

**CITY OF WEST ALLIS
ORDINANCE O-2022-0064**

**ORDINANCE TO REPEAL AND RECREATE THE BUSINESS LICENSING LAWS
REPEALING AND RECREATING CHAPTER 9; REPEALING, AMENDING, AND
RENUMBERING NUMEROUS SECTIONS**

WHEREAS, the City's business licensing laws contain out-of-date licenses, inconsistent procedures for license issuance and discipline, inconsistent terminology, and provisions that are contrary to or unnecessary repetition of existing applicable state law; and

WHEREAS, certain provisions that are not related to business licensing are codified within the business licensing chapter of the code; and

WHEREAS, certain business licensing provisions are codified within chapters other than the business licensing code;

NOW THEREFORE, the common council of the City of West Allis do ordain as follows:

SECTION 1: **REPEAL** “7.04 Food Establishments” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

R E P E A L

~~7.04 Food Establishments~~ (*Repealed*)

1. Definitions. The following definitions shall apply in the interpretation and the enforcement of this section:
 - a. Health Commissioner. The term "Health Commissioner" shall mean the Health Commissioner of the City or designee.
 - b. Permit. The document issued by the West Allis Health Department that authorizes a person to operate a retail food establishment. The term "permit" shall be used interchangeably with the term "license."
 - c. Person. The term "person" shall mean any person, firm, organization, or corporation.
 - d. State Administrative Fee. The term "State Administrative Fee" shall mean the amount of money paid annually to the Department of Agriculture, Trade and Consumer Protection (hereinafter "ATCP"), of the State of Wisconsin, pursuant to agency contracts between those agencies and the West Allis Health Department.
2. State regulations. Except as otherwise provided herein, the provisions of the Wisconsin Food Code, Chapter ATCP 75 of the Wisconsin Administrative Code and its appendices, Chapter 97 of the Wisconsin Statutes, and Wisconsin Statute Section 66.0417, as they are from time to time amended are hereby adopted by reference. All retail food establishments shall comply with all applicable provisions of these regulations.
3. Retail Food Establishment Permit Required. No person shall operate a retail food establishment in the City without a permit from the Health Commissioner. Only a

person who complies with the requirements of this section shall be entitled to receive and retain a permit. Violation of any of the requirements of this section by a holder of a license issued under Section 9.02 of this Code shall be grounds for suspension or revocation of such license, in accordance with Section 9.02(22) of this Code. Permits shall be issued only in the name of the operator. Licenses are not transferable unless the operator meets the requirements in ATCP Section 75.104(3).

4. Permit Application. A written application for the permit(s) required by this section shall be filed with the Health Commissioner upon forms provided by the Health Commissioner. Initial permit fees shall be paid at the time the application is filed. Renewal permit fees shall be paid prior to the expiration of a permit, and no person shall operate any food establishment until all renewal fees have been paid. Any renewal permit fee paid on July 1 or later shall be subject to a late fee. A permittee or applicant shall notify the Health Commissioner in writing if any information listed in the application form has changed within ten (10) days of such change.
5. Fees for Retail Food Establishments. The fees for retail food establishment permits shall be as follows:

Permit Category	Permit Total	Permit Fee	SAF 10%	Pre-Inspection Fee	1st Re-inspection	2nd and Subsequent Re-inspection Fee
Pre-packaged restaurant	\$220	\$200	\$20	\$200	\$98	\$130
Low-complexity restaurant	\$330	\$300	\$30	\$250	\$240	\$320
Moderate-complexity restaurant	\$451	\$410	\$41	\$300	\$353	\$470
High-complexity restaurant	\$718	\$653	\$65.30	\$375	\$578	\$770
Mobile restaurant	Same as restaurant depending upon complexity					
Mobile restaurant base	Same as restaurant depending upon complexity					
For Profit Organizations						
Temporary food establishment						
Annual permit	\$198	\$180	\$18	n/a	n/a	n/a
Not For Profit Organizations						
Temporary food establishment						
Serving meals by exempt group for 1 - 3 days per year	\$0	\$0	\$0	n/a	n/a	n/a

Serving retail food by exempt group 1 - 12 days per year	\$0	\$0	\$0	n/a	n/a	n/a
Serving meals by exempt group for 4+ days per year - annual permit	\$198	\$180	\$18	n/a	n/a	n/a
Serving retail food by exempt group for 13+ days per year -annual permit	\$198	\$180	\$18	n/a	n/a	n/a
Special organization serving meals (4 - 12 days per year at one location)	\$204	\$186	\$18.60	n/a	n/a	n/a
Temporary or mobile food establishment inspection fee	\$50	\$50	n/a	n/a	\$50	\$100
Additional kitchen area	\$88	\$80	\$8	n/a	n/a	n/a
DPI school - production kitchen	\$718	\$653	\$65.30	n/a	n/a	n/a
DPI school - reheat only	\$330	\$300	\$30	n/a	n/a	n/a
Retail food with annual sales						
More than \$1,000,000 processing PHF	\$1,027	\$934	\$93.40	\$375	\$450	\$450
More than \$25,000, less than \$1,000,000 processing PHF	\$396	\$360	\$36	\$412	\$190	\$190
More than \$25,000 with processing but no PHF	\$295	\$268	\$26.80	\$206	\$190	\$190
Less than \$25,000 processing PHF	\$220	\$200	\$20	\$155	\$100	\$100
Less than \$25,000 with processing but no PHF	\$159	\$117	\$11.70	\$155	\$90	\$90
Retail food without processing	\$97	\$88	\$8.80	\$103	\$90	\$90
Sanitation inspection						

for Class B and C licensees	\$50	\$50	n/a	n/a	\$25	\$25
Operating food establishment without permit (plus PI and permit fees) fixed in file	\$749	\$749	n/a	n/a	n/a	n/a
Operating without certified restaurant manager when required	\$155	\$155	n/a	n/a	n/a	n/a

6. Sanitation Inspections.

- a. The fee for a sanitation inspection shall be fifty dollars (\$50.) and each re-inspection fee shall be twenty-five dollars (\$25.). All fees shall be paid prior to inspection.
- b. If an inspection reveals the existence of a violation that is potentially hazardous to the health and welfare of the public, the Health Commissioner or his/her designee may order a reinspection of the establishment.

7. Posting Permit; Fee for Duplicate Permit. Every retail food establishment shall display its permit at all times in plain view of the public. Duplicate permits shall be issued to replace permits which are misplaced or damaged so as to be illegible. The fee for a duplicate permit shall be fifteen dollars (\$15.).

8. Unwholesome Food and Drink. Samples of food, drink, and other substances may be taken and examined by the Health Commissioner or his/her designee as often as may be necessary for the detection of unwholesomeness or adulteration. The Health Commissioner or his/her designee may condemn and forbid the sale of, or cause to be removed or destroyed, any food or drink that is found to be unwholesome or adulterated.

9. Inspection of Establishments.

- a. Frequency of inspections. The Health Commissioner or his/her designee shall inspect food establishments at least once during the license year. If the Health Commissioner or his/her designee discovers a violation of Centers for Disease Control and Prevention risk factors, priority items, priority foundation items, or any violation that is potentially hazardous to the health and welfare of patrons or employees of the retail food establishment, s/he may make a reinspection after a lapse of five (5) business days or such time as s/he deems reasonably necessary for the violations to be corrected. Failure to correct a violation within the scheduled time shall result in additional reinspections and may result in further legal action, including the issuance of citations. Any reinspection shall result in the Health Department assessing the reinspection fees listed in Subsection (5) above.
- b. Inspection Report. One copy of the inspection report shall be given to the person in charge of the establishment and another copy shall be kept at the Health Department.
- c. Access to Establishments and Records Required. The person operating a retail food establishment shall, upon the request of the Health Commissioner or his/her designee, permit access to all parts of the establishment and shall permit the copying of any records of food purchased, pest control reports, or

other records pertinent to conducting an inspection or foodborne illness investigation.

10. Establishments Which May Operate. No retail food establishment shall operate within the City unless it conforms to the requirements of this section.
11. Summary Suspension and Reinstatement of Permit.
 - a. Whenever the Health Commissioner or his/her designee finds unsanitary or other conditions in the operation of a retail food establishment or establishment licensed under Section 9.02 of the Code, which in his/her opinion constitutes a substantial hazard to the public health, s/he may without warning, notice, or hearing issue a written notice to the permittee citing the condition, specifying the corrective action to be taken, and specifying the time period within which the action shall be taken; and, if deemed necessary, the order shall state that the permit is immediately suspended and all food service operations are to be immediately discontinued. The Health Commissioner or his/her designee shall promptly notify the City Clerk of any suspension. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the City Clerk, shall be afforded a hearing before the License and Health Committee. The procedure for such hearing shall be the applicable provisions of Subsections (15)(c) through (f) of this section. Such hearing shall be scheduled within ten (10) days of the appellant filing the petition with the City Clerk.
 - b. The permit holder, whose permit has been suspended by the Health Commissioner or his/her designee, may, at any time, make application for reinstatement of the permit. The Health Commissioner or his/her designee shall make a reinspection and thereafter as many additional reinspections as s/he deems necessary to ensure that the applicant is complying with the requirements; and, in the event the findings indicate compliance, shall reinstate or reissue the permit.
12. Truth of Statements. All matters submitted in writing to the City by any applicant or permittee pertaining to any permit issued under this section shall be true.
13. Conditions of Permit.
 - a. Every applicant procuring a permit thereby consents to the entry of the Health Department, police, or other duly authorized representatives of the City at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of City ordinances or state laws.
 - b. The permittee and/or employees and agents of the permittee shall cooperate with Health Department and police investigations. "Cooperate," as used in this subsection, shall mean calling the police when a disturbance of the peace or other violation occurs on the licensed premises and providing complete and truthful responses to police and Health Department inquiries. A permittee shall also appear before the License and Health Committee when requested to do so and shall otherwise follow the lawful directives of the License and Health Committee.
 - c. Each permitted premises shall be conducted in an orderly manner, and no disorderly, riotous, or indecent conduct shall be allowed at any time on any permitted premises.
 - d. The permittee shall comply with all other provisions of this section and all other ordinances of the City of West Allis and the laws of the State of Wisconsin.

14. Outdoor Cooking. An operator of a licensed retail food establishment may conduct outdoor food activities as long as the operator complies with the Wisconsin Food Code interpretation titled "Definition of Premise and Outdoor Food Activities." A copy of the interpretation shall be kept on file at the Health Department and made available to anyone who requests it.
15. Revocation of Permit.
 - a. Causes. Any permit issued under this section may be suspended, revoked, or nonrenewed for cause by the Common Council after notice to the permittee and a hearing. Permits may be suspended, revoked, or not renewed for the following causes:
 - i. The making of any material false statement in any application for a permit.
 - ii. The violation of any of the applicable provisions of Section 7.04.
 - iii. The violation of any of the applicable provisions of the Wisconsin Food Code, ATCP 75 and its appendices, Wisconsin Statute Section 66.0417, and Wisconsin Statute Chapter 97.
 - iv. The failure to conduct its permitted business at the authorized location for a period of thirty (30) consecutive days, unless such thirty-day period shall, for good cause shown, be extended by the Common Council.
 - v. The permitted premises is operated in such a manner that it constitutes a public or private nuisance or that conduct on or emanating from the permitted premises, including but not limited to loud and raucous noise, has had a substantial adverse effect upon the health, safety, convenience or prosperity of the immediate neighborhood.
 - vi. The failure to pay any tax or forfeiture as provided in Section 1.08(9) (a) through (b).
 - b. Commencement of Proceedings. Suspension, revocation, or nonrenewal proceedings may be instituted by the License and Health Committee of the Common Council upon its own motion or upon sworn written charges made and filed with the City Clerk by the Health Commissioner.
 - c. Procedure.
 - i. Upon receipt of a sworn complaint, either from the Health Commissioner or upon directive of the Committee, the License and Health Committee shall direct the City Attorney to prepare a summons and have the summons and complaint served upon the permittee pursuant to Section 801.11 of the Wisconsin Statutes.
 - ii. The summons and complaint shall contain: the date and time for appearance by the permittee; a statement of the Common Council's intention to suspend, revoke, or not renew the permit in the event any of the allegations are found to be true; a statement of the reasons for suspension, revocation, or nonrenewal; notification to the permittee of an opportunity to be heard, respond to and challenge the reasons for suspension, revocation, or nonrenewal and to present and cross-examine witnesses under oath; notification to the permittee of the right to be represented by counsel of the permittee's choice and at the permittee's expense.
 - iii. If the permittee fails to appear on the date and time designated in the summons, the License and Health Committee may enter a default judgment and take the allegations of the complaint to be true. The License and Health Committee shall then deliberate on what sanction,

- if any, to impose.
- iv. If the permittee appears before the License and Health Committee at the date and time designated in the summons and denies the material charges contained in the complaint, an evidentiary hearing shall be scheduled. If the permittee does not appear or appears but does not deny the material charges contained in the complaint, the complaint may be taken as true and the Committee shall hear the arguments of the complainant and, if applicable, the permittee in connection with whether to nonrenew, revoke or suspend the permit and the length of the suspension.
 - v. If the matter proceeds to hearing before the Committee, the following procedures shall apply:
 - (1) The complainant shall first present evidence in support of the complaint.
 - (2) After the complainant rests, the permittee may present evidence in opposition to the charges.
 - (3) The complainant and permittee may subpoena and present witnesses. All witnesses shall testify under oath or affirmation and shall be subject to cross-examination.
 - (4) The complainant and permittee shall each be limited to one (1) hour for testimony unless the Chair, subject to approval of the Committee, extends the time to assure a full and fair presentation.
 - (5) Questions by Committee members or the advising City Attorney and answers to such questions shall not be counted against the time limitations.
 - (6) At the close of testimony, the complainant and permittee shall be given a reasonable time to make arguments upon the evidence produced at hearing.
- d. Miscellaneous Procedural Matters.
- i. At all stages of the proceedings, the permittee shall be entitled to appear in person or by an attorney of his or her own expense.
 - ii. If the complaint is in the name of the Committee or is brought by a City official in his/her official capacity, the complainant shall be represented by a prosecuting City Attorney.
 - iii. The Committee shall be, when required, advised by an advisory City Attorney who shall not be the same individual as the prosecuting City Attorney.
 - iv. The Chair of the License and Health Committee shall be the presiding officer. The Chair shall direct that oaths and affirmations be administered and subpoenas issued upon request of either side. The Chair shall ensure that an orderly hearing is conducted in accordance with the provisions of this section. The Chair shall rule on objections to the admissibility of evidence. Any ruling of the Chair shall be final unless appealed to the Committee and a majority vote of those members present and voting reverses such ruling.
 - v. An audio recording or stenographic record shall be made of all proceedings at the hearing. Any interested party may obtain a copy of the recording or transcript at his or her own expense.
- e. Findings and Recommendations.
- i. After the close of the hearing, the Committee shall deliberate and

reach a decision. The Committee shall prepare findings on factual matters, conclusions of law, and a recommendation on what action, if any, should be taken with regard to the permit(s) at issue. The report shall be filed with the City Clerk with a copy to the permittee and complainant. The findings and recommendations shall be distributed to each member of the Common Council.

- ii. The permittee and complainant may file a written statement or response to the findings and recommendation, including objections, exceptions, and arguments of fact and law. A written statement must be filed with the City Clerk before the close of business on a day that is at least three (3) working days prior to the date set for determination by the Common Council. Copies of written statements shall be provided to each member of the Common Council at least twenty-four (24) hours before any vote on the matter is scheduled before the Common Council.

f. Common Council Action.

- i. Not less than five (5) working days prior to the matter being scheduled before the Common Council, the Clerk shall notify the permittee and complainant by United States first class mail, postage prepaid, sent to the last known address, that the Common Council will convene to determine the matter.
- ii. Unless an alderperson states that he/she has not read the findings and recommendations and written statements, if any, the matter shall proceed to debate amongst members of the Common Council. Neither the complainant nor the permittee shall be permitted to make oral arguments.
- iii. The Common Council shall determine by a majority vote of those in attendance and voting whether to adopt the recommendation of the Committee or make such modification as is deemed appropriate. Such vote shall be a roll call vote. Upon an affirmative vote suspending, revoking, or not renewing the license(s), the Clerk shall give notice to the person whose license is affected. If the Common Council finds the complaint to be untrue or unsupported by sufficient evidence, the proceedings shall be dismissed without cost to the accused.

g. Surrender of License.

- i. A permittee may, at any time during the permit year surrender a permit to the Health Department, along with a statement, in writing, that the permittee no longer wishes to conduct permitted activity at the permitted premises.
- ii. Except as set forth in Subsection (g)3 below, the surrender shall operate to extinguish any right the permittee had to the permit or to conduct permitted activity at the premises listed in the permit.
- iii. If a summons and complaint has been issued against the permittee seeking suspension, revocation, or nonrenewal of the permit, the surrender of the permit shall be deemed a request and the matter shall be referred to the License and Health Committee. The Committee may approve the request or deny the request and proceed to hearing.
- iv. Any request to have a surrendered permit returned shall be treated as a new permit application and the requestor must fill out the required applications and pay the required fees. The request shall thereafter be treated as all other new permit applications.

- h. Prohibition on Future Issuance. If a permit is revoked or not renewed due to action by the License and Health Committee, at least two (2) years shall elapse before another permit may be given to the same permittee.
- 16. Nuisance Enforcement. In addition to the penalties listed within this section, the City Attorney or his/her designee or the Health Commissioner or his/her designee may pursue a nuisance enforcement action against a food establishment under Chapter 18 of this Code.

