



complaints regarding the proliferation of these type of stores from both residents and elected officials. Additionally, the City of Milwaukee recently adopted stricter regulations for nicotine sales which may expose West Allis to additional risk that more of these stores may look to open in our community. West Allis currently has over 70 licensed tobacco retailers, about 1 per 825 residents.

Staff recommends the following changes:

- Update definition in sec. 19.16. This effectively establishes the use type and indicates quantifies the amount of floor area that qualifies a business as nicotine sales. In other words, any new business that has 10% or more of their sales floor area devoted to nicotine products or paraphernalia is a Nicotine Sales use, and not allowed.

19.16 Definitions

Nicotine Sales	The use of <del>20</del> 10% or more of a gross floor area for the retail sale of <u>any</u> cigarettes, tobacco products, nicotine products, <del>or</del> <u>and</u> any <u>electronic nicotine delivery system or other</u> device used to ingest cigarettes, tobacco products, or nicotine products
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19.32 Principal Use Table:

Civic & Institutional	RA -1	RA -2	RA -3	RB	R C	C- 1	C- 2	C- 3	C- 4	I-1	I-2	P	SF
Nicotine Sales								E	E	E	E		

Nicotine sales uses will be listed in the principal use table, but the permissions cells listed under the applicable zoning districts will be empty, meaning not permitted.

19.33 Limited Use Criteria

2. Retail

Principal Use	District(s)	Criteria
Nicotine Sales	<del>C-3, C-4, I-1, I-2</del>	<del>Permitted if the lot is located at least 1,000</del> <u>2,000</u> <del> feet from any lot where the following are located: lots zoned P</del> <u>parks, S</u> <del>schools, L</del> <u>libraries, or any lot for which a cigarette and tobacco products retailer license has been issued</u>

The existing limited use criteria will be eliminated, as the new definition and principal use table establishes allowance criteria.

## Update Child Care Restrictions

West Allis' rules for small family daycare uses in residential dwellings (licensed for 8 or fewer children) are more restrictive than allowed by state code. The existing zoning code requires any daycare to obtain conditional use.

### Staff recommends the following change:

The proposed change involves defining three types of childcare uses daycare uses to align with the WI State Statutes, and updating allowances and use criteria as follows:

1. "**Family child care home**" means a dwelling licensed as a child care center by the department of children and families under s. [48.65](#) where care is provided for not more than 8 children.

This type of use is accessory to ones residence (residence being the principal use). While State Statues require cities to permit family childcare homes in single dwelling units, the State statutes also allow cities to apply some regulation to other types of dwellings. To this end, the accessory use table and accessory use criteria table being updated as summarized below.

19.35 Accessory use code allowance and criteria:

Allow small, licensed family childcare businesses with **8 or fewer children as a limited accessory use in all residential (R) zoning districts, and in the C-2, C-3, and C-4 zoning districts** (instead of a conditional use). This allowance would apply to all residential and most commercial zoning districts (except C-1).

Update the accessory use criteria in tale 19.36 as follows:

- Permitted only if a 1-unit dwelling, or a 2-unit dwelling, and only 1 dwelling unit operates the family childcare home and the operator resides in 1 of the dwelling units.
2. "**Child care center**" means a facility operated by a child care provider that provides care and supervision for 4 or more children under 7 years of age for less than 24 hours a day.

This category of childcare is commercial in nature, and thereby will be considered a principal use, and allowed as a conditional use in all residential districts. This use will also be considered a permitted use in commercial (except C-1), and industrial zoning districts.

The zoning ordinance limits the capacity of this principal use to a maximum of 8 children.

19.32 Principal Use Table:

Civic & Institutional	RA -1	RA -2	RA -3	RB	R C	C- 1	C- 2	C- 3	C- 4	I-1	I-2	P	SF
Child Care Center <u>(8 or fewer children)</u>	C	C	C	C	C		<del>PE</del>	<del>PE</del>	<del>PE</del>	<del>PE</del>	<del>PE</del>	<del>PE</del>	

3. "**Group child care center**" means a child care center that provides care and supervision for 9 or more children.

This category of childcare (9+ children) is commercial in nature and will be considered a principal use, and allowed as a conditional use in all residential, commercial (except C-1), and industrial zoning districts.

19.32 Principal Use Table:

Civic & Institutional	RA -1	RA -2	RA -3	RB	R C	C- 1	C- 2	C- 3	C- 4	I-1	I-2	P	SF
<u>Group Child Care Center</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	

**Other**

Staff recommends adopting other minor text changes:

- **19.16:** Medical Services is listed out of alphabetical order in the definitions table
- **19.33:** Adjust 1 & 2-Unit Dwelling criteria to read "Permitted if located on a lot platted or recorded prior to the adoption of this ordinance which meets the building size and location requirements of the RB district" rather than just the "lot size" requirements.

**Recommendation:** Common Council approval of the Ordinance to Amend Section 19 of the West Allis Revised Municipal Code, relative to updating regulations for Child Care Centers, Nicotine Sales, and other minor changes (Council hearing scheduled for October 3).