
 _____ ABSENT

BY: _____
 Richard D. Schramer, Mayor

APPROVED AS TO FORM:

ATTEST: _____
 Jodie Olson, City Clerk

 Matthew G. Chier, City Attorney