~~{Ord. 6433, 5/4/1999; Ord. O-2006-0020, 5/2/2006; Ord. O-2009-0013, 4/7/2009; Ord. O-2013-0056, 12/3/2013; Ord. O-2017-0014, 3/21/2017}~~

SECTION 2: REPEAL “7.041 Food Peddlers” of the City Of West Allis
Municipal Code is hereby *repealed* as follows:

REPEAL

~~7.041 Food Peddlers (Repealed)~~

- 1. Definitions. The following definitions shall apply in the interpretation and enforcement of this section:
 - a. Charitable Organization. The term "charitable organization" shall mean any patriotic, philanthropic, social service, welfare, benevolent, educational, civic or fraternal, person, partnership, association or corporation that is validly registered under Wis. Stat. § 440.42.
 - b. Health Commissioner. The term "Health Commissioner" shall mean the Health Commissioner of the City, as set forth in Section 2.24 of the Revised Municipal Code, or his/her designee.
 - c. Food. The term "food" shall mean all articles used for food, drink or condiment, including ice or water used by humans, whether simple, mixed, or compound and articles used or intended for use as ingredients in the composition or preparation thereof.
 - d. Food Peddler. The term "food peddler" shall mean any person who sells food in this City from a pushed, pedaled, pulled, motorized, or movable vehicle or cart, or from a carried container.
- 2. Adoption of State Code. Except as otherwise provided herein, the provisions of Department of Agriculture, Trade, and Consumer Protection Chapter 75 and the Wisconsin Department of Health Services Code Chapter 196 and its appendix, the Wisconsin Food Code, are hereby adopted by reference.
- 3. Permit Required. No food peddler shall engage in the sale of food without a permit. A person, on behalf of a charitable organization, selling individually wrapped, hermetically sealed, single food servings that are prepared and packaged off-premises by a licensed processor shall not require a permit; however, a person selling such food must comply with all other provisions of this section.
- 4. Time Restriction. No food peddler shall remain in any location for more than one hour on any one day, except as provided in Subsection ~~(4)~~**(a)** of this section.
 - a. Exceptions to One-Hour Limit.
 - i. A food peddler may sell in one location in excess of the one-hour limit specified in Subsection (4) if:
 - (1) The food peddler's vehicle, cart, and/or carried container is

- located in a nonresidential zoning district; and the food peddler's vehicle is parked in a nonresidential zoning district in compliance with all posted time limits on parking and with all other applicable parking regulations; or
- (2) Whenever any street or portion thereof has been closed to traffic in connection with any civic event, and the food peddler obtains a special event direct seller's permit, under Section 9.18(4), from the City Clerk/Treasurer to park on or access such closed streets longer than the one-hour limit.
5. Exemption. The provisions of Section 7.10(3) of the Revised Municipal Code relating to merchandise display on sidewalks and zoning provisions of Chapter **12** of the Revised Municipal Code relating to outdoor merchandise sales are inapplicable to persons who possess a valid food peddler license engaging in food peddling. A person who obtains a permit under this section, except as set forth herein, shall be deemed to have a direct seller's permit under Section 9.18 of the Revised Municipal Code.
 6. Permit Fees. A food peddler shall pay a fee of one hundred dollars (\$100.) for a permit. Such fee shall be paid at the time the permit application is filed with the City Clerk/Treasurer.
 7. Application. Each person requiring a permit shall make a sworn application in writing on a form provided by the City Clerk/Treasurer which shall give the following information:
 - a. Name, address and telephone number of the applicant.
 - b. Name, address and telephone number of the person, firm, association, or corporation that the food peddler represents or is employed by, or whose food is being sold.
 - c. A description of the food offered, including a copy of the menu.
 - d. The location from which the business will be conducted, including a proposed route, and the proposed dates and times.
 - e. Make, model and license number of any vehicle to be used by the applicant in the conduct of the business.
 - f. Last municipalities, not to exceed three (3), where the applicant conducted similar business.
 - g. Statement as to whether the applicant has been arrested or convicted of any crime or ordinance violation, together with the nature of the offense and the place of conviction.
 - h. Proof of a state certificate of examination and approval from the Sealer of Weights and Measures where the applicant's business requires use of weighing devices approved by state authorities.
 - i. Proof of a food-related permit issued by the West Allis Health Department.
 8. Investigation.
 - a. Upon receipt of an application and fee, the City Clerk/Treasurer may refer the application to the Chief of Police or his/her designee. The Chief of Police or his/her designee may make an investigation of the accuracy of the statements made in the application and determine whether the applicant has been convicted of a felony, misdemeanor, statutory violation punishable by forfeiture, or county or municipal ordinance violation in which the circumstances of the felony, misdemeanor, or other offense substantially relate to the circumstances of the permitted activity and, if so, the nature and date of the offense and the penalty assessed.
 - b. If, as a result of such investigation, the Chief of Police or his/her designee discovers that any representation on the application contains a material

omission or inaccuracy, or the Chief of Police or his/her designee is of the opinion that the applicant is not a fit person to conduct such sales, the Chief of Police or his/her designee shall disapprove the application and return it to the City Clerk/Treasurer along with the reason(s) for disapproval. Upon return of the disapproved application, the City Clerk/Treasurer shall notify the applicant that the permit has been denied, along with the reasons therefor.

- c. Issuance. If the City Clerk/Treasurer does not send the application to the Chief of Police or his/her designee, or if the Chief of Police or his/her designee returns an application without disapproval, the City Clerk/Treasurer shall then issue a permit to the applicant. The permit shall be carried by the food peddler at all times s/he is engaged in food peddling and shall contain the name of the permittee, the date of issuance, the date of expiration, and the permit number.
9. Transfer Prohibited. No permit issued under this subsection may be transferred.
 10. Licensing Year. The licensing year for the food peddler's permit shall be from July 1 to June 30.
 11. Posting of Permit and Company Name.
 - a. Every food peddler shall display his/her permit at all times in plain view to the public on the food peddler's vehicle, cart, container, or person.
 - b. Every food peddler shall display on his/her vehicle, cart, or carrier, the name of the person to whom the permit is issued and the permittee's telephone number. Such lettering shall be not less than four (4) inches high.
 12. Permit Revocation.
 - a. The Common Council may, upon sufficient cause, suspend, revoke, or not renew a permit issued under this section. Cause for suspending, revoking, or not renewing a permit shall include, but not be limited to, the following: violations of this section; violations of the City or state's food regulations; violations of West Allis Revised Municipal Ordinance 7.05; violations of the City or state's health regulations; any fraud, misrepresentation, or false statement contained in the license application; failure to comply with the directives of the Common Council, License and Health Committee, or West Allis Health Department; disorderly conduct; or theft.
 - b. Whenever the Health Commissioner or his/her designee has reasonable cause to believe that any food, sanitary condition, equipment, premises or method of operation creates a danger to public health, the Health Commissioner may issue an order as set forth in sec. 66.0417(2), Wis. Stats. The License and Health Committee of the West Allis Common Council shall conduct the hearing required by sec. 66.0417(3), Wis. Stats. The decision of the License and Health Committee shall be final subject to appeal rights as provided by law.
 13. Prohibited and Required Acts.
 - a. A food peddler shall not:
 - i. Sell food between the hours of 9:00 p.m. and 6:00 a.m.
 - ii. Block or restrict an individual's access to a business or residential property.
 - iii. Occupy any sidewalk so as not to permit any pedestrian at any time to have a minimum five-foot clearance.
 - iv. Sell or offer for sale any food while the person is on a roadway median or safety island, unless the roadway has been closed to traffic under Subsection (3)(b) and the food peddler is otherwise in compliance with this section.
 - v. Sell or offer to sell any food while located within 10 feet of a

- crosswalk, bus stop, or fire hydrant.
 - vi. Make any comment, request, suggestion or proposal that is obscene, lewd, lascivious, profane, or indecent.
 - vii. Sell food on private property or City-owned property that is not a public right-of-way without written permission of the owner.
 - viii. Sell food within 300 feet of school grounds.
 - ix. Sell food within 100 feet of a licensed restaurant, unless such restaurant is owned by the food peddler or the food peddler has written permission from the restaurant license's owner or agent.
 - x. Sell food within 300 feet of the West Allis Farmer's Market during the hours that the market is open for business, unless the food peddler holds a valid street vendor's contract for the Market with the West Allis Health Department.
 - xi. Sell food that is unwholesome, tainted, unclean, or that has been handled in an unclean manner, or has been exposed to unclean, contaminating things or conditions, or contrary to any rules or regulations adopted by the Health Commissioner.
 - xii. Allow any person who does not possess a valid food peddler's permit to sell or assist in selling food from the food peddler permittee's vehicle, cart, or container.
- b. A food peddler shall:
- i. Possess and maintain all required food-related permits issued by the West Allis Health Department.
 - ii. Direct vending equipment and displays, including signage, away from the street.
 - iii. Display food and signage in a manner in which attention to it is not focused from the street and which does not require or encourage prospective buyers to enter or walk upon the street to examine it.
 - iv. Notify the City Clerk/Treasurer within 10 days of the event whenever anything occurs to change any fact set out in the application or information of any permit.
 - v. Comply with all inspection requests and orders from the City, including but not limited to inspections and orders from the Health Department, Building Inspection and Zoning Department, and Fire Department.
 - vi. Comply with all lawful orders or requests from an officer of the West Allis Police Department or other police agency.
 - vii. Comply with all local, state, and federal laws and regulations.

14. Penalties.

- a. Any person violating this section shall, upon conviction for a first offense, forfeit not less than fifty dollars (\$50.) nor more than five hundred dollars (\$500.), together with the costs of prosecution and, in default of payment, shall be imprisoned in the House of Correction until such forfeiture and costs are paid, but not more than the number of days set forth in § 800.095(4), Wis. Stat. Each and every day during which any such violation continues shall constitute a separate violation.
- b. Any person violating this section shall, upon conviction for the second or subsequent offenses, forfeit not less than three hundred dollars (\$300.), nor more than two thousand dollars (\$2,000.), together with the costs of prosecution and, in default of payment, shall be imprisoned in the House of

Correction until such forfeiture and costs are paid, but not more than the number of days set forth in § 800.095(4), Wis. Stats. Each and every day during which any such violation continues shall constitute a separate violation.

15. Severability. If any provision or portion of this section is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the section shall not be affected thereby.
16. Distance Measurements. For purposes of this section, distances are to be measured in a straight line, without regard to intervening structures or objects, from the edge of the property line when measuring from real estate or the nearest edge of an object or line when measuring from a crosswalk, bus stop, or fire hydrant, or similar object, to the nearest edge of a food peddler's cart, vehicle, or container.

~~{Ord. O-2012-0021, 6/19/2012}~~

SECTION 3: **REPEAL** “7.124 Pet Shops, Kennels And Grooming Establishments” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~7.124 Pet Shops, Kennels And Grooming Establishments (Repealed)~~

1. Definitions.
 - a. Pet Shop Defined. The term "pet shop," as used herein, shall mean any commercial establishment wherein animals or birds are kept or maintained for and prior to sale. This definition does not include establishments which are keeping or maintaining for sale only fish or other aquatic or nonmammalian amphibious species.
 - b. Kennel Defined. "Kennel" is any commercial establishment where more than two (2) cats, dogs or other animals not prohibited by sec. 7.21(1) may be kept for boarding, breeding, sale or sporting purposes.
 - c. Grooming Establishment Defined. The term "grooming establishment," as used herein, shall mean any commercial establishment at which dogs, cats or other animals are bathed, groomed, clipped, trimmed or shorn or other such treatment is administered, and where no animals are kept or maintained on the premises overnight.
2. Permit Required. The Health Commissioner may issue a pet shop, kennel or grooming establishment permit upon submission of a completed application, payment of a fee of thirty dollars (\$30.) and inspection of the premises. Each such permit shall expire one year from the date of issuance, unless revoked for cause prior to the date of expiration. Any permit fee paid on July 1 or later shall be subject to a late fee of fifteen dollars (\$15.). The cost for a duplicate permit shall be fifteen dollars (\$15.). **[Ord. O-2017-0018, 4/18/2017]**
3. Condition for Issuing and Maintaining Permit. Upon application for issuance or renewal of a pet shop, kennel or grooming establishment permit, an inspection shall be made to determine compliance with the provisions of sec. 7.123(3).
 - a. No pet shop, kennel or grooming establishment shall be located in any building wherein food products are stored, served or prepared, unless a minimum distance of fifty (50) feet is maintained between such facilities and food storage, preparation or service area or areas. For purposes of this section,

- containment of the pet shop, kennel or grooming establishment area by a floor to ceiling wall, and a self-closing door, shall constitute adequate separation.
- b. The maximum number of animals to be kept at the facility shall be determined and this number shall be recorded on the permit, if and when issued.
4. Revocation of Permit. The Health Commissioner may revoke a pet shop, kennel or grooming establishment permit for serious and/or repeated noncompliance with the provisions of the section. Appeal of revocation shall be made in writing to the Common Council and execution of the revocation shall be stayed pending action by the Council.
5. Reinspection Fees. Any licensee or applicant that requires a reinspection during the licensing year due to the Health Department finding a violation of this section, or state statute or state regulation relating to pet shops, kennels, or grooming establishments, or finding a health nuisance, as defined in Section 7.03 of the Revised Municipal Code, shall pay a first reinspection fee of ten dollars (\$10.). Any licensee or applicant that requires a second or subsequent reinspection during the licensing year due to the Health Department finding a violation of this section, or state statute or state regulation relating to pet shops, kennels, or grooming establishments, or finding a health nuisance, as defined in Section 7.03 of the Revised Municipal Code, shall pay a second or subsequent reinspection fee of fifteen dollars (\$15.). **[Ord. O-2017-0018, 4/18/2017]**

SECTION 4: **REPEAL** “7.135 Public Swimming Pools” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~7.135 Public Swimming Pools~~ (*Repealed*)

1. Definitions.
 - a. Public Swimming Pool. Public swimming pool shall mean any premises or place as defined or classified by Wisconsin Administrative Code, Commerce, Section 90.03.
 - b. Health Commissioner. The term Health Commissioner shall mean the Health Commissioner of the City of West Allis or an authorized agent.
2. Permit Required. No person shall own, operate or manage a public swimming pool without first obtaining a permit from the Health Department. Permits shall be posted at a conspicuous location in the pool area and conditions or restrictions applying to the operation of the pool which are deemed necessary for the protection of the public by the City Health Commissioner shall be noted thereon. Public swimming pool permits shall not be transferable.
3. Public Pool Fees. The fees for public pools and water attractions shall be as follows: **[Ord. O-2017-0018, 4/18/2017]**
 - a. The fees for a prelicensing inspection for public pools and water attractions shall be payable prior to issuance of a permit and shall be as follows:
 - i. Pools shall be one hundred fifty dollars (\$150.).
 - ii. Water attractions shall be one hundred seventy-five dollars (\$175.).
 - iii. Water attractions with two (2) or fewer pool slides or water slides per basin shall be two hundred fifty dollars (\$250.). Each additional pool slide or water slide per basin shall be one hundred fifty dollars

- (150.).
- b. The annual fees for public pools and water attraction permits shall be as follows:
 - i. Pools shall be three hundred thirty dollars (\$330.).
 - ii. Water attractions shall be two hundred twenty dollars (\$220.).
 - iii. Water attractions with two (2) or fewer pool slides or water slides per basin shall be three hundred eighty-five dollars (\$385.). Each additional pool slide or water slide per basin shall be one hundred sixty-five dollars (\$165.).
 - iv. The cost for a duplicate permit shall be fifteen dollars (\$15.).
 - c. Any public pool or water attraction that requires a reinspection due to the Health Department finding a violation of this section, or state statute or state regulation relating to public pools or water attractions, or finding a health nuisance, as defined in Section 7.03 of the Revised Municipal Code, shall pay a reinspection fee as follows:
 - i. Pools shall be one hundred fifty dollars (\$150.) for the first reinspection and three hundred dollars (\$300.) for the second or subsequent reinspection during the licensing year.
 - ii. Water attractions shall be one hundred dollars (\$100.) for the first reinspection and two hundred dollars (\$200.) for the second or subsequent reinspection during the licensing year.
 - iii. Water attractions with two (2) or fewer pool slides or water slides per basin shall be one hundred seventy-five dollars (\$175.) for the first reinspection and three hundred fifty dollars (\$350.) for the second or subsequent reinspection during the licensing year. Each additional pool slide or water slide per basin shall be seventy-five dollars (\$75.) for the first reinspection and one hundred fifty dollars (\$150.) for the second or subsequent reinspection during the licensing year.
 - iv. All reinspection fees shall be paid at the time of reinspection.
 - d. Any public pool or water attraction that operates without a permit shall be subject to a fee of seven hundred forty-nine dollars (\$749.).
4. Application for Permit. Application for a permit required in this section shall be made to the Health Department upon a form furnished by the Department and shall contain such information which the Department may prescribe and require and shall be accompanied by payment of the applicable fee.
 5. Issuance of Permit Generally. Permits required under this section, once approved by the Health Department, shall be issued by the Health Commissioner.
 6. Inspection Fee Required Prior to Granting of Permit. A permit will not be granted under this section to an operator of a new swimming pool or to a new operator of an existing public swimming pool without a preinspection.
 7. Transfer of Permit; Issuance to Agent or Employee. No permit issued under this section may be transferred unless otherwise provided by the ordinances of the City. No permit shall be issued to or used by any person acting as agent for or in the employ of another.
 8. Expiration and Renewal of Permit. Except where otherwise provided, every Health Department permit shall terminate or expire on June 30 of each year and may be renewed annually thereafter. The application for renewal shall be filed with the Health Department on or before June 30, together with payment of the required fees. If the annual renewal fee has not been paid on or before June 30, an additional late payment fee of one hundred dollars (\$100.) shall be required. No person shall operate a public swimming pool or water attraction until all renewal fees have been paid. **[Ord. O-**

2017-0018, 4/18/2017]

9. Suspension or Revocation of Permit. The Health Commissioner may suspend or revoke any permit issued pursuant to the section for serious or repeated violations of ordinances or laws regulating the licensed activity.
10. Right of Entry; Testing of Samples. The Health Commissioner may enter any establishment required to be licensed in this section at all reasonable times to inspect the premises, secure samples or specimens, examine and copy documents, obtain photographs, or take any other action he deems necessary to properly enforce the provisions of applicable laws regulating such business or activity. Samples of water from any licensed premises may be taken and examined by the Health Commissioner at such time as he deems necessary, for detection or microbiological quality, chemical disinfection, or any other enforcement purposes. Standards and definitions set forth in Wisconsin Administrative Code Health and Family Services Chapter 172, as they are from time to time amended, are hereby adopted by reference and incorporated as part of this section.
11. Corrections of Violations; Citations. Whenever the Health Commissioner finds that any establishment required to obtain a permit in this section is not operating or equipped in any manner required by ordinances or laws regulating such establishment, the Health Commissioner may notify, in writing, the person operating the premises, specifying the requirements of such ordinance or law, and requiring that such business comply with the provisions of such ordinance or law, and specify the time limits within which compliance shall take place. If the time limit or any extension thereof set forth in the notification is not met, the permit may be suspended or revoked by the Health Commissioner.
12. Emergency Powers of Health Commissioner. Whenever the Health Commissioner has reasonable or probable cause to believe that any sanitary condition, equipment, premises or method of operation thereof creates a danger to public health, the Health Commissioner may issue a temporary order prohibiting the continued operation of the premises, or any part thereof, which creates the immediate danger to health. The Health Commissioner may suspend any permit without notice whenever the licensed premises constitutes an immediate health hazard.
13. Appeals. Any person aggrieved by the denial of a permit or by suspension or revocation of a permit required under this section by the Health Commissioner or by any temporary suspension or any other order may appeal any such order to the License and Health Committee of the West Allis Common Council within thirty (30) days of suspension, revocation or issuance of the order. The License and Health Committee of the West Allis Common Council shall provide the appellant a hearing or opportunity for hearing on the matter and may either suspend or continue any such order pending determination of the appeal. The decision of the License and Health Committee shall be final subject to appeal rights as provided by law.
14. State Sanitation Regulations Adopted. Except as otherwise provided herein, the provisions of Wisconsin Administrative Code Chapter ATCP 76, Chapter SPS 390, and the provisions of Wisconsin Statutes Chapter 97 as they relate to public pools and water attractions, as they are from time to time amended, are hereby adopted by reference. All public pools and water attractions shall comply with all applicable provisions of these regulations. **[Ord. O-2017-0018, 4/18/2017]**
15. Authority to Close Public Swimming Pools. In addition to the closing criteria set forth in Wisconsin Administrative Code Section ATCP 76.30, the Health Commissioner may order any public swimming pool closed if the following conditions exist: **[Ord. O-2017-0018, 4/18/2017]**
 - a. Bacteriological or chemical analysis of water samples exceeds those standards

listed in Wisconsin Administrative Code Section ATCP 76.16, or the presence of Pseudomonas aeruginosa, or any other microbiological pathogen capable of transmitting a communicable disease is detected; or

b. Any imminent health or safety hazard is identified.

~~{Ord. O-2006-0019, 5/2/2006}~~

SECTION 5: **REPEAL** “7.145 Hotels, Motels And Tourist Rooming Houses And Bed And Breakfast Establishments” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~7.145 Hotels, Motels And Tourist Rooming Houses And Bed And Breakfast Establishments (Repealed)~~

1. Definition. For purpose of this ordinance, hotel, motel and tourist rooming house shall mean any premises defined by Wisconsin Administrative Code, HFS Section 195.03, and bed and breakfast establishment shall mean any premises defined by Wisconsin Administrative Code, HFS Section 197.03.
2. Permit and Fees Required. Before opening for business, every hotel, motel, tourist rooming house or bed-and-breakfast establishment operator shall obtain a permit from the Health Commissioner. No permit shall be granted without a precicensing inspection conducted by the Health Commissioner and completion of an application form provided by the Health Commissioner. The permit, when issued, must be conspicuously displayed on the premises for which it is issued. All permits shall expire on June 30. **[Ord. O-2017-0018, 4/18/2017]**
 - a. Hotel and Motel Annual Fees. All permittees shall pay an annual fee as follows:
 - i. Hotels or motels with five (5) to thirty (30) rooms shall pay one hundred ninety-four dollars (\$194.).
 - ii. Hotels or motels with thirty-one (31) to ninety-nine (99) rooms shall pay two hundred seventy-three dollars (\$273.).
 - iii. Hotels or motels with one hundred (100) to one hundred ninety-nine (199) rooms shall pay three hundred forty-one dollars (\$341.).
 - iv. Hotels or motels with two hundred (200) rooms or more shall pay four hundred forty dollars (\$440.).
 - v. A renewal permittee's failure to pay its annual fee before July 1 shall subject it to a late fee of one hundred dollars (\$100.).
 - vi. The cost of a duplicate permit shall be fifteen dollars (\$15.).
 - b. Hotel Motel Preinspection Fees. All permittees or permittee applicants shall pay the fee for a precicensing inspection for a new hotel or motel permit as follows:
 - i. Hotels or motels with five (5) to thirty (30) rooms shall pay four hundred ninety-four dollars (\$494.).
 - ii. Hotels or motels with thirty-one (31) to ninety-nine (99) rooms shall pay six hundred eighty-five dollars (\$685.).
 - iii. Hotels or motels with one hundred (100) to one hundred ninety-nine (199) rooms shall pay eight hundred nineteen dollars (\$819.).

- iv. Hotels or motels with two hundred (200) rooms or more shall pay one thousand two hundred twenty-one dollars (\$1,221).
- c. Hotel Motel Reinspection Fees. Any hotel or motel permittee that requires a reinspection due to the Health Department finding a violation of this section, state statute or state regulation relating to hotels or motels, or finding a health nuisance, as defined in Section 7.03 of the Revised Municipal Code, shall pay the following fees at the time of reinspection:
 - i. Hotels or motels with five (5) to thirty (30) rooms shall pay one hundred three dollars (\$103.) for the first reinspection and two hundred six dollars (\$206.) for the second or subsequent reinspection during the licensing year.
 - ii. Hotels or motels with thirty-one (31) to ninety-nine (99) rooms shall pay two hundred six dollars (\$206.) for the first reinspection and four hundred twelve dollars (\$412.) for the second or subsequent reinspection during the licensing year.
 - iii. Hotels or motels with one hundred (100) to one hundred ninety-nine (199) rooms shall pay two hundred six dollars (\$206.) for the first reinspection and four hundred twelve dollars (\$412.) for the second or subsequent reinspection during the licensing year.
 - iv. Hotels or motels with two hundred (200) rooms or more shall pay three hundred nineteen dollars (\$319.) for the first reinspection and six hundred eighteen dollars (\$618.) for the second or subsequent reinspection during the licensing year.
- d. Operating without a permit. Any hotel or motel that operates without a permit shall be subject to a fee of seven hundred forty-nine dollars (\$749.).
- 3. Tourist Rooming House Fees. The fees for tourist rooming houses shall be as follows: **[Ord. O-2017-0018, 4/18/2017]**
 - a. The fee for a preclicensing inspection for a new tourist rooming house permit shall be one hundred dollars (\$100.).
 - b. The annual fee for a tourist rooming house permit shall be one hundred sixty-five dollars (\$165.) and shall be due before July 1. Any renewal permittee who pays its renewal fee on July 1 or later shall be subject to a late fee of one hundred dollars (\$100.). The cost for a duplicate permit shall be fifteen dollars (\$15.).
 - c. Any tourist rooming house permittee that requires a reinspection due to the Health Department finding a violation of this section, or state statute or state regulation relating to tourist rooming houses, or finding a health nuisance, as defined in Section 7.03 of the Revised Municipal Code, shall pay a reinspection fee of one hundred dollars (\$100.) for the first reinspection and two hundred dollars (\$200.) for the second or subsequent reinspection during the licensing year. All fees are due at the time of reinspection.
 - d. Any tourist rooming house that operates without a permit shall be subject to a fee of seven hundred forty-nine dollars (\$749.).
- 4. Bed-and-Breakfast Establishment Fees. The fees for bed-and-breakfast establishments shall be as follows: **[Ord. O-2017-0018, 4/18/2017]**
 - a. The fee for a preclicensing inspection for a new bed-and-breakfast establishment permit shall be three hundred dollars (\$300.).
 - b. The annual fee for a bed-and-breakfast establishment shall be one hundred sixty-five dollars (\$165.) and shall be due before July 1. Any renewal permittee who pays its renewal fee on July 1 or later shall be subject to a late fee of one hundred dollars (\$100.). The cost for a duplicate permit shall be

fifteen dollars (\$15.).

- c. Any bed-and-breakfast establishment permittee that requires a reinspection due to the Health Department finding a violation of this section, or state statute or state regulation relating to bed-and-breakfast establishments, or finding a health nuisance, as defined in Section 7.03 of the Revised Municipal Code, shall pay a reinspection fee of one hundred thirty dollars (\$130.) for the first reinspection and one hundred seventy dollars (\$170.) for the second or subsequent reinspection during the licensing year. All fees are due at the time of reinspection.
- d. Any bed and breakfast establishment that operates without a permit shall be subject to a fee of seven hundred forty-nine dollars (\$749.).

5. (Reserved)

Editor's Note: Former Subsection (5), which required the applicant to pay state administrative fees, was repealed 4/18/2017 by Ord. O-2017-0018.

6. Except as otherwise provided herein, the provisions of Wisconsin Administrative Code Chapters ATCP 72 and 73, and the provisions of Wisconsin Statutes Chapter 97 as they relate to hotels, motels, tourist rooming houses, and/or bed-and-breakfast establishments, as they are from time to time amended, are hereby adopted by reference. All hotels, motels, tourist rooming houses, and bed-and-breakfast establishments shall comply with all applicable provisions of these regulations. [**Ord. O-2017-0018, 4/18/2017**]
7. In addition, the applicant must pay any state administrative fees, the amount of which is on file with the Department of Health.
8. All hotels, motels and tourist rooming houses and licensees under this section shall be subject to and comply with the provisions of Wisconsin Administrative Code, HFS Section 195.01 through 195.11, which are hereby adopted by reference and incorporated as part of this section, and all bed and breakfast establishment licensees under this section shall be subject to and comply with the provisions of Wisconsin Administrative Code, HFS Section 197, as they are from time to time amended, which are hereby adopted by reference and incorporated as part of this section.
9. Corrections of violations; citations. Whenever the Health Commissioner finds that any establishment required to obtain a permit in this section is not operating or equipped in any manner required by ordinances or laws regulating such establishment, the Health Commissioner may notify, in writing, the person operating the premises, specifying the requirements of such ordinance or law, and requiring that such business comply with the provisions of such ordinance or law, and specify the time limits within which compliance shall take place. If the time limit or any extension thereof set forth in the notification is not met, the permit may be suspended or revoked by the Health Commissioner.
10. Emergency Powers of Health Commissioner. Whenever the Health Commissioner has reasonable or probable cause to believe that any sanitary condition, equipment, premises or method of operation thereof creates a danger to public health, the Health Commissioner may issue a temporary order prohibiting the continued operation of the premises, or any part thereof, which creates the immediate danger to health. The Health Commissioner may suspend any permit without notice whenever the licensed premises constitute an immediate health hazard.
11. Appeals. Any person aggrieved by the denial of a permit or by suspension or revocation of a permit required under this section by the Health Commissioner or by any temporary suspension or any other order may appeal any such order to the License and Health Committee of the West Allis Common Council within thirty (30) days of

suspension, revocation or issuance of the order. The License and Health Committee of the West Allis Common Council shall provide the appellant a hearing or opportunity for hearing on the matter and may either suspend or continue any such order pending determination of the appeal. The decision of the License and Health Committee shall be final subject to appeal rights as provided by law.

~~{Ord. O-2006-0021, 5/2/2006}~~

SECTION 6: **REPEAL** “7.15 Rooming Houses” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~7.15 Rooming Houses (Repealed)~~

1. Definitions. Whenever a term hereinafter defined appears in the text of this section, its meaning shall be construed as set forth in these definitions:
 - a. Basement. Basement shall mean a portion of a building located partly underground, but having one-half (1/2) or more of its floor-to-ceiling height above the average grade of the adjoining ground.
 - b. Cellar. Cellar shall mean a portion of a building located partly or wholly underground, and having less than one-half (1/2) of its floor-to-ceiling height above the average grade of the adjoining ground.
 - c. Bath. Bath shall mean a bathtub or shower stall with both hot and cold water lines and properly connected to a waste line, and installed in accordance with the Plumbing Code, Chapter XVI, of the Code of the City of West Allis.
 - d. Commissioner of Health. The Commissioner of Health shall be the person or persons designated by the Common Council as the Commissioner of Health of the City of West Allis.
 - e. Family. Family shall mean one adult occupant plus one or more persons who are related by blood or marriage to said occupant.
 - f. Habitable Room. Habitable room shall mean a room or enclosed floor space used or intended to be used for living or sleeping, excluding bathrooms, toilet rooms, laundries, pantries, foyers, communicating corridors, closets, storage spaces and stairways.
 - g. Habitable Room Area. Habitable room area shall be calculated as the area of the room having a ceiling height of at least five (5) feet and at least one-half (1/2) of the habitable room area shall have a ceiling height of seven (7) feet. However, closet area and hall area within the sleeping room, where provided, may count for not more than ten percent (10%) of the required habitable floor area.
 - h. Lavatory Basin. Lavatory basin shall mean a handwashing basin which is properly connected with both hot and cold water line and installed in accordance with the Plumbing Code, Chapter XVI, of the Code of the City of West Allis. This basin shall be separated and distinct from a kitchen sink.
 - i. Occupant. Occupant shall mean any person over one year of age, including an owner or operator, living or sleeping in, or having actual possession of a sleeping room.
 - j. Operator. Operator shall mean any person, firm or corporation in charge of a building, structure or part thereof in which rooms are left to roomers.

- k. Premises. Premises shall mean a platted lot or part thereof or unplatted lot or parcel of land or plot of land, either occupied or unoccupied by any dwelling or non-dwelling structure.
 - l. Roomer. Roomer shall mean any person not related by blood or marriage to the operator to whom space is let for sleeping purposes.
 - m. Rooming house. A rooming house shall mean any building, structure or part thereof in which three (3) or more rooms are let to roomers, or in which more than two (2) sleeping rooms share a common bath or toilet or in which one room or sleeping room is let to three (3) or more roomers. Hotels licensed by the state are not included within this definition.
 - n. Sleeping Room. A sleeping room shall mean any room or group of rooms forming a single habitable room in a rooming house used, or intended to be used, for living and sleeping, but not for cooking or eating of meals.
 - o. Supplied. Supplied shall mean paid for, furnished, provided by or under the control of, the owner or operator.
 - p. Toilet. Toilet shall mean a water closet, with a bowl and trap made in one piece, which is of such shape and form and which holds a sufficient quantity of water so that no fecal matter will collect on the surface of the bowl, and which is equipped with flushing rims which permit the bowl to be properly flushed and scoured when water is discharged through the flushing rims.
2. Rooming House Permit. No person shall operate a rooming house without obtaining a rooming house permit therefor issued by the Commissioner of Health.
- a. Application for a rooming house permit shall be in the form prescribed by the Commissioner of Health. Such application shall be made by the person, firm or corporation which is owner of record of the premises including the rooming house, and the permit shall be issued in said applicant's name.
 - b. The annual permit fee for a rooming house with ten (10) rooms or fewer shall be thirty dollars (\$30.). The annual permit fee for a rooming house with more than ten (10) rooms shall be forty dollars (\$40.). All permits shall expire on December 31. An additional fee of fifteen dollars (\$15.) shall be paid whenever the annual fee for a renewal is paid after December 31. The cost of a duplicate permit shall be fifteen dollars (\$15.). **[Ord. O-2017-0018, 4/18/2017]**
 - c. The rooming house permit shall be issued to the owner of record of the rooming house and shall show on its face the name of the owner, the person designated as the operator and the address of the rooming house. The rooming house permit shall be nontransferable. The Commissioner of Health must be notified, in writing, of any change in identity of operator, and this change shall be certified on the face of the permit. Any change of ownership shall require issuance of a new rooming house permit and payment of the annual fee.
 - d. The Commissioner of Health shall cause an inspection to be made of each rooming house prior to issuing of the permit and at other times as is deemed necessary to assure compliance with the provisions of this section. If the Commissioner or his/her designee discovers a violation of this section or discovers a health nuisance, as defined in Section 7.03 of the Revised Municipal Code, on the premises, the Commissioner or designee may order a reinspection of the premises. The fee for the first reinspection shall be ten dollars (\$10.), and the fee for any second or subsequent reinspection during the permit year shall be fifteen dollars (\$15.). All reinspection fees shall be assessed to the permittee and shall be paid upon demand from the Health Department. All reinspection fees are due at the time of reinspection. **[Ord. O-**

2017-0018, 4/18/2017]

- e. The rooming house permit shall list the number of sleeping rooms and the maximum number of persons who may occupy each sleeping unit, as determined by these regulations, and shall be conspicuously posted at all times in the office, public lobby or public corridor of the rooming house. No person shall let to, receive, harbor or lodge more persons than are specified on the permit for each room.
 - f. No rooming house permit shall be issued before an Occupancy Permit has been secured from the Building Inspector and the requirements of this section have been met. The issuance of the Rooming House permit shall not relieve the owner from complying with any other ordinances or codes which might affect the property or business.
3. Conditions of Occupancy of Sleeping Rooms. No person shall occupy or let to another for occupancy any sleeping room which does not comply with the following requirements:
- a. Every sleeping room shall contain at least seventy (70) square feet of habitable room area for the first occupant thereof and at least fifty (50) square feet of habitable room area for each additional occupant thereof; provided, however, that no more than four (4) roomers shall be permitted to occupy any one sleeping room.
 - b. Every sleeping room shall have a window opening upon a street, yard or court. The minimum window area shall be not less than ten percent (10%) of the habitable room area and shall be not less than twelve (12) square feet. Not less than forty-five percent (45%) of the total window area shall be openable. Windows shall be maintained in good repair and shall open and close easily. Windows shall be screened with 14 x 18 mesh or finer screen to prevent the entrance of flies, mosquitoes, other insects or rodents.
 - c. At least one flush toilet, lavatory basin and bathtub or shower, in good working condition, shall be supplied for each six (6) persons, including the operator's family, whenever they share the use of said facilities; provided, that in rooming houses where rooms are let only to males, flush urinals may be substituted for not more than one-half (1/2) the required number of flush toilets. All such facilities shall be so located within the dwelling to be accessible from a common hall or passageway to all persons sharing such facilities; however, no such required facilities shall be located in a basement or cellar. Every lavatory basin and bathtub or shower shall be adequately supplied with hot and cold water at all times. All such toilet rooms shall be entirely separated from sleeping rooms by a solid partition extending from floor to ceiling. Each toilet room shall be lighted with at least a 60 watt bulb, and shall be provided with a means of natural or mechanical ventilation.
 - d. Clean bedding shall be supplied at least weekly, and more frequently as required, and prior to the letting of any room to any occupant. Each roomer shall have at least one clean pillow. A moisture proof mattress cover shall be supplied to keep mattresses clean and dry. All quilts and comforters shall be kept in a clean, sanitary and odor-free condition, and replaced whenever they become worn out and unfit for further use.
 - e. All rugs, carpets, drapes, curtains and upholstered furniture and other supplied equipment shall be kept clean and free from odor and in good repair. Each sleeping room shall be kept free from filth and vermin. Walls, floors and ceilings in each sleeping room, toilet room, hallway and stairway shall be kept clean and in proper repair, and shall be painted or washed as frequently as

- may be required by the Commissioner of Health.
- f. Doors to all sleeping rooms shall be provided with facilities for locking from the inside. There shall be no ventilation openings to the corridors from any sleeping room.
 - g. Continuous illumination of not less than five (5) foot candles, measured at floors, shall be provided in corridors and stairways and at exterior entrances.
 - h. All stairways with more than three (3) steps shall have a hand rail on the left side ascending, and shall be maintained in good order.
 - i. Heat in occupied buildings shall be supplied in accordance with Section 7.07 of the Code of the City of West Allis.
 - j. Each operator of a rooming house shall report to the Commissioner of Health, within twenty-four (24) hours, the name and room number of any roomer or person residing in his rooming house suffering or reasonably believed or suspected of suffering from any communicable disease.
 - k. The owner and operator of each rooming house shall be responsible for any unsanitary condition prevailing within such rooming house, and upon the premises where such rooming house is located, and shall be responsible for the proper observance of all the provisions of this section.
4. Rules and Regulations of the Commissioner of Health. The Commissioner of Health is hereby authorized to make such rules and regulations as will reasonably insure that all rooming houses, regulated in this section, shall be maintained in a condition of proper cleanliness and sanitation, and that proper provision is made therein for water, bathing facilities, beds, bedding, mattresses and other furnishings and appurtenances.
5. Notification Requirements. Any person operating a rooming house shall: **[Ord. O-2003-0064, 10/7/2003]**
- a. Make inquiry of all new applicants to be a roomer, and annually of all roomers, whether the applicant or roomer has ever been convicted of a sexually related offense. For purposes of this section, "sexually related offense" shall mean a violation of the following sections of the Wisconsin Statutes as they may from time to time be amended:

Sec. 940.225 (Sexual assault) Sec. 944.17 (Sexual gratification) Sec. 944.20 (Lewd and lascivious behavior) Sec. 948.02 or 948.025 (Sexual assault of a child) Sec. 948.05 (Sexual exploitation of a child) Sec. 948.055 (Causing a child to view or listen to sexual activity) Sec. 948.06 (Incest) Sec. 948.07 (Child enticement) Sec. 948.075 (Computer sex crime) Sec. 948.08 (Soliciting child for prostitution) Sec. 948.09 (Sexual intercourse - child age 16 or older) Sec. 948.10 (Exposing genitals or pubic area) Sec. 948.11 (Exposing child to harmful material) Sec. 948.12 (Possession of child pornography)
 - b. Conduct or cause to be conducted a criminal history background check on each roomer applicant and annually on each roomer.
 - c. Report to the Police Chief, in writing, each roomer who has been convicted of a sexually related offense within ten (10) days of being informed by the roomer or the background check that such a conviction exists.
6. Notification to the Public. The Police Chief may notify the public that a rooming house has as a roomer a person convicted of an offense listed in section 7.15(5)(a) in the same manner and under the same guidelines and restrictions as set forth in section 301.46(2m)(c), Wisconsin Statutes, as it may be amended from time to time. **[Ord. O-2003-0064, 10/7/2003]**
7. Reimbursement. A rooming house operator may apply to the Director of Development for reimbursement of the cost of the background check required by subsection 7.15(5).

Payment, if any, shall be based upon availability of eligible community development block grant funds and shall be at the discretion of the Director of Development. **[Ord. O-2003-0064, 10/7/2003]**

SECTION 7: REPEAL “7.154 Public Physical Conditioning Establishments” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~7.154 Public Physical Conditioning Establishments~~ (*Repealed*)

1. Definitions. The following definitions shall apply in the interpretation and the enforcement of this section:

HEALTH COMMISSIONER

The term "Health Commissioner" shall mean the Health Commissioner of the City or designee.

PERSON

The term "person" shall mean any person, firm, organization, or corporation.

PUBLIC PHYSICAL CONDITIONING ESTABLISHMENT

The term "public physical conditioning establishment" shall mean any premises or facilities used by customers, members, students, or the general public for conditioning or training activities, swimming, jogging, martial arts instruction or training, weightlifting, gymnastics, aerobic exercise, tanning, or similar or related activities.

2. State Regulations. Except as otherwise provided herein, the provisions of Wisconsin Statutes Section 100.178 as related to fitness centers, as they are from time to time amended, are hereby adopted by reference. All fitness centers shall comply with all applicable provisions of these regulations.
3. License Application. A written application for the license required by this section shall be filed with the Health Commissioner upon forms provided by the Health Commissioner. The annual license fee shall be twenty-five dollars (\$25.) and shall be paid at the time the initial application is filed or, for license renewals, prior to the expiration of a license. Any renewal license fee paid on July 1 or later shall be subject to a late fee of fifteen dollars (\$15.). No person shall operate any public physical conditioning establishment until all license fees have been paid. A licensee or applicant shall notify the Health Commissioner in writing if any information listed in the application form has changed within ten (10) days of such change. **[Ord. O-2017-0018, 4/18/2017]**
4. License Required. No person shall operate a public physical conditioning establishment in the City without a license from the Health Commissioner. Only a person who complies with the requirements of this section shall be entitled to receive and retain a license. Licenses shall not be transferable as to persons or premises.
5. Posting License; Fee for Duplicate License. Every public physical conditioning establishment shall display its license at all times in plain view of the public. Duplicate

licenses shall be issued to replace licenses which are misplaced or damaged so as to be illegible. The fee for a duplicate license shall be fifteen dollars (\$15.). **[Ord. O-2017-0018, 4/18/2017]**

6. License Year. The license year for the public physical conditioning establishment license shall be from July 1 to June 30 annually.
7. Inspection of Establishments.
 - a. Frequency of Inspections. The Health Commissioner or his/her designee shall inspect public physical conditioning establishments at least once during the license year. If the Health Commissioner or his/her designee discovers any violation that is potentially hazardous to the health and welfare of patrons or employees of the public physical conditioning establishment or to the public health, he/she may make a reinspection after a lapse of five (5) business days or such time as he/she deems reasonably necessary for the violations to be corrected. Failure to correct a violation within the scheduled time shall result in additional reinspections and may result in further legal action, including the issuance of citations. The first reinspection of a violation shall result in the Health Department assessing a reinspection fee of twenty-five dollars (\$25.) to the public physical conditioning establishment applicant or licensee. The second or subsequent reinspection of a violation shall result in the Health Department assessing a reinspection fee of fifty dollars (\$50.) to the public physical conditioning establishment applicant or licensee. **[Ord. O-2017-0018, 4/18/2017]**
 - b. Inspection Report. One (1) copy of the inspection report shall be given to the person in charge of the establishment and another copy shall be kept with the records of the Health Department.
 - c. Access to Establishments and Records Required. The person operating a public physical conditioning establishment shall, upon the request of the Health Commissioner or his/her designee, permit access to all parts of the establishment and shall permit the copying of any records necessary for a health investigation.
 - d. Inspection After Complaint. Upon a complaint or report of a violation of this section, the Health Commissioner or his/her designee shall inspect the establishment to determine if a violation exists. If the Health Commissioner or his/her designee confirms a violation to exist, the Health Department shall assess an inspection fee of twenty-five dollars (\$25.) to the public physical conditioning establishment licensee.
8. Establishments Which May Operate. No public physical conditioning establishment shall operate within the City unless it conforms to the requirements of this section.
9. Summary Suspension and Reinstatement of License.
 - a. Whenever the Health Commissioner or his/her designee finds unsanitary or other conditions in the operation of a public physical conditioning establishment, which in his/her opinion constitutes a substantial hazard to the public health, he/she may without warning, notice, or hearing issue a written notice to the licensee citing the condition, specifying the corrective action to be taken, and specifying the time period within which the action shall be taken; and, if deemed necessary, the order shall state that the license is immediately suspended and all public physical conditioning operations are to be immediately discontinued. The Health Commissioner or his/her designee shall promptly notify the City Clerk of any suspension. Any person to whom such an order is issued shall comply immediately therewith, but upon written petition to the City Clerk, shall be afforded a hearing before the License and

Health Committee. The procedure for such hearing shall be the applicable provisions of Subsections (13)(c) through (f) of this section. Such hearing shall be scheduled within ten (10) days of the appellant filing the petition with the City Clerk.

- b. The license holder whose license has been suspended by the Health Commissioner or his/her designee may, at any time, make application for reinstatement of the license. The Health Commissioner or his/her designee shall make a reinspection and thereafter as many additional reinspections as he/she deems necessary to ensure that the applicant is complying with the requirements; and, in the event the findings indicate compliance, shall reinstate or reissue the license.
10. Truth of Statements. All matters submitted in writing to the City by any applicant or licensee pertaining to any license issued under this section shall be true.
 11. Conditions of License.
 - a. Every applicant procuring a license thereby consents to the entry of the Health Department, police, or other duly authorized representatives of the City at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of City ordinances or state laws.
 - b. The licensee and/or employees and agents of the licensee shall cooperate with Health Department and police investigations. "Cooperate," as used in this subsection, shall mean calling the police when a disturbance of the peace or other violation occurs on the licensed premises and providing complete and truthful responses to police and Health Department inquiries. A licensee shall also appear before the License and Health Committee when requested to do so and shall otherwise follow the lawful directives of the License and Health Committee.
 - c. Each licensed premises shall be conducted in an orderly manner, and no disorderly, riotous, or indecent conduct shall be allowed at any time on any licensed premises.
 - d. The licensee shall comply with all other provisions of this section and all other ordinances of the City of West Allis and the laws of the State of Wisconsin.
 12. Minimum Requirements. All public physical conditioning establishments shall comply with the following minimum requirements:
 - a. Equipment.
 - i. Conditioning equipment, exercise devices, tanning beds, and similar and related equipment shall be operated and maintained in compliance with recommendations and requirements of the manufacturer and all applicable regulations.
 - ii. Equipment that is subject to bodily contact by users shall be washed or rinsed with a bactericidal solution, as frequently as necessary to insure adequate hygiene. Such bactericidal solutions and single-use towels shall be available for optional use by patrons at all times. Specific cleaning frequency requirements may be made a condition of the license for a public physical conditioning establishment.
 - b. Locker Room Requirements.
 - i. Separate locker room facilities shall be present and accessible for men and women.
 - ii. Hot and cold running water, under pressure, shall be supplied at all times to all sinks, lavatories, tubs, showers, and other bathing facilities. At least one (1) wash sink and one (1) toilet shall be

available for use at any public locker room.

- iii. When towels or towel service are provided, clean towels shall be kept dry until used and shall not be used by more than one (1) patron. Used towels shall be kept separate from clean towels and shall be laundered or removed from the facility after use. Laundering of towels shall be done in a manner which provides complete bactericidal treatment.
- iv. Shower curtains, when used, shall be of plastic or similar material and shall be kept clean and in good repair. Worn, ripped, or uncleanable shower curtains shall be removed. Cloth or absorbent shower curtains and curtain liners are prohibited.
- v. Public locker room floors, walls, and ceilings, as well as benches, chairs, and other furniture shall be clean, water-resistant, and in good repair. All room surfaces subject to moisture and bacterial contamination shall be washed or wet mopped with an appropriate bactericide as frequently as necessary to prevent odors or disease. Areas in which moisture or other conditions create slipping or sliding hazards shall be equipped with handrails or other anti-slip devices or treatments.
- vi. All public locker room patrons shall have available for their optional use a clothes locker constructed of substantial material, provided with an interior hook for hanging items of clothing and with a means for locking to provide security for patrons' items and property. Lockers shall be arranged, designed, and located so that they are not subject to spray or other water damage.

13. Suspension, Revocation, and Nonrenewal.

- a. Causes. Any license issued under this section may be suspended, revoked, or not renewed for cause by the Common Council after notice to the licensee and a hearing. Licenses may be suspended, revoked, or not renewed for the following causes:
 - i. The making of any material false statement in any application for a license.
 - ii. The violation of any of the applicable provisions of Section 7.154.
 - iii. The violation of any of the applicable provisions of Wisconsin Statutes Section 100.177 or 100.178.
 - iv. The failure to conduct its licensed business at the authorized location for a period of thirty (30) consecutive days, unless such thirty-day period shall, for good cause shown, be extended by the Common Council.
 - v. The licensed premises is operated in such a manner that it constitutes a public or private nuisance or that conduct on or emanating from the licensed premises, including but not limited to loud and raucous noise, has had a substantial adverse effect upon the health, safety, convenience or prosperity of the immediate neighborhood.
 - vi. The failure to pay any tax or forfeiture as provided in Section 1.08(9) (a) and (b).
- b. Commencement of Proceedings. Suspension, revocation, or nonrenewal proceedings may be instituted by the License and Health Committee of the Common Council upon its own motion or upon sworn written charges made and filed with the Clerk/Treasurer by the Health Commissioner.
- c. Procedure.

- i. Upon receipt of a sworn complaint, either from the Health Commissioner or upon directive of the Committee, the License and Health Committee shall direct the City Attorney to prepare a summons and have the summons and complaint served upon the licensee pursuant to Section 801.11 of the Wisconsin Statutes.
 - ii. The summons and complaint shall contain: the date and time for appearance by the licensee; a statement of the Common Council's intention to suspend, revoke, or not renew the license in the event any of the allegations are found to be true; a statement of the reasons for suspension, revocation, or nonrenewal; notification to the licensee of an opportunity to be heard, respond to and challenge the reasons for suspension, revocation, or nonrenewal and to present and cross-examine witnesses under oath; notification to the licensee of the right to be represented by counsel of the licensee's choice and at the licensee's expense.
 - iii. If the licensee fails to appear on the date and time designated in the summons, the License and Health Committee may enter a default judgment and take the allegations of the complaint to be true. The License and Health Committee shall then deliberate on what sanction, if any, to impose.
 - iv. If the licensee appears before the License and Health Committee at the date and time designated in the summons and denies the material charges contained in the complaint, an evidentiary hearing shall be scheduled. If the licensee does not appear or appears, but does not deny the material charges contained in the complaint, the complaint may be taken as true and the Committee shall hear the arguments of the complainant and, if applicable, the licensee in connection with whether to not renew, revoke or suspend the license and the length of the suspension.
 - v. If the matter proceeds to hearing before the Committee, the following procedures shall apply:
 - (1) The complainant shall first present evidence in support of the complaint.
 - (2) After the complainant rests, the licensee may present evidence in opposition to the charges.
 - (3) The complainant and licensee may subpoena and present witnesses. All witnesses shall testify under oath or affirmation and shall be subject to cross-examination.
 - (4) The complainant and licensee shall each be limited to one (1) hour for testimony unless the Chair, subject to approval of the Committee, extends the time to assure a full and fair presentation.
 - (5) Questions by Committee members or the advising City Attorney and answers to such questions shall not be counted against the time limitations.
 - (6) At the close of testimony, the complainant and licensee shall be given a reasonable time to make arguments upon the evidence produced at hearing.
- d. Miscellaneous Procedural Matters.
- i. At all stages of the proceedings, the licensee shall be entitled to appear in person or by an attorney of his or her own expense.

- ii. If the complaint is in the name of the Committee or is brought by a City official in his/her official capacity, the complainant shall be represented by a prosecuting City Attorney.
 - iii. The Committee shall be, when required, advised by an advisory City Attorney who shall not be the same individual as the prosecuting City Attorney.
 - iv. The Chair of the License and Health Committee shall be the presiding officer. The Chair shall direct that oaths and affirmations be administered and subpoenas issued upon request of either side. The Chair shall ensure that an orderly hearing is conducted in accordance with the provisions of this section. The Chair shall rule on objections to the admissibility of evidence. Any ruling of the Chair shall be final unless appealed to the Committee and a majority vote of those members present and voting reverses such ruling.
 - v. An audio recording or stenographic record shall be made of all proceedings at the hearing. Any interested party may obtain a copy of the recording or transcript at his or her own expense.
- e. Findings and Recommendations.
 - i. After the close of the hearing, the Committee shall deliberate and reach a decision. The Committee shall prepare findings on factual matters, conclusions of law, and a recommendation on what action, if any, should be taken with regard to the license(s) at issue. The report shall be filed with the City Clerk/Treasurer with a copy to the licensee and complainant. The findings and recommendations shall be distributed to each member of the Common Council.
 - ii. The licensee and complainant may file a written statement or response to the findings and recommendation, including objections, exceptions, and arguments of fact and law. A written statement must be filed with the City Clerk/Treasurer before the close of business on a day that is at least three (3) working days prior to the date set for determination by the Common Council. Copies of written statements shall be provided to each member of the Common Council at least twenty-four (24) hours before any vote on the matter is scheduled before the Common Council.
- f. Common Council Action.
 - i. Not less than five (5) working days prior to the matter being scheduled before the Common Council, the Clerk/Treasurer shall notify the licensee and complainant by U.S. first class mail, postage prepaid, sent to the last known address, that the Common Council will convene to determine the matter.
 - ii. Unless an Alderperson states that he/she has not read the findings and recommendations, and written statements, if any, the matter shall proceed to debate amongst members of the Common Council. Neither the complainant nor the licensee shall be permitted to make oral arguments.
 - iii. The Common Council shall determine by a majority vote of those in attendance and voting whether to adopt the recommendation of the Committee or make such modification as is deemed appropriate. Such vote shall be a roll call vote. Upon an affirmative vote suspending, revoking, or not renewing the license(s), the Clerk/Treasurer shall

give notice to the person whose license is affected. If the Common Council finds the complaint to be untrue or unsupported by sufficient evidence, the proceedings shall be dismissed without cost to the accused.

g. Surrender of License.

- i. A licensee may, at any time during the license year surrender a license to the Health Department, along with a statement, in writing, that the licensee no longer wishes to conduct the licensed activity at the licensed premises.
- ii. Except as set forth in Subsection (h)3 below, the surrender shall operate to extinguish any right the licensee had to the license or to conduct licensed activity at the premises listed in the license.
- iii. If a summons and complaint has been issued against the licensee seeking suspension, revocation, or nonrenewal of the license, the surrender of the license shall be deemed a request and the matter shall be referred to the License and Health Committee. The Committee may approve the request or deny the request and proceed to hearing.
- iv. Any request to have a surrendered license returned shall be treated as a new license application and the requestor must fill out the required applications and pay the required fees. The request shall thereafter be treated as all other new license applications.

h. Prohibition on Future Issuance. If a license is revoked or not renewed due to action by the License and Health Committee, at least two (2) years shall elapse before another license may be given to the same licensee.

14. Nuisance Enforcement. In addition to the penalties listed within this section, the City Attorney or his/her designee or the Health Commissioner or his/her designee may pursue a nuisance enforcement action against a public physical conditioning establishment under Chapter 18 of this Code.

~~{Ord. O-2014-0008, 2/4/2014}~~

SECTION 8: **REPEAL** “7.155 (Reserved)” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~7.155 (Reserved) (Repealed)~~

~~{Ord. 6636, 11/4/2002}~~

SECTION 9: **REPEAL** “7.17 Conditions Of Licenses/Permits; Control Of Premises; Lapse Of License/Permit; Procedure For Suspension Or Revocation” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~7.17 Conditions Of Licenses/Permits; Control Of Premises; Lapse Of License/Permit;
Procedure For Suspension Or Revocation (Repealed)~~

1. Control of Premises. No applicant will be considered for any license or permit issued under this chapter unless the applicant has the right to possession of the premises described in the application for the license. The applicant shall present documentation, in a form acceptable to the City Attorney, of proof of right to possession for the license/permit period. Loss of the right to the premises subjects the license or permit to immediate revocation. Only one (1) license or permit for the same activity may be issued per premise at one time.
2. Lapse of License/Permit. Whenever any licensee or permittee under this chapter shall not conduct the licensed or permitted business at the authorized location for a period of thirty (30) consecutive days, the license or permit shall become subject to revocation, unless such thirty-day period is, for good cause, extended by the License and Health Committee. This subsection shall not apply to licensees or permittees who operate seasonally.
3. Procedure for Suspension, Revocation, or Nonrenewal. The procedures for suspension, revocation, and nonrenewal of licenses set forth in Subsection 7.04(16)(b) through (h) of the Revised Municipal Code shall apply to all licenses and permits issued under this chapter.
4. Applicability. The provisions of Subsection (1) shall not apply where the licensed or permitted activity is, by its nature, not conducted at a particular premises. Where there is a specific requirement or procedure set out in this chapter for a particular license or permit, the more specific procedure or requirement shall govern.
5. Truth of Statements. All matters submitted in writing to the City by any applicant, licensee, or permittee pertaining to any license or permit issued under this chapter shall be true.
6. Conditions of Licenses/Permits.
 - a. Every applicant procuring a license/permit thereby consents to the entry of the Health Department, police, or other duly authorized representatives of the City at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of City ordinances or state laws.
 - b. The licensee/permittee and/or employees and agents of the licensee/permittee shall cooperate with Health Department and police investigations. "Cooperate," as used in this subsection, shall mean calling the police when a disturbance of the peace or other violation occurs on the licensed premises and providing complete and truthful responses to police and Health Department inquiries. A licensee/permittee shall also appear before the License and Health Committee when requested to do so and shall otherwise follow the lawful directives of the License and Health Committee.
 - c. Each licensed/permitted premises shall be conducted in an orderly manner, and no disorderly, riotous, or indecent conduct shall be allowed at any time on any licensed/permitted premises.
 - d. The licensee/permittee shall comply with all other provisions of this chapter and all other ordinances of the City of West Allis and the laws of the State of Wisconsin.

~~{Ord. O-2015-0023, 4/7/2015}~~

SECTION 10: **REPEAL** “Chapter 9 Business And Occupations” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

9.015 License Year

1. Duration of License Year. The "License Year" in the City shall begin on July 1 in each year and terminate on June 30 in the next year, unless otherwise specifically provided.
2. Exceptions. Where other provisions have been made for expiration of any license, such date shall apply unless a license shall be previously revoked for cause.

9.02 Alcoholic Beverages

1. State Regulations. Except as otherwise provided herein, the provisions of Chapter 125 of the Wisconsin Statutes, relating to the sale of alcohol beverages, are adopted by reference and made a part hereof with the same force and effect as if fully set forth herein.

1m. Pursuant to Wis. Stat. § 125.51(3)(b), a retail “Class B” license authorizes the sale of intoxicating liquor to be consumed by the glass only on the premises where sold and also authorizes the sale of intoxicating liquor in the original package or container, in any quantity, to be consumed off the premises where sold.

2. License Required. No person, firm, partnership, corporation or association shall, within the City, sell, barter, exchange, offer for sale or have in possession with intent to sell, deal or traffic in fermented malt beverages or intoxicating liquor, in any quantity whatsoever, or cause the same to be done without having procured a license.
3. Applications for Class "A" and "B" Retail License.
 - a. When and Where Filed. A written application for the licenses required by this section shall be filed with the City Clerk upon forms provided by the City Clerk. The application shall be filed with the City Clerk not less than fifteen (15) days prior to the granting of such license. Except as otherwise provided in this chapter, the license fee shall be paid prior to the issuance of the license by the City Clerk. **[Ord. O-2018-0037, 9/18/2018]**

Such application shall be filed and completed in accordance with Sec. 125.04(3) of the Wisconsin Statutes. The City Clerk shall not accept an application from a foreign corporation, a foreign limited liability company or a person acting as an agent for or in the employ of another.

- b. Original Applications. Applicants seeking to establish a new licensed premise shall, upon application, pay a two hundred dollar (\$200) fee to defray a portion of the costs of building, plumbing, electrical, health and fire inspections. The fee shall be nonrefundable, but shall be applied to the license fee.
- c. Publication. The application shall be published at least once in the official City newspaper, and the costs of publication shall be paid by the applicant.
- d. Notice of Change In Application. If a licensee files with the clerk a written description of a change in fact pursuant to Wis. Stat. 125.04(3)(h)(h), the clerk shall update the city's records to reflect that change, unless the change is an extension of premises. No extension of premises is valid unless approved by

the common council in accordance with WAMC 9.02(24).

- e. Late Application. The Common Council may meet to consider and act upon any application for a Combination Class B or Combination Class A license, which has not been timely filed so that the Common Council may act upon the application at its regular meeting prior to the commencement of the license year, provided that any such application has been filed with the City Clerk at least fifteen (15) days prior to the special meeting of the Common Council. A late filing fee of one thousand dollars (\$1,000) shall accompany each such application to defray administrative expenses. The late filing fee shall be nonrefundable unless a quorum of the Common Council is not able to meet and shall be in addition to the license fee. **[Ord. O-2005-0033, 6/21/2005]**

- f. Provisional Retail License. Pursuant to Wisconsin Statutes Section 125.185, the City Clerk is authorized to issue provisional retail licenses to applicants who have possessed the same retail license for the sale of alcoholic beverages within the past year. If a new license applicant is approved by the License & Health Committee but pending before the common council, the City Clerk is also authorized to issue a provisional retail license to that applicant only if the applicant has obtained all health, occupancy, or other licenses and permits required by the committee. The fee for such license shall be fifteen dollars (\$15) and shall be paid to the Clerk before issuance.

3m. Class "C" Licenses. **[Ord. 6329, 9/2/1997]**

- i. Filing of Applications. A written application for a Class "C" license shall be filed with the City Clerk upon forms provided by the City Clerk. The application shall be filed with the City Clerk not less than fifteen (15) days prior to the granting of such licenses. Except as otherwise provided in this chapter, the license fee shall be paid prior to the issuance of the license by the City Clerk. **[Ord. O-2018-0037, 9/18/2018]**

The application shall be filed and completed in accordance with Sec. 125.04(3) of the Wisconsin Statutes. The City Clerk shall not accept an application from a foreign corporation, a foreign limited liability company or a person acting as an agent for or in the employ of another.

- ii. Publication. The application shall be published at least once in the official City newspaper and the costs of publication shall be paid by the applicant.
- iii. Granting of License. A Class "C" license may be granted to an applicant only if the applicant meets the qualifications set forth in sec. 125.04(5) of the Wisconsin Statutes; the premises to be licensed is a restaurant in which the sale of alcohol beverages accounts for or will account for less than fifty percent (50%) of gross receipts; and the restaurant does not contain a barroom.

- (1) In addition to the restrictions on location of a "Class A" and "Class B" premises under Wis. Stat. 125.68(3), no "Class C" license may be issued for premises, the main entrance of which is less than 300 feet from the main entrance of any public or parochial school, hospital or church, except that this prohibition may be waived by a majority vote of Common

Council. The distance shall be measured by the shortest route along the highway from the main entrance of the school, church or hospital to the main entrance of the premises covered by the license or permit. The distance shall be measured by the shortest route along the highway from the main entrance of the school, church, or hospital to the main entrance of the premises covered by the license. The prohibition in this subsection does not apply to any premises covered by a "Class C" license on the date this ordinance is published or premises covered by a "Class C" license prior to the occupation of real property within 300 feet thereof by any school, hospital or church building.

iv. (Reserved)

4. Floor Plan and Plan of Operation.

a. (Reserved).

- b. In any application for an alcohol beverage retail establishment license, excepting special Class B Beer and Wine Licenses, the applicant shall file a detailed floor plan on an 8 1/2-inch by 11-inch sized sheet of paper for each floor of the licensed premises. The floor plan shall include:
- i. Area in square feet and dimensions of the licensed premises.
 - ii. all entrances and exits to the premises together with a description of how patrons will enter the premises, the proposed location of the waiting line, and the location where security searches or identification verification will occur.
 - iii. Locations of all seating areas, bars, and, if applicable, food preparation areas.
 - iv. Locations and dimensions of any alcohol beverage storage and display areas.
 - v. Locations and dimensions of any outdoor areas available at the premises for the sale, service or consumption of alcohol beverages.
 - vi. North point and date.
 - vii. Any other reasonable and pertinent information the License and Health Committee may require either for all applicants or in a particular case.

c. Plan of Operation. A completed plan of operation on forms provided therefor by the Clerk. The plan of operation shall require: **[Ord. O-2014-0019, 4/1/2014; Ord. O-2018-0037, 9/18/2018]**

- i. The current or planned hours of operation for the premises.
- ii. The legal occupancy capacity of the premises.
- iii. What plans the applicant has to insure the orderly appearance and operation of the premises with respect to noise and litter. This shall include a description of designated or likely outdoor smoking areas, the number and location of exterior and interior trash receptacles.
- iv. What other types of business enterprises, if any, are planned or currently conducted at the premises.
- v. What other licenses and permits, if any, are planned or currently issued for the premises.
- vi. For applications for premises in locations that have not been licensed previously or within the past year under Section 9.02, whether the premises is less than three hundred (300) feet from any school, hospital, or church, pursuant to Section 9.02(4)(c)1 and Section

125.68(3) of the Wisconsin Statutes.

- vii. The number of security personnel expected to be on the premises, their responsibilities, and the equipment they will use in carrying out their duties.
 - viii. Any other reasonable information the License and Health Committee may require either for all applicants or in a particular case.
- d. Renewals. For any renewal application for an alcohol beverage retail establishment license for which there is no change in any information that is reported in the floor plan and plan of operation as submitted with the original or previous renewal application, the licensee may re-file the previous documents. The License and Health Committee may require changes to a floor plan or plan of operation based on the licensee's past operation.
- e. Alterations/Amendments. The floor plan and plan of operation are subject to approval by the License and Health Committee prior to the granting of the license and may be subject to the issuance of any building, zoning, or other permits. Applicants seeking such alterations or amendments shall submit a written notice of such changes to the City Clerk. The Common Council may approve or disapprove the change in the floor plan or plan of operation under the same standard as the review of a new license application. The License and Health Committee may change all or part of the plan of operation or may impose additional requirements to address problems created by the licensee's operation. Applicants seeking an alteration or amendment to the floor plan or plan of operation shall pay a fee as specified in the most recent Schedule of Fees resolution and upon application.

4m. Truth of Statements. All matters submitted in writing to the City by any applicant or licensee pertaining to an alcohol beverage license shall be true. Any person who submits in writing any untrue statement to the City in connection with any such license or application shall forfeit not more than five hundred dollars (\$500) together with the costs of prosecution, and in default shall be imprisoned in the Milwaukee County House of Correction for the maximum number of days set forth in Section 800.095(1)(b) of the Wisconsin Statutes. In addition, any license granted shall be subject to revocation and no alcohol beverage license of any kind whatsoever shall thereafter be granted to such person for a period of one year from the date of such revocation. **[Ord. O-2013-0014, 4/2/2013]**

5. Outdoor Premises

- a. Definitions
 - i. "Indoor premises" means any part of the premises that is an enclosed place as that term is defined in Wis. Stat. 101.123(1)(ak).
 - ii. "Outdoor premises" means any part of the premises that is not an indoor premises.
- b. Regulations. All outdoor premises shall comply with the following regulations:
 - i. Containers. No licensee may allow glass beverage containers in an outdoor premises.
 - ii. Noise Limit. No outdoor premises may be the source of sound that measures over 100 decibels (A-weighted) within 100 feet from the outdoor premises. The common council may set different noise limits for a particular outdoor premises if the licensee agrees to those

alternate noise limits.

- iii. Bordering. The border of any outdoor premises shall be physically marked with fencing, vegetation, barriers, or other objects or markings accurately indicating the limits of the outdoor premises.
 - iv. Lighting. Any lighting for an outdoor premises may not project directly to an area beyond the indoor and outdoor premises.
 - v. Closing Hours. No outdoor premises may remain open between the hours of 10 p.m. and 10 a.m. The common council may set different closing hours for a particular outdoor premises if the licensee agrees to those alternate closing hours.
6. Investigation. The City Clerk shall notify the Chief of Police, Health Officer, Chief of the Fire Department and Building Inspector of each application, and these officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license. These officials shall furnish to the Common Council, in writing, the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused. No license shall be renewed without a reinspection of the premises and report as originally required.
7. Qualifications. In addition to the qualifications under § 125.04(5) of the Wisconsin Statutes, no license related to alcohol beverages may be issued to any person who has had any licensed denied within prior 6 months.
8. Granting of License
- a. Upon the approval of an application by the Common Council, the City Clerk shall issue to the applicant a license, subject to the provisions of this code.
 - b. In lieu of Common Council approval, the City Clerk is authorized to issue temporary Class "B" licenses and permit underage persons to be on the premises as provided in Wis. Stat. § 125.26(6), issue temporary "Class B" licenses and permit underage persons to be on the premises for the purpose of acting as designated drivers as provided in Wis. Stat. 125.51(10), and issue operator's licenses as provided in Wis. Stat. § 125.17(1) to any of the following applicants:
 - i. A person who is not a reviewable applicant.
 - ii. A reviewable applicant who has been granted an operator's license by the common council on a prior date and has no arrest or conviction record since the prior license was granted.
 - c. Under this paragraph, "reviewable applicant" means any person who has any of the following:
 - i. A pending criminal charge for any offense under Wis. Stat. § 111.335(4)(a);
 - ii. A conviction for an offense counted under Wis. Stat. § 343.307 within two years of the application date;
 - iii. A second or subsequent conviction for an offense counted under Wis. Stat. § 343.307 within five years of the application date;
 - iv. Convictions for three or more violations of Wis. Stat. § 343.44 within two years of the application date;
 - v. A conviction for any offense under Wis. Stat. Ch. 125 or any offense for which the consumption, possession, or sale of alcohol is an

element within ten years of the application date, except no violation of Wis. Stat. § 125.07 may be considered unless the applicant has committed two or more violations within one year;

- vi. A conviction for a felony offense where the sentence for confinement, extended supervision, or probation has ended within five years of the application date; or
 - vii. Convictions for three or more misdemeanors within five years of the application date.
- d. For any temporary Class B license, the clerk shall notify the Alderpersons of the district in which the event is to be held that a license has been issued.
- e. Applications for a temporary license must be received in the Clerk's Office at least five (5) business days prior to the event. An application for a temporary license received in the Clerk's Office five (5) business days prior to the event without approval of the Common Council must be accompanied by a late fee of fifteen dollars (\$15) in addition to the temporary licensee fee to defray administrative costs. An application filed less than five (5) business days prior to the event must be accompanied by a late fee of twenty-five dollars (\$25) in addition to the temporary license fee to defray administrative costs.
9. Transfer and Lapse of License.
- a. A license shall be transferable from one premises to another, if such transfer is first approved by the Common Council. No licensee shall be entitled to more than one (1) transfer in any one license year. Application for transfer shall be made on a form furnished by the City Clerk at least fifteen (15) days prior to the next available meeting of the License and Health Committee. Proceedings for such transfer shall be had in the same form and manner as the original application. Whenever a license is transferred, the City Clerk shall forthwith notify the Wisconsin Department of Revenue of such transfer. The licensee shall pay a fee as specified in the most recent Schedule of Fees resolution. **[Ord. O-2018-0037, 9/18/2018]**
 - b. A license shall be transferable from one person to another, as set forth in Sec. 125.04(12)(b) of the Wisconsin Statutes. If licensed premises are transferred to a new owner or tenant, the new occupant must apply for and receive, prior to commencing operations, a Class "B" retailer's license. This section shall apply to licenses held by corporations which transfer same to another corporate entity with or without changing agents to the agent or to other persons. The prospective licensee shall file a new application and pay the required fee, as if it were making an original application. If the applicant is a tenant or subtenant, he shall first secure and present to the Common Council written approval of such tenancy from the owner of such premises.

Preference to applicants for a transfer of any license issued under this subsection shall be given to licensee-tenants who are evicted or threatened with eviction for a refusal to pay an increase in rental in excess of ten percent (10%) of the rentals prevailing for the year next preceding the application for such transfer. A demand upon the part of the landlord that such tenant improve or cause improvements to be made to the real property or to the personal property appurtenant to the licensed premises at a cost which exceeds ten percent (10%) of the rentals prevailing for the year next preceding the application for such transfer shall be construed to be a demand upon the part of the landlord for an increase in rentals in excess of ten percent (10%) of such

period.

- c. Whenever any licensee under this section shall not conduct his licensed business at the authorized location for a period of thirty (30) consecutive days, the license shall become subject to revocation, unless such thirty-day period shall, for good cause shown, be extended by the Common Council. [**Ord. 6224, 4/2/1996**]

10. Numbering, Expiration, and Posting of Licenses. [**Ord. O-2006-0016, 4/18/2006; Ord. O-2013-0014, 4/2/2013**]

- a. Each license holder shall be assigned a number which shall remain the same for that license holder annually except that the year when the license year commences shall change each license year, shall state clearly the specific premises for which granted, the date of issuance, the fee paid, the name of the licensee, and a statement that the license shall expire on the 30th day of June thereafter, unless revoked by state law or City ordinance.
- b. Every person licensed under this section shall post the license and maintain it posted while in force in a conspicuous place in the room or place where alcohol beverages are drawn or removed for service or sale. It shall be unlawful for any person to post the license upon premises other than those identified in the application and grant, or to knowingly deface or destroy the license.

11. Lost Licenses. Whenever a license issued under this section or under Section 9.03 shall be lost or destroyed without fault on the part of the holder or his agent or employee, a duplicate license in lieu thereof under the original application shall be issued by the City Clerk upon payment of the fee and satisfying himself as to the facts.

12. General Conditions upon all Licenses. All retail Class A and B licenses granted hereunder shall be granted subject to the following conditions, and all other conditions of this section, and subject to all other ordinances and regulations of the City applicable thereto:

- a. Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the City at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of City ordinances or State laws.
- b. The license holder, and/or the employees and agents of the license holder, shall cooperate with police investigations of disturbances, intoxicated persons, underage persons and other violations of City and state laws. "Cooperate," as used in this subsection, shall mean calling the police when a disturbance of the peace or other violation occurs on the licensed premises and providing complete and truthful responses to police inquiries. A license holder shall also appear before the License and Health Committee when requested to do so and shall otherwise follow the lawful directives of the License and Health Committee. [**Ord. O-2008-0047, 10/7/2008**]
- c. Each licensed premises shall at all times be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.
- d. The licensee shall comply with all other provisions of this section and all other ordinances of the City of West Allis and the laws of the State of Wisconsin.

12m. Conditions upon Specific Licenses. The common council may impose any of the following conditions specifically upon a new Class A or Class B

license at the time the license is granted. The council may impose any of the following conditions specifically upon an existing licensee only with the licensee's consent.

a. The licensee shall conduct a principal business on the premises particularly described by the common council. Examples include those types of businesses described in Wis. Stat. § 125.32(3m).

b. The licensee shall maintain the property and licensed premises so it is consistent with the landscaping and architectural design plans approved by the common council.

c. The licensee shall video record all activities taking place on the licensed premises, except within bathrooms and areas inaccessible to customers, and retain a copy of that video for at least 7 days. The video resolution must have at least 640 pixels horizontally and 480 pixels vertically. The licensee shall provide a copy of any video recording in the licensee's possession within 48 hours after receiving a request for video from a law enforcement officer.

d. The licensee shall maintain certain security measures particularly described by the common council. Examples include lighting requirements, staffing minimums, and photographic identification scanners.

e. The licensee shall maintain the layout of the licensed premises consistent with the layout plan approved by the common council.

f. The licensee may not promote or conduct certain activities particularly described by the common council. Examples include live music and drink specials.

13. Restrictions.

- a. In General. The following restrictions shall apply to the granting of licenses:
 - i. A retail Class "B" fermented malt beverage or intoxicating liquor license shall be issued only for that portion of the premises located on the street level, unless specifically extended by the authority of the Council. This subsection shall not apply to a bona fide club, hotel, bowling alley, lodge room, labor union or ex-servicemen's post.
 - ii. No retail Class B fermented malt beverage or intoxicating liquor license or Class C license shall be issued unless the premises is conformed to the sanitary, safety and health requirements of the State Building Code, and the licensee satisfactorily demonstrates compliance with the rules promulgated by the Department of Agriculture, Trade, and Consumer Protection in regard to restaurant sanitation during a sanitation inspection from the West Allis Health Department as set forth in Wis. Stat. Sec. 125.68(5) and West Allis Revised Municipal Code Section 7.04(6). **[Ord. O-2017-0013, 3/21/2017]**
 - iii. No retail alcohol license shall be issued if the premises is not contiguous.
- b. It shall be unlawful for any person to sell, dispense or serve alcohol beverages by means of a drive-through facility. In this section, "drive-through facility"

means any vehicle related commercial facility in which a service is provided or goods, food or beverages are sold, served or dispensed to an operator or passengers of a vehicle without the necessity of the operator or passengers disembarking from the vehicle. **[Ord. 6110, 7/19/1994]**

- c. No "Class A" license may be granted for any premises where gasoline or diesel fuel is sold at retail in connection with the premises, except that this restriction does not apply if:
 - i. The "Class A" license contains the condition that retail sales of intoxicating liquor are limited to cider; or
 - ii. The premises for which the "Class A" license is issued is connected to premises where gasoline or diesel fuel is sold at retail by a secondary doorway that serves as a safety exit and is not the primary entrance to the "Class A" premises.

14. Health Rules. Each premises shall be maintained in a sanitary manner and shall be a safe and proper place for the purpose for which used. The Health Commissioner of the City may make reasonable and general rules for the sanitation of all places of business possessing licenses under this section. Such rules or regulations may be classified and made applicable according to the class of business conducted. All such rules and regulations and infractions thereof may be punished as a violation of this section.

15. Closing Hours. **[Ord. O-2018-0037, 9/18/2018]**

- a. No premises for which a Class "B," "Class B," or a Class C license or permit is issued may remain open between the hours of 2:00 a.m. and 6:00 a.m. On Saturday and Sunday, the closing hours shall be between 2:30 a.m. and 6:00 a.m. except that, on the Sunday that daylight saving time begins as specified in Sec. 175.095(2) of the Wisconsin Statutes, the closing hours shall be between 3:30 a.m. and 6:00 a.m. On January 1 premises operating under a Class "B" or "Class B" license are not required to close.
- b. Between 9:00 p.m. and 8:00 a.m. no person may sell fermented malt beverages or intoxicating liquor on Class B or Class C licensed premises in an original unopened packages, container or bottle or for consumption away from the premises.
- c. Class "A" and "Class A" premises may remain open for the conduct of their regular business but may not sell fermented malt beverages between 9:00 p.m. and 8:00 a.m. Section 9.02(18)(a) of this Code does not apply to Class "A" premises between 9:00 p.m. and 8:00 a.m. or at any other time during which the sale of fermented malt beverages or intoxicating liquor is prohibited.
- d. Hotels and restaurants, the principal business of which is the furnishing of food and lodging to patrons, bowling centers, movie theaters, painting studios, indoor golf and baseball facilities, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but may not sell fermented malt beverages during the hours specified in paragraph (a) of this subsection.
- e. No person shall enter or remain upon licensed premises while such premises are closed, pursuant to statute or ordinance. This section shall not apply to the license holder or agents and employees of the license holder who are performing bona fide services related to the licensed business.

16. Operator's Licenses. **[Ord. O-2003-0038, 6/3/2003; Ord. O-2013-0014, 4/2/2013]**

- a. Operator's License. An operator's license shall entitle the holder thereof to work as an operator upon premises licensed under a retail Class "A" intoxicating liquor or fermented malt beverage license, a retail Class "B"

intoxicating liquor or fermented malt beverage license, or a retail Class "C" wine license. Such licenses will be issued by the Common Council only to persons meeting the requirements set forth in Sections 125.04(5) and 125.17(6) of the Wisconsin Statutes. The license shall be valid for a period of two (2) years, except that it shall be deemed to have been issued July 1 and shall expire on June 30 of the second year.

- b. Provisional Operator's License. **[Ord. O-2018-0037, 9/18/2018]**
 - i. The City Clerk is the official charged with issuing and revoking a provisional operator's license. A provisional license requires an additional fee as specified in the most recent Schedule of Fees resolution.
 - ii. Standards for a provisional license, unless the applicant has a certified copy of a license issued by another municipality, are as follows:
 - (1) The applicant has applied for an operator's license;
 - (2) The applicant for a provisional operator's license shall complete an application attesting he/she has not been convicted of any crime against life and bodily injury, against children, or a violent crime against a child, as set forth in Sec. 111.335 (4) of the Wisconsin Statutes, or crime that substantially relates to the licensing activity. Any false statements made by the licensee on the application may result in revocation of the license by the City Clerk.
 - (3) No provisional operator's license may be issued to a person who has been previously denied an operator's license by the Council.
 - (4) The applicant must provide evidence of completion or enrollment in a responsible beverage server course.
 - iii. Such provisional license shall be valid for not to exceed sixty (60) days or until action of the Common Council, whichever first occurs.
- c. Temporary License. The City Clerk is authorized to issue a temporary operator's license to applicants meeting the qualifications of Subsection (a) if the applicant will be employed by or donating his services to nonprofit corporations and has not held another temporary license during the license year. The temporary license shall be valid for up to fourteen (14) days and the period for which it is valid shall be stated on the license.
- d. Application. A written application shall be filed biennially with the City Clerk, stating the name, residence, age and sex of the applicant. The application shall be referred to the Chief of Police for a report. A license fee and record check fee must accompany the application. There will be no refund of the fees if the license is not subsequently granted.
- e. Possession. Each person who holds an operator's license shall carry that license on his person while engaged in serving alcoholic beverages.

17. Loitering by Underage Persons Where Alcohol is Illegally Served. **[Ord. 6188 (repeal & recreate), 9/19/1995]**

- a. No underage person shall enter, remain or loiter in any public or private place with the knowledge that any fermented malt beverage or other alcohol beverage is being sold, dispensed, served, given away or made available to underage persons.
- b. This subsection shall not apply to underage persons who are accompanied by a spouse who has attained the legal drinking age or a parent or guardian.
- c. No adult may knowingly suffer or permit any underage person to enter,

remain or loiter in any premises, public or private, where alcohol beverages are served, sold, dispensed, given away or made available to underage persons, unless such underage person is accompanied by a spouse who has attained the legal drinking age, a parent or guardian.

18. List of Employees and Performers.

- a. Every person holding a Class "B" Fermented Malt Beverage or Intoxicating Liquor License shall maintain a current list of all persons employed to work in the premises. The list shall also include those persons employed to work after closing hours for the purposes of cleaning the premises.
- b. Every person holding a Class "B" Fermented Malt Beverage or Intoxicating Liquor License who affords patrons entertainment by, or performance of, any act, stunt, music, song or dance by performers under his auspices, whether such performances are paid or not, shall maintain a current list of all performers who perform in the licensed premises.
- c. The lists required above shall contain the name or names (legal, trade and alias), current address and date of birth of each employee or performer and shall be provided to any police officer upon request.

19. Entertainment Standards.

- a. No person shall, on a licensed Class "B" fermented malt beverages or intoxicating liquor premises, perform acts of or acts which constitute or simulate:
 - i. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law; or,
 - ii. The touching, caressing or fondling of the breast, buttocks, anus or genitals; or,
 - iii. The displaying of human genitals, buttocks or pubic area or the female breast below the top of the areola.
- b. No person shall, on a licensed premises, use artificial devices or inanimate objects to perform, simulate or depict any of the prohibited conduct or activities described in subsection (a).
- c. It shall be unlawful for any person to show, display or exhibit on a licensed premises, any film, video, still picture, electronic reproduction or any other visual reproduction or image of any act, other visual reproduction or image of any act or conduct described in subsections (a) and (b).
- d. No person holding a Class "B" fermented malt beverage or intoxicating liquor license, nor his agents or employees, shall allow or permit in or upon the licensed premises any act or conduct described in subsections (a), (b) and (c).

20. License Suspension, Revocation or Nonrenewal. **[Ord. O-2013-0014, 4/2/2013]**

- a. Causes. Any license issued under this section may be suspended, revoked, or non-renewed for cause by the Common Council after notice to the licensee and a hearing. Licenses may be suspended, revoked, or not renewed for the following causes:
 - i. The making of any material false statement in any application for a license.
 - ii. The conviction of the licensee, his agent, manager, operator, or any other employee for keeping a gambling house or a house of prostitution or any felony related to the licensed operation.
 - iii. A showing that the licensee has violated any state law or City ordinance prohibiting the sale of intoxicating liquors or fermented malt beverages to underage persons or to any person who is

- intoxicated or bordering on intoxication.
- iv. The violation of any of the applicable provisions of Section 9.02.
 - v. The violation of any of the excise laws of this state, or failure to provide proof that the licensee is in good standing as required by Sections 77.61(1) and 125.04(5)(a) of the Wisconsin Statutes.
 - vi. The licensed premises is operated in such a manner that it constitutes a public or private nuisance or that conduct on or emanating from the licensed premises, including but not limited to loud and raucous noise, has had a substantial adverse effect upon the health, safety, convenience or prosperity of the immediate neighborhood.
 - vii. Failure of the licensee to operate the premises in accordance with the floor plan or plan of operation submitted pursuant to Section 9.02(5).
 - viii. If the licensee is a corporation or licensed limited partnership, the conviction of the corporate agent, officers, directors, members or any shareholders holding twenty percent (20%) or more of the corporation's total or voting stock, or proxies for that amount of stock, or any of the offenses enumerated in Section 125.12(2)(ag) of the Wisconsin Statutes.
 - ix. Any of the grounds set forth in Section 125.12(2)(ag) of the Wisconsin Statutes.
 - x. The licensee is a habitual law offender as set forth in 125.04(5)(b) of the Wisconsin Statutes.
 - xi. The failure to pay any tax or forfeiture as provided in Section 1.08(a).
 - xii. The City has been notified pursuant to Section 125.33(7)(b) and 125.69(4)(b) of the Wisconsin Statutes, that the licensee has failed to pay for alcohol beverages.
- b. State Law Applicable. Except as otherwise provided herein, the provisions of Section 125.12(2)(ag) to (c) and 125.12(3) of the Wisconsin Statutes, shall be applicable to proceedings for the suspension, revocation, and nonrenewal of all licenses granted under this section.
- c. Commencement of Proceedings. Suspension, revocation, or nonrenewal proceedings may be instituted by the License and Health Committee of the Common Council upon its own motion, upon sworn written charges made and filed with the Clerk/Treasurer by the Chief of Police, or upon a sworn written complaint filed with the Clerk/Treasurer by any City resident.
- d. Procedure.
- i. Upon receipt of a sworn complaint, either from the Chief of Police, a resident of the City, or upon directive of the Committee, the License and Health Committee shall direct the City Attorney to prepare a summons and have the summons and complaint served upon the licensee pursuant to Section 125.12(2)(ar) of the Wisconsin Statutes.
 - ii. The summons and complaint shall contain: the date and time for appearance by the licensee; a statement of the Common Council's intention to suspend, revoke, or not renew the license in the event any of the allegations are found to be true; a statement of the reasons for suspension, revocation, or nonrenewal; notification to the licensee of an opportunity to be heard, respond to and challenge the reasons for suspension, revocation, or nonrenewal and to present and cross examine witnesses under oath; notification to the licensee of the right to be represented by counsel of the licensee's choice and at the

- licensee's expense.
- iii. If the licensee fails to appear on the date and time designated in the summons, the License and Health Committee may enter a default judgment and take the allegations of the complaint to be true. The License and Health Committee shall then deliberate on what sanction, if any, to impose consistent with Section 125.12 of the Wisconsin Statutes.
 - iv. If the licensee appears before the License and Health Committee at the date and time designated in the summons and denies the material charges contained in the complaint, an evidentiary hearing shall be scheduled. If the licensee does not appear or appears but does not deny the material charges contained in the complaint, the complaint may be taken as true and the Committee shall hear the arguments of the complainant and, if applicable, the licensee in connection with whether to non-renew, revoke or suspend the license and the length of the suspension.
 - v. If the matter proceeds to hearing before the Committee, the following procedures shall apply:
 - (1) The complainant shall first present evidence in support of the complaint.
 - (2) After the complainant rests, the licensee may present evidence in opposition to the charges.
 - (3) The complainant and licensee may subpoena and present witnesses. All witnesses shall testify under oath or affirmation and shall be subject to cross examination.
 - (4) The complainant and licensee shall each be limited to one (1) hour for testimony unless the Chair, subject to approval of the Committee, extends the time to assure a full and fair presentation.
 - (5) Questions by Committee members or the advising City Attorney and answers to such questions shall not be counted against the time limitations.
 - (6) At the close of testimony, the complainant and licensee shall be given a reasonable time to make arguments upon the evidence produced at hearing.
- e. Miscellaneous Procedural Matters.
- i. At all stages of the proceedings, the licensee shall be entitled to appear in person or by an attorney of his own expense.
 - ii. If the complaint is in the name of the Committee or is brought by a City official in his/her official capacity, the complainant shall be represented by a prosecuting City Attorney.
 - iii. The Committee shall be, when required, advised by an advisory City Attorney who shall not be the same individual as the prosecuting City Attorney.
 - iv. The Chair of the License and Health Committee shall be the presiding officer. The Chair shall direct that oaths and affirmations be administered and subpoenas issued upon request of either side. The Chair shall ensure that an orderly hearing is conducted in accordance with the provisions of this section. The Chair shall rule on objections to the admissibility of evidence. Any ruling of the Chair shall be final

- unless appealed to the Committee and a majority vote of those members present and voting reverses such ruling.
- v. An audio recording or stenographic record shall be made of all proceedings at the hearing. Any interested party may obtain a copy of the recording or transcript at his or her own expense.
- f. Findings and Recommendations.
- i. After the close of the hearing, the Committee shall deliberate and reach a decision. The Committee shall prepare findings on factual matters, conclusions of law, and a recommendation on what action, if any, should be taken with regard to the license(s) at issue. The report shall be filed with the City Clerk/Treasurer with a copy to the licensee and complainant. The findings and recommendations shall be distributed to each member of the Common Council.
 - ii. The licensee and complainant may file a written statement or response to the findings and recommendation, including objections, exceptions, and arguments of fact and law. A written statement must be filed with the City Clerk/Treasurer before the close of business on a day that is at least three (3) working days prior to the date set for determination by the Common Council. Copies of written statements shall be provided to each member of the Common Council at least twenty-four (24) hours before any vote on the matter is scheduled before the Common Council.
- g. Common Council Action.
- i. Not less than five (5) working days prior to the matter being scheduled before the Common Council, the Clerk/Treasurer shall notify the licensee and complainant by U.S. first class mail, postage prepaid, sent to the last known address, that the Common Council will convene to determine the matter.
 - ii. Unless an alderperson states that he/she has not read the findings and recommendations, and written statements, if any, the matter shall proceed to debate amongst members of the Common Council. Neither the complainant nor the licensee shall be permitted to make oral arguments.
 - iii. The Common Council shall determine by a majority vote of those in attendance and voting whether to adopt the recommendation of the Committee or make such modification as is deemed appropriate. Such vote shall be a roll call vote. Upon an affirmative vote suspending, revoking, or not renewing the license(s), the Clerk/Treasurer shall give notice to the person whose license is affected. If the Common Council finds the complaint to be untrue or unsupported by sufficient evidence, the proceedings shall be dismissed without cost to the accused.
- h. Surrender of License.
- i. A licensee may, at any time during the license year surrender a license to the City Clerk/Treasurer, along with a statement, in writing, that the licensee no longer wishes to conduct licensed activity at the licensed premises.
 - ii. The Clerk/Treasurer shall notify the License and Health Committee of the surrender. Except as set forth in Subsection (h)3. below, the surrender shall operate to extinguish any right the licensee had to the

license or to conduct licensed activity at the premises listed in the license.

- iii. If a summons and complaint has been issued against the licensee seeking suspension, revocation, or nonrenewal of the license, the surrender of the license shall be deemed a request and the matter shall be referred to the License and Health Committee. The Committee may approve the request or deny the request and proceed to hearing.
- iv. Any request to have a surrendered license returned shall be treated as a new license application and the requestor must fill out the required applications and pay the required fees. The request shall thereafter be treated as all other new license applications.

21. Fees.

See Fee Schedule.

22. Presence of Underage Persons On Specified Dates When No Alcohol Beverages Are Sold. [Ord. O-2012-0020, 6/19/2012]

- a. Underage persons may enter or remain on a Class "B" or "Class B" licensed premises, as set forth in Wisconsin Statutes § 125.07(3)(a)(10), under the following conditions:
 - i. Notification of Dates. The licensee or agent shall notify the Police Chief at least seven (7) days prior to any date on which underage persons will be permitted to enter and remain on the premises. The time period may be waived by the Police Chief or a designee upon determination of good cause or special circumstances.
 - (1) Each event shall require separate notification. Notification shall be in writing and contain the following information: dates and times of the event; specific nature of the event, including description of entertainment; number of persons expected on the premises.
 - ii. Regulations. The operation of a licensed premises during those times when underage persons are on the premises under this section shall be subject to the following regulations:
 - (1) There shall be at least a one-hour period between the serving of the last alcohol beverage and the commencement of operations under this section.
 - (2) No alcohol beverages may be consumed, sold or given away in any part of the licensed premises.
 - (3) All alcoholic beverages on tables shall be removed.
 - (4) The licensee, the agent named in the license if the licensee is a corporation, or a person who has an operator's license shall be on the premises during the event unless all alcohol beverages are stored in a locked portion of the premises.
 - (5) The licensee shall be responsible for the adequate supervision of the premises, and such supervision shall consist of adult persons twenty-one (21) years of age or older.
 - (6) Closing hours shall be no later than 1:00 a.m. on weekdays and 1:30 a.m. on Saturdays and Sundays.
 - (7) No persons under age seventeen (17) shall be allowed on the premises, unless accompanied by a parent.
 - (8) All underage persons must be off the licensed premises at

least thirty (30) minutes prior to the resumption of alcohol beverage sales.

23. Late Fees.

See Fee Schedule.

24. Extension of Premises

a. Temporary Extension

- i. A licensee may apply for a temporary extension of premises by submitting a request to the city clerk in a form approved by the clerk and paying the fee listed on the Fee Schedule.
- ii. Each licensee shall provide a description of the temporary premises and any other information required by the city clerk. The request shall list specific dates for which the licensee requests an extension of premises or list a range of dates not to exceed 6 months for which the licensee requests an extension of premises.
- iii. Upon receiving a request under this paragraph, the city clerk shall notify the Planning Department, Building Inspection and Neighborhood Services Department, Health Department, and Police Department of the request, and the departments may provide information regarding the request to the common council.
- iv. The common council shall determine whether to grant a request for temporary extension of premises under the same standards as a new license application. A temporary extension of premises creates a property interest only for the dates and times approved by the common council. Upon expiration of a temporary extension of premises, the temporary premises ceases to exist. Approval of a temporary extension of premises does not create a right to future approval.

- b. Permanent Extension. A licensee requesting a permanent extension shall pay the fee listed in the Fee Schedule at the time of the request. The council shall determine whether to grant the request for permanent extension of premises under the same standards as a new license application.

9.025 Public Hearings For Licenses

1. Applicability. Except where prohibited by law, the common council may hold a public hearing on any license or permit application prior to granting or denying that application.
2. Public Hearing. If the common council orders a public hearing under this section, the city clerk shall schedule the hearing to occur no sooner than 7 days after the date upon which the council ordered the public hearing. During the public hearing, the common council may receive comments from any person regarding the license application that is the subject of the hearing.
3. Notice. If the common council directs the city clerk to send notice under this section, the clerk shall send notice as follows, unless otherwise directed by the common

council:

- a. The notice shall go to occupants of property located within 250 feet of the tax parcel upon which the proposed licensed premises is located.
- b. The method of notice shall be by mail, email, physical delivery, or any other method of direct notice, at the clerk's discretion.
- c. The content of the notice shall include a copy of the license application, the date, time, and location of the public hearing, a statement that any person may appear at the public hearing to comment on the application, and any other information the clerk deems relevant.

9.035 (Reserved)

Editor's Note: Former Section 9.035, Massage parlors, as amended, was repealed 3-20-2018 by Ord. No. O-2018-0010.

9.036 Practice Of Massage Or Bodywork Therapy Requiring State Licensing

1. No person who is required to hold a license, certificate of registration or other credential pursuant to Chapter 460, Wis. Stats., shall practice that profession within the corporate limits of the City unless that person holds a valid, unexpired license, certificate of registration or credential issued by the State of Wisconsin.
2. No person who is required to hold a license, certificate of registration or other credential pursuant to Chapter 460, Wis. Stats., shall advertise the availability of services to be performed within the corporate limits of the City unless he or she holds a valid, unexpired license, certificate of registration or credential issued by the State of Wisconsin.
3. No business whose employees are required to hold a license, certificate of registration or other credential pursuant to Chapter 460, Wis. Stats., shall allow employees to practice that profession within the corporate limits of the City unless the employees hold a valid, unexpired license, certificate of registration or credential issued by the State of Wisconsin.
4. No business whose employees are required to hold a license, certificate of registration or other credential pursuant to Chapter 460, Wis. Stats., shall advertise the availability of services to be performed within the corporate limits of the City unless the employees of the business hold a valid, unexpired license, certificate of registration or credential issued by the State of Wisconsin.

[Ord. O-2017-0033, 9/5/2017]

9.037 Public Entertainment License

1. Definitions
 - a. "Premises" means the area described within a license issued under this section.
 - b. "Public entertainment" means any activity or equipment made available with or without fee to the general public for amusement including, but not limited to: bowling centers, dance halls, roadhouses, billiard and pool tables, amusement devices, theater, live or pre-recorded music, movies, and other places of amusement. This definition applies to any entertainment provided commercially for gain by membership, season ticket, invitation, or other system open or offered to the public generally.
2. License Required. Except as stated in sub. 3, no person may provide public entertainment without a license issued under this section.

3. Exceptions. No license is required under this section for any of the following activities:
 - a. Public entertainment provided by a charitable, nonprofit, or educational institution, religious organization, or governmental entity upon land owned and exclusively occupied by that entity.
 - b. Public entertainment provided by an organization formed for the purpose of ballet performance and instruction and which has received tax exempt status from the United States Internal Revenue Service.
 - c. Billiard tables provided on the premises of bona fide clubs or social organizations not operating for private profit which provide other membership privileges and activities, even though there is a charge for playing billiards.
 - d. Dancing instruction for compensation without any performance for the general public.
 - e. Television or music intended to entertain only employees and not customers.
 - f. Public entertainment provided on the grounds of and during a special event permitted under WAMC 6.032.
4. Application
 - a. Any person seeking a public entertainment license shall file a complete application with the city clerk in a form approved by the clerk.
 - b. At the time of filing an application, the applicant shall submit:
 - i. A nonrefundable license fee in the amount stated on the Fee Schedule at the time of application.
 - ii. A plan of operation with a floor plan of the premises
 - c. The clerk shall notify the Fire, Health, Building Inspection and Neighborhood Services, Planning, and Police Departments of each application received. Each department shall report to the common council any information that may disqualify the applicant.
5. Disqualifications. Any applicant may be disqualified for a license if any of the following applies to the applicant or to any members, shareholder, and officers of any applicant that is not an individual:
 - a. The applicant has an arrest or conviction record, subject to Wis. Stat. 111.335(4).
 - b. The applicant made false statements on the application or to the common council or a committee thereof.
 - c. The applicant violated the license regulations in this section.
 - d. The applicant has been denied a license or had a license revoked in the 12 months preceding the application date.
 - e. The activities on the premises will cause or have caused a nuisance.
6. Term, Issuance, and Renewal
 - a. Regular License
 - i. For a new application, the common council may grant a license to any applicant who is not disqualified.
 - ii. A license shall be valid on the date of issuance and expire on June 30 of each year.
 - iii. For a renewal application, the common council shall grant the license unless the applicant is disqualified.
 - b. Temporary License
 - i. The common council may grant a temporary license to any applicant who is not disqualified.
 - ii. A license shall be valid only on the dates approved by the common

council.

- c. The city clerk shall issue any license granted by the common council. Licenses are non-transferable.
- d. The city clerk shall notify any applicant whose application was denied of the applicant's appeal rights under WAMC 2.48(5).

7. Regulations. Licenses granted under this section are subject to the following regulations:

- a. The licensee shall display a copy of the license prominently on the premises.
- b. The licensee shall file updated information with the city clerk within 10 days after any information on a license changes.
- c. No person may refuse the entry of police officers, health officers, building inspectors, or zoning inspectors on to the premises at all reasonable hours.
- d. No person may permit disorderly, riotous, or indecent conduct at any time on any premises.
- e. No premises may remain open between the hours of 11:00 p.m. and 9:00 a.m. of any day, unless the common council expands the open hours for the premises. No premises may remain open outside of the hours set forth by the common council.
- f. The premises may not violate a health, zoning, or building code provision.
- g. No person under the age of 18 may be permitted on a premises where amusement devices are offered to the public before the hour of 3:00 P.M. on any day that the West Allis - West Milwaukee public schools are in session, unless accompanied by their legal parent or guardian.
- h. Any amusement device on a premises shall be arranged so that persons using the amusement device will not obstruct a path at least 3 feet wide on the side of the user opposite of the amusement device.
- i. No licensee may transfer a license to another person.
- j. No person may violate any conditions imposed upon a specific license at the time the license was granted or imposed on an existing licensee with the licensee's consent.

Penalties. Any person who violates any provision under this section shall forfeit up to \$500 for each violation. Each day that any ongoing violation continues is a separate offense.

8. **Suspension, Revocation, and Non-Renewal**

- a. Authority. The common council may suspend, revoke, or refuse to renew a public entertainment license if the applicant becomes disqualified.
- b. Commencement. Based on allegations submitted to the license and health committee, an alderperson may approve the issuance of a summons and complaint against a license. The complaint shall contain the allegations. The summons shall state the date on which and location where the licensee must appear. The summons and complaint shall be signed by a member of the committee or an attorney therefore. Service shall be in the manner provided under Wis. Stat. Ch. 801 for service in civil actions in circuit court
- c. Procedure.
 - i. If the licensee does not appear as required by the summons, the allegations of the complaint shall be taken as true and if the municipal governing body or the committee finds the allegations sufficient, the license shall be revoked. The clerk shall give notice of the revocation to the person whose license is revoked.
 - ii. If the licensee appears as required by the summons and denies the

complaint, both the complainant and the licensee may produce witnesses, cross-examine witnesses and be represented by counsel. The licensee shall be provided a written transcript of the hearing at his or her expense. If the hearing is held before the municipal governing body and the complaint is found to be true, the license shall either be suspended for not less than 10 days nor more than 90 days or revoked.

- iii. If the hearing is held before a committee of a city council, the committee shall submit a report to the city council, including findings of fact, conclusions of law and a recommendation as to what action, if any, the city council should take with respect to the license. The committee shall provide the complainant and the licensee with a copy of the report. Either the complainant or the licensee may file an objection to the report and shall have the opportunity to present arguments supporting the objection to the city council. The city council shall determine whether the arguments shall be presented orally or in writing or both. If the city council, after considering the committee's report and any arguments presented by the complainant or the licensee, finds the complaint to be true, or if there is no objection to a report recommending suspension or revocation, the license shall be suspended or revoked.
 - iv. The municipal clerk shall give notice of each suspension or revocation to the person whose license is suspended or revoked.
 - v. If the municipal governing body finds the complaint untrue, the proceeding shall be dismissed without cost to the accused.
- d. Judicial Review. The suspension, revocation, or nonrenewal of any license may be reviewed by writ of certiorari to the Milwaukee County Circuit Court.

Wis. Stat. 60.23(10), 62.26(1)

9.04 Cigarette And Tobacco Product Sales

1. State Statute Adopted. Except as otherwise provided herein, § 134.65 Wis. Stats., as it is from time to time amended, is hereby adopted by reference.
2. License Required. No person shall in any manner, or upon any pretense, or by any device, directly or indirectly sell, expose for sale, possess with intent to sell, exchange, barter, dispose of or give away any cigarettes or tobacco products, as defined in §§ 139.30(3m) and 139.75(12) Wis. Stats., to any person not holding a license under Chapter 134 of the Wisconsin Statutes or a permit under §§ 139.30 to 139.41 or 139.79 Wis. Stats., without first obtaining a license from the City.
3. License Requirements. The City Clerk may not issue a license under Subsection (2) unless the applicant specifies in the license application whether the applicant will sell, exchange, barter, dispose of or give away the cigarette or tobacco products over the counter or in a vending machine, or both.
4. License Issuance. Upon filing of a proper written application and payment of the license fee of one hundred dollars (\$100), a license shall be issued on July 1 of each year or when applied for and continue in force until the following June 30 unless sooner revoked. Each license shall name the licensee and specifically describe the premises where such business is to be conducted.
5. License Transfer Prohibited. A license shall not be transferable from one person to another nor from one premises to another.

6. Recordkeeping. Every licensed retailer shall keep complete and accurate records of all purchases and receipts of cigarettes and tobacco products. Such records shall be preserved on the licensed premises for two (2) years in such a manner as to insure permanency and accessibility for inspection and shall be subject to inspection at all reasonable hours by authorized state and local law enforcement officials.
7. Revocation of License. The City may revoke, suspend or refuse to renew any license issued under this section.
 - a. Causes. Any duly authorized City employee may file a sworn written complaint, supported by report from a law enforcement agency, with the City Clerk, alleging at least two (2) separate instances of one (1) or more of the following about a person holding a license issued under this section:
 - i. The person has violated § 134.66(2)(a), (am), (cm), or (e), Wis. Stats., or Section 6.02(19) of the West Allis Revised Municipal Code.
 - ii. The person's premises are disorderly, riotous, indecent, or improper.
 - iii. The person has knowingly permitted criminal behavior, including prostitution and loitering, to occur on the licensed premises.
 - iv. The person has been convicted of any of the following:
 - (1) Manufacturing, distributing, or delivering a controlled substance or controlled substance analog under § 961.41(1), Wis. Stats.
 - (2) Possessing with intent to manufacture, distribute or deliver a controlled substance or controlled substance analog under § 961.41(1m), Wis. Stats.
 - (3) Possessing with intent to manufacture, distribute, or deliver, or manufacturing, distributing, or delivering a controlled substance or controlled substance analog under a substantially similar federal law or substantially similar law of another state.
 - (4) Possessing any of the materials listed in § 961.65 Wis. Stats., with intent to manufacture methamphetamine under that section or under a federal law or a law of another state that is substantially similar to § 961.65 Wis. Stats.
 - (5) The person knowingly allows another person who is on the licensed premises to do any of the actions described in Subsection (7)(a)4a through d.
 - b. Procedure. Upon the filing of the complaint, the Common Council shall issue a summons, signed by the Clerk, and directed to any peace officer in the City. The summons shall command the person complained of to appear before the Common Council on a day and place named in the summons, not less than three (3) days and not more than ten (10) days from the date of issuance, and show cause why his or her license should not be revoked, suspended, or not renewed. The summons and a copy of the complaint shall be served on the person complained of at least three (3) days before the date on which the person is commanded to appear. Service shall be in the manner provided in Chapter 801 Wis. Stats., for service in civil actions in Circuit Court.
 - c. Hearing.
 - i. If the person does not appear as required by the summons, the allegations of the complaint shall be taken as true, and if the City governing body finds the allegations to be sufficient grounds for revocation or nonrenewal, the license shall be revoked or not

- renewed. The City Clerk shall give notice of the revocation or nonrenewal to the person whose license is revoked or not renewed.
- ii. If the person appears as required by the summons and answers the complaint, both the complainant and the person complained of may produce witnesses, cross-examine witnesses, and be represented by counsel. The person complained of shall be provided a written transcript of the hearing at his or her expense. If upon the hearing, the Common Council finds the allegations of the complaint to be true, and if the Common Council finds the allegations to be sufficient grounds for suspension, revocation, or nonrenewal, the license shall be suspended for not less than ten (10) days nor more than ninety (90) days, revoked, or not renewed.
 - iii. The City Clerk shall give notice of each suspension, revocation, or nonrenewal to the person whose license is suspended, revoked, or not renewed.
 - iv. If the Common Council finds the allegations of the complaint to be untrue, the complaint shall be dismissed without cost to the person complained of.
- d. Disqualification for License. When a license is revoked under this subsection, the revocation shall be recorded by the City Clerk and no other license may be issued under this section to the person whose license was revoked within the twelve (12) months after the date of revocation. No part of the fee paid for any license that is revoked under this subsection may be refunded.
- e. Circuit Court Review. The action of the Common Council in suspending, revoking, or not renewing any license under this subsection, or the failure of the Common Council to suspend, revoke, or not renew any license under this subsection for good cause, may be reviewed as provided in § 134.65(7)(e), Wis. Stats.
8. Penalties. Any person shall forfeit not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100) for the first offense and not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200) for the second or subsequent offense, together with the costs of prosecution; in default of payment thereof, the person shall be imprisoned in the House of Correction until such forfeiture and costs are paid, but not more than the number of days set forth in § 800.095(1)(b)1, Wis. Stats. Each and every day constitutes a separate offense.

[Ord. 6216, 3/20/1996; Ord. 6391, 6/16/1998; Ord. O-2016-0036, 8/2/2016]

9.07 Misuse Of 911

1. Definitions.

"Emergency" is defined as a situation in which immediate response by public safety personnel is essential and an existing or very probable situation exists of bodily harm or life-threatening illness or condition; property damage or loss; or escape of a suspect in a criminal offense or its municipal offense counterpart.

2. No person shall intentionally dial the emergency telephone number 911 to report an emergency knowing that the fact situation which he or she reports does not exist.
3. No person shall intentionally dial the emergency telephone number 911 for any other purpose other than to report an emergency.

4. Penalties.

- a. Any person violating Subsection (2) or (3) of this ordinance shall be required to forfeit not less than two hundred fifty dollars (\$250.) nor more than five hundred dollars (\$500.). The person shall be required to pay the costs of prosecution. In default of payment thereof, the person shall be imprisoned in the Milwaukee County House of Correction until such forfeiture and costs are paid, but not more than the number of days set forth in sec. 800.095(4) of the Wisconsin Statutes, or by suspension of the defendant's operating privilege, pursuant to secs. 343.30 and 345.47 of the Wisconsin Statutes. Each and every day that an offense continues constitutes a separate offense.

[Ord. O-2010-0012, 4/6/2010]

9.08 Entertainment Device Distributor License

1. Definition. "Entertainment device" means any equipment designed to provide amusement to the user including, but not limited to: amusement devices, jukeboxes, and other similar devices.
2. License Required. No person may lease or place an entertainment device upon another person's public place within the City, or receive profits from such a lease, without first having obtained a license under this section.
3. Application
 - a. Any person seeking an entertainment device distributor license shall file a complete application with the city clerk in a form approved by the clerk.
 - b. At the time of filing an application, the applicant shall submit:
 - i. A nonrefundable license fee in the amount stated on the Fee Schedule at the time of application.
 - ii. A list of all locations within the City at which the applicant has placed entertainment devices within the past year or will place amusement devices within the next year under the terms of a contract. The list shall include the addresses of the premises where the devices were placed or are contracted to be placed, the number of machines placed or to be placed at the premises, and the legal names of the entities contracting for each entertainment device.
 - c. The clerk shall notify the Police Departments of each application received. The department shall report to the common council any information that may disqualify the applicant.
4. Disqualifications. Any applicant may be disqualified for a license if any of the following applies to the applicant or to any members, shareholder, and officers of any applicant that is not an individual:
 - a. The applicant has an arrest or conviction record, subject to Wis. Stat. 111.335(4).
 - b. The applicant made false statements on the application or to the common council or a committee thereof.
 - c. The applicant violated the license regulations in this section within 5 years of the date of application.
 - d. The applicant has been denied a license or had a license revoked in the 12 months preceding the application date.
5. Term, Issuance, and Renewal
 - a. For a new application, the common council may grant a license to any applicant who is not disqualified.
 - b. A license shall be valid on the date of issuance and expire on June 30 of each year.
 - c. For a renewal application, the common council shall grant the license unless the applicant is disqualified.
 - d. The city clerk shall issue any license granted by the common council.

- e. The city clerk shall notify any applicant whose application was denied of the applicant's appeal rights under WAMC 2.48(5).
6. Regulations. Licenses granted under this section are subject to the following regulations:
- a. The licensee shall maintain a copy of the license at the licensee's place of business and produce the license upon the request of a law enforcement officer.
 - b. The licensee shall file updated information with the city clerk within 10 days after any information on a license changes.
 - c. No licensee may transfer a license to another person.
 - d. No person may violate any conditions imposed upon a specific license at the time the license was granted or imposed on an existing licensee with the licensee's consent.
7. Penalties. Any person who violates any provision under this section shall forfeit up to \$500 for each violation. Each day that any ongoing violation continues is a separate offense.
8. Suspension, Revocation, and Non-Renewal
- a. Authority. The common council may suspend, revoke, or refuse to renew an entertainment device distributor license if the applicant becomes disqualified.
 - b. Commencement. Based on allegations submitted to the license and health committee, an alderperson may approve the issuance of a summons and complaint against a license. The complaint shall contain the allegations. The summons shall state the date on which and location where the licensee must appear. The summons and complaint shall be signed by a member of the committee or an attorney for the committee. Service shall be in the manner provided under Wis. Stat. Ch. 801 for service in civil actions in circuit court.
 - c. Procedure.
 - i. If the licensee does not appear as required by the summons, the allegations of the complaint shall be taken as true and if the common council or the committee finds the allegations sufficient, the license shall be revoked. The clerk shall give notice of the revocation to the person whose license is revoked.
 - ii. If the licensee appears as required by the summons and denies the complaint, both the complainant and the licensee may produce witnesses, cross-examine witnesses and be represented by counsel. The licensee shall be provided a written transcript of the hearing at his or her expense.
 - iii. If the hearing is held before the common council and the complaint is found to be true, the license shall either be suspended for not less than 10 days nor more than 90 days or revoked.
 - iv. If the hearing is held before a committee of a common council, the committee shall submit a report to the common council, including findings of fact, conclusions of law and a recommendation as to what action, if any, the common council should take with respect to the license. The committee shall provide the complainant and the licensee with a copy of the report. Either the complainant or the licensee may file an objection to the report and shall have the opportunity to present arguments supporting the objection to the common council. The common council shall determine whether the arguments shall be presented orally or in writing or both. If the common council, after considering the committee's report and any arguments presented by the complainant or the licensee, finds the complaint to be true, or if there is no objection to a report recommending suspension or revocation, the license shall be suspended or revoked.
 - v. The city clerk shall give notice of each suspension or revocation to the person whose license is suspended or revoked.
 - vi. If the common council finds the complaint untrue, the proceeding shall be dismissed without cost to the accused.
 - d. Judicial Review. The suspension, revocation, or nonrenewal of any license may be reviewed

by writ of certiorari to the Milwaukee County Circuit Court.

9.11 (Reserved)

[Ord. 6347, 11/17/1997; Ord. 6355, 1/6/1998; Ord. 6387, 6/2/1998; Ord. 6388, 6/2/1998; Ord. 6424, 3/2/1999; Ord. O-2002-0027, 2/4/2003 repeal]

9.128 Trailer And Truck Rental

1. License. No person, firm or corporation shall engage in the business of renting utility trailers, travel trailers, camping trailers, truck campers, motorized camping vans and/or van-type trucks, unless licensed by the City and except in accordance with the terms and requirements of this section. For purposes of this section, the definition of "utility trailer," "travel trailer," "camping trailer," "truck camper" and "motorized camping van" shall be the same as these terms are defined in sections 12.16(31) through (35) of this Code.
2. License Application.
 - a. Written applications for original and renewal licenses to rent such trailers and/or trucks shall be on forms provided by the City Clerk. The license year shall be from July 1 to June 30. Any license granted under authority of this section shall be nontransferable as to licensee or premises covered by such license.
 - b. The license application shall contain the following information:
 - i. Name and address of applicant.
 - ii. Address, location and legal description of the premises for which the license is sought. The applicant shall submit with the application for a license, a plot plan drawn to accurate scale showing the location on such premises of any buildings or structures, driving lanes, entrances and exits and parking areas for such trailers and trucks or for any motor vehicles.
 - iii. If the applicant is a partnership, association or corporation, the application shall set forth the names and addresses of the partners, officers, or members together with the information required in Paragraph 1 hereof. If the applicant is a corporation, the application shall set forth such facts together with the state of incorporation. The application shall also contain the names and addresses of one or more persons whom such applicant shall designate as manager or person in charge of the premises.
 - c. Any application for such trailer and truck rental license, including renewal applications, shall be filed with the City Clerk not less than thirty (30) days prior to the date the license is desired or required to be obtained, and no license shall be issued until at least thirty (30) days has elapsed after the application therefor has been filed.
 - d. Whenever anything occurs to change any facts set out in any application, the licensee shall file with the City Clerk within ten (10) days after the occurrence thereof a notice in writing of such change.
3. Fees. The annual license fees for such trailer and truck rental operation shall be eight dollars (\$8.00) per license year, payable to the City Clerk/Treasurer upon application, for each trailer or truck to be located on such premises. **[Ord. 6055, 11/15/1993; Ord. O-2009-0033, 11/3/2009]**

4. Reports Required. License applications shall be referred by the City Clerk to the Director of the Department of Building Inspections and Zoning and Fire Chief who shall inspect the premises to be licensed and shall report on same to the Common Council within fifteen (15) days after referral. The inspection shall certify that the subject premises are in conformance with all applicable codes and regulation. Where violations of existing codes and regulations exist, these must be corrected prior to the issuance of the license.
5. Common Council Action. Upon receipt of said reports and upon finding by the Common Council that the following requirements have been met and the granting of the license will not adversely affect the public health, welfare and safety, the license shall be granted by the Common Council, signed by the City Clerk and thereafter issued by the City Clerk to the licensee upon presentation of a receipt of payment of the required fees from the City Treasurer.
 - a. The premises and all structures thereon shall be so situated and constructed that the rental of such trailers and/or trucks may be conducted in a sanitary manner, shall comply with municipal and state safety fire requirements, zoning and building codes and shall be open for inspection during normal business hours by proper health, fire and police authorities.
 - b. Premises shall be kept reasonably clean and free of litter and debris. No refuse, trailer or truck parts or accessories, or junked trailers or trucks, shall be permitted on the premises unless they are stored within a structure or container approved by the Director of the Department of Building Inspections and Zoning.
 - c. Areas used for parking such trailers shall provide at least one hundred (100) square feet of space for each such trailer; areas used for parking van-type trucks and all other motor vehicles shall provide spaces of a size required in Sections 12.12(3) and 12.43(2) of this Code, whichever is applicable. Such areas shall be surfaced with bituminous asphalt or concrete, shall be provided with underground storm drains as required by Sections 16.09(21) and (22) of this Code, shall provide adequate driving lanes, entrances and exits, and all lanes, drives, entrances, exits and parking spaces shall be clearly marked.
 - d. Where a property line of a premise to be licensed abuts upon a residential zoned district as established in Chapter XII of this Code or is separated from such district by an alley, there shall be provided a solid wall, fence or hedge not less than four (4) feet high nor more than six (6) feet high along the abutting lot line and shall be installed in accordance with Section 10.035 of this Code. Where such property line abuts an alley, the Director of the Department of Building Inspections and Zoning may authorize openings in such wall, fence or hedge to permit access to the premises from such alley for entering, exiting and parking and in the interest of safety may authorize a reduction in height requirements of such wall, fence or hedge.
 - e. The licensee shall have procured all other required permits and license, including, but not limited to, an occupancy permit pursuant to Section 12.44 of this Code and, where required, an off-street parking permit pursuant to Section 10.13 of this Code.
6. Revocation of License. The license provided herein shall be revocable at any time by the Common Council after a hearing at which it has been found the licensee has failed or refused to comply with the terms and conditions of this section or lawful orders issued hereunder. A revocation hearing shall be held by the Common Council upon its

own motion or upon a complaint in writing duly signed and verified by the Director of the Department of Building Inspections and Zoning. Such complaint shall state the nature of the alleged failure to comply with this section of lawful order issued hereunder. A copy of the complaint, together with a notice of hearing, shall be served upon the licensee not less than ten (10) days prior to the date of hearing.

7. Enforcement. The Director of the Department of Building Inspections and Zoning is hereby designated as the administrator of this section. He shall cause to have inspected at the time that any application, including renewal applications for a license, is received, or upon written complaint of violations of this section, all premises covered by this section. Upon a finding that a licensee is in violation of this section, the Director shall issue a written order requiring compliance within thirty (30) days of date of order with the terms of this section. Should the licensee fail to comply with the order, the Director shall submit in writing a complaint to the Common Council which shall hold a hearing, as prescribed in section (6) above.

9.13 Salvage And Recycling Centers

1. License Required. No person or persons, association, partnership, firm or corporation shall keep, conduct or maintain with the City any building, structure, yard or place for keeping, storing or piling in commercial quantities, whether temporarily, irregularly or continually, or for the buying or selling at retail or wholesale or dealing in any old, used or second hand materials of any kind, including cloth, rags, clothing, paper, rubbish, bottles, rubber, iron, brass, copper or other metal, furniture, motor vehicles or other articles, which from its worn condition renders it practically useless for the purpose for which it was made and which is commonly classed as junk or recyclable material, whether within a fixed place of business or as an itinerant peddler, without first having obtained and paid for a license as hereinafter provided. One carrying on the aforesaid business shall be referred to herein as a "salvage dealer."
2. Every applicant for a license to engage in the business of salvage dealing shall file with the City Clerk a written application upon a form prepared and provided by the City Clerk, signed by the applicant or applicants. The application shall contain: **[Ord. O-2015-0015, 2/17/2015]**
 - a. The names and residences of the applicants, if an individual, partnership or firm, or the names of the principal officers and their residences, if the applicant is an association or corporation.
 - b. Whether the applicant or applicants or officers or managers of a corporation have committed a crime, statutory violation punishable by forfeiture, or county or municipal ordinance violation; and, if so, what offense, when, and in what court.
 - c. Whether the applicant or applicants or officers or manager of applicant has been employed by a salvage dealer or has been a salvage dealer.
 - d. The detailed nature of the business to be conducted and the kind of materials to be collected, bought, sold or otherwise handled.
 - e. The premises where such business is to be located or carried on.
 - f. Whether the business intends to deal in, accumulate or store junked motor vehicles or parts thereof.
3. Notarization. Every application for a license to engage in the business of salvage dealer shall be signed and acknowledged before a notary public or other officer authorized to administer oaths.
4. Requirements for License.

- a. The City Clerk shall report each application to the Police Chief, Health Commissioner, Fire Chief, Director of Development, and Director of Building Inspection and Neighborhood Services, who shall inspect or cause to be inspected such premises and applicants to determine whether they comply with all laws, ordinances, rules and regulations. **[Ord. O-2015-0015, 2/17/2015]**
 - b. The premises of the salvage dealer and all structures thereon shall be so situated and constructed that the business may be carried on in a sanitary and safe manner and shall be arranged so that thorough inspections may be made at any reasonable time by the proper health, fire, building, zoning, and police authorities. **[Ord. O-2015-0015, 2/17/2015]**
 - c. Prior to the license being granted, the applicant shall submit a site and landscape/screening plan to the Plan Commission for approval. The grant of a license under this section is subject to approval of said plans by the Plan Commission and implementation of the plans by the licensee. When reviewing the plans, the Plan Commission shall include a requirement that the premises be enclosed with fencing and landscaping, which in combination, are no less than seven (7) feet in height, effectively screening the salvage business from abutting private and public properties. No junk or other materials of the salvage business shall be stored or piled so as to extend above the height of the enclosure, nor shall any such material be stored outside the enclosed area.
 - d. If the salvage dealer intends to deal in, accumulate or store junked motor vehicles or parts thereof, the Common Council, under authority of § 175.25(1) of the Wisconsin Statutes, shall specify the quantity and manner of storing junked automobiles outside of building on the premises and shall establish setback requirements, pursuant to § 175.25(2) of the Wisconsin Statutes.
 - e. The burning of auto bodies, tires, furniture, paper, plastic and other material is prohibited.
5. License Fee. Every salvage dealer shall pay an annual license fee of two hundred thirty dollars (\$230.00). All licenses shall be issued as of July 1 and shall continue in force until June 30 next succeeding the date of issuance, unless sooner revoked. **[Ord. O-2009-0033, 11/3/2009]**
 6. Issuance of License. Upon the filing of an application as provided in the preceding subsection, the Clerk shall, upon approval of such application by the Common Council and the payment to the City of the license fee, issue to the applicant a license to engage in the business, as provided in Subsection (1). All licenses shall be numbered in the order in which they are issued and shall state clearly the location of the salvage business, the date of issuance and expiration of the license and the name and address of the licensee.
 7. Posting License. Every salvage dealer licensee shall at all times keep the license posted in a conspicuous place on the premises described in the application for such license. No person shall post such license upon premises other than those mentioned in the application, or knowingly deface or destroy any such license.
 8. Change of Location. Every salvage dealer's license shall designate the place of business in or from which the salvage dealer shall be authorized to carry on such business. No licensee shall remove his or its place of business from the place designated in the license until authorization has been secured from the City, and the same shall have been endorsed upon the license.
 9. Restrictions.

- a. No salvage dealer shall carry on the business at or from any other place than the one designated in the license, nor shall the business be carried on while the license is suspended or after it has been revoked or has expired.
 - b. Hours of operation may be regulated by the License and Health Committee to such hours as reasonable, given the location of the salvage business.
- 10. Rules by Health Commissioner. The Health Commissioner shall formulate reasonable rules and regulations relating to the conduct of the business of salvage dealing, which shall protect the health of the community. No salvage dealer shall violate any such rule or regulation.
- 11. Concealing Identity of Used Cars. No person or corporation shall knowingly buy, sell, receive, dispose of, conceal, or have in his/her possession any motor vehicle, part or accessory from which the manufacturer's serial number or any other number or identification mark has been removed, defaced, covered, altered, or destroyed for the purpose of concealing or misrepresenting the identity of such vehicle, part, or accessory. Every person to whom is offered for sale, storage, or wreckage any motor vehicle, part or accessory from which has been removed, defaced, covered, altered, or destroyed the manufacturer's serial number or any other number or identification mark shall immediately notify the West Allis Police Department of such offer. **[Ord. O-2015-0015, 2/17/2015]**
- 12. Lost or Stolen Materials. Any salvage dealer or peddler having or receiving any goods, articles, or other materials, which he or she knows or has reason to believe are lost or stolen, shall notify the Police Department of said materials and the reasons why it is believed they are lost or stolen. **[Ord. O-2015-0015, 2/17/2015]**
- 13. Suspension and Revocation of License. The procedure for the suspension, revocation, and nonrenewal of license shall be as set forth in Section 9.35(3) of this Code, except that any summons and complaint shall be served upon the licensee no less than ten (10) days prior to the hearing. **[Ord. O-2015-0015, 2/17/2015]**
- 14. Regulations. **[Ord. O-2015-0015, 2/17/2015]**
 - a. Definitions.
 - i. "Regulated property" shall mean aluminum siding, gutters, downspouts, screens, windows, window frames and doors, metal bathtubs and sinks, nonplastic pipe, copper, nonferrous metal items other than aluminum cans, batteries used in motor vehicles, telecommunication wire, sheet metal, stained glass, traffic signs, aluminum light poles, water meters, cemetery monument plaques, fixtures from houses of worship, catalytic converters, and manhole covers, including lids, grates, and frames.
 - ii. "Truckload and bulk purchases" shall mean the purchase of property by weight, or in quantity, without unloading or closely inspecting individual items of property when purchased. Truckload and bulk purchases shall be at least six (6) discrete items if purchased in quantity and not less than two hundred (200) pounds if purchased by weight.
 - b. Identification. No salvage dealer shall purchase any regulated property without first obtaining adequate identification, as defined in Section 9.15(3)(a) of this Code, from the seller.
 - c. Recordkeeping.
 - i. For each purchase, receipt, or exchange of any regulated property from a customer, every salvage dealer licensed under this section shall complete a property transaction form. Such form shall contain a

transaction number; the date of the transaction; the printed name and address of the seller; the type and weight of the property purchased, by the truckload or in bulk if a truckload or bulk purchase, along with any other additional description of the property; the amount paid for the property; and the seller's signature. The form shall be kept either as a computer file or in a written document approved by the Chief of Police or the Chief's designee. No entry on such a form may be erased, mutilated, or changed. The salvage dealer shall maintain computerized files and written property transaction forms and retain them for not less than one (1) year after the date of the transaction.

[Ord. O-2015-0027, 4/21/2015]

- ii. For each purchase, receipt, or exchange of any regulated property from a customer, every salvage dealer licensed under this section shall keep a permanent record and written inventory in such form as the Chief of Police shall prescribe, in which the dealers shall record legibly in English the name, address, and date of birth of each customer and driver's license number or number of other adequate identification presented. The dealer shall also record the date, time, and place of the transaction; the amount paid for the property; and an accurate and detailed account and description of each item being purchased, including, but not limited to, any trademark, identification number, serial number, model number, brand name, description by weight and design of such article, and other identifying marks and identifying descriptions of personal nature. The written inventory shall be kept in a computerized file or in ink, and no entry in such inventory shall be erased, mutilated, or changed. The dealer shall retain each record and inventory for not less than one (1) year after the date of transaction. **[Ord. O-2015-0027, 4/21/2015]**
- iii. Every dealer shall on a weekly basis prepare a list that contains the name and address of each customer during the week for which the list was prepared, the date, time, and place of each transaction with each of those customers, and a detailed description of the regulated property, including the serial number and model number, if any. The dealer shall retain the list for not less than one (1) year after the date on which the list was prepared.
- iv. The dealer shall also obtain a written declaration of the seller's ownership which shall state whether the regulated property is totally owned by the seller, how long the seller has owned the regulated property, whether the seller or someone else found the regulated property, and, if the regulated property was found, the details of its finding. The dealer shall retain an original and duplicate of the declaration for not less than one (1) year after the date of the transaction. The declaration shall be written on a form that the Chief of Police shall prescribe.
- v. The seller shall sign, in ink or by electronic signature, his or her name in such inventory register and on the declaration of ownership. **[Ord. O-2015-0027, 4/21/2015]**
- vi. Such inventory registers, declarations of ownership, and weekly lists shall be made available to any police officer for inspection at any time that the dealer's principal place of business is open or within one (1)

business day of an officer's request.

d. Exceptions to Recordkeeping.

- i. The description of the property purchased by salvage dealers by the truckload or in bulk shall be limited to a listing of the quantity or the weight purchased by category of regulated property purchased and shall be exempt from the property description provisions of Subsection (c)2.
- ii. Salvage dealers making truckload and bulk purchases shall include a color photograph of the truckload or bulk purchase as a whole and not of individual items purchased.

e. Electronic Reporting.

- i. Any dealer shall electronically report each item of regulated property purchased or received using a computer program approved by the West Allis Police Department. Such report shall occur no more than twenty-four (24) hours after the article is purchased or received and shall obtain a complete description as required in Subsection (14)(c)2 and a clear, unaltered digital photograph of any regulated property without a serial or identification number.

f. Holding Periods.

- i. Any regulated property purchased or received by the salvage dealer shall be kept on the dealer's premises or other place for safekeeping not less than forty-eight (48) hours after the date of purchase or receipt. Any regulated property shall be held separate and apart from any other transaction and shall not be changed or altered in any manner. The dealer shall permit the Chief of Police or any other police officer designated by the Chief to inspect the regulated property during the holding period. If the Chief of Police or any other police officer designated by the Chief has reason to believe any regulated property was not sold by the lawful owner, he or she may cause any regulated property purchased or received to be held for an additional length of time as he or she deems necessary after the elapse of the initial forty-eight-hour holding period for identification by the lawful owner.

g. Report to Police. All salvage dealer licensees and their employees shall report to the police any item presented to them during the course of business that the licensee or employee has reason to believe was stolen, either by the person presenting the item or another party.

h. Wholesale Lots. This subsection shall not apply to the buying, handling, and selling of scrap metal in wholesale lots from regularly established foundries, mills, manufacturers, or licensed salvage dealers.

15. Transactions with Minors. **[Ord. O-2015-0015, 2/17/2015; Ord. O-2015-0027, 4/21/2015]**

- a. No salvage dealer may engage in a transaction of purchase, receipt, or exchange of any regulated property from an unemancipated minor unless the minor is accompanied by his or her parent or guardian at the time of the transaction or the minor provides written consent from his or her parent or guardian to engage in the transaction.

16. Transaction Involving Article Not Owned. **[Ord. O-2015-0015, 2/17/2015]**

- a. No person shall sell, leave, or deposit any item with or to a salvage dealer if

the item of property is not owned by the person; the item of property is the property of another, regardless of whether the transaction is occurring with the permission of the owner; or another person has a security interest in the item of property.

- b. This subsection shall not apply to any person selling, leaving, or depositing any item with or to a salvage dealer if the person is any of the following: a duly executed power of attorney for the owner of the item of property; a personal representative of the estate to which the item of property belongs; or a recipient of a lawful written authorization to sell, leave, or deposit the item of property issued by the owner of the property prior to the time of the transaction.
17. Truth of Statements. All matters submitted in writing to the City by any applicant or licensee pertaining to a salvage dealer license shall be true. **[Ord. O-2015-0015, 2/17/2015]**
18. Conditions of License. All licenses granted hereunder shall be granted subject to the following conditions and all other conditions of this section, and subject to all other ordinances and regulations of the City applicable thereto: **[Ord. O-2015-0015, 2/17/2015]**
- a. Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the City at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of city ordinances or state laws.
 - b. The license holder and/or the employees and agents of the license holder shall cooperate with police investigations of theft, fraud, burglary, and other violations of City and state laws. "Cooperate," as used in this subsection, shall mean calling the police when a violation of the law, including, but not limited to, loitering, disturbance of the peace, or suspected stolen items occurs on the licensed premises and providing complete and truthful responses to police inquiries. A license holder shall also appear before the License and Health Committee when requested to do so and shall otherwise follow the lawful directives of the License and Health Committee.
 - c. The licensee shall comply with all other provisions of this section and all other ordinances of the City of West Allis and the laws of the State of Wisconsin.
19. Penalties. **[Ord. O-2015-0015, 2/17/2015]**
- a. Any person, firm or corporation violating this section shall, upon conviction for a first offense, forfeit not less than fifty dollars (\$50) nor more than one thousand dollars (\$1,000), together with the costs of prosecution and, in default of payment, shall be imprisoned in the House of Correction until such forfeiture and costs are paid, but not more than the number of days set forth in Sec. 800.095(1)(b)1, Wis. Stat.
 - b. Any person, firm or corporation violating this section shall, upon conviction for the second or subsequent offenses, forfeit not less than five hundred dollars (\$500), nor more than two thousand dollars (\$2,000), together with the costs of prosecution and, in default of payment, shall be imprisoned in the House of Correction until such forfeiture and costs are paid, but not more than the number of days set forth in Sec. 800.095(1)(b)1, Wis. Stat.

[Ord. 6093 (repeal & recreate 9.13), 4/19/1994]

9.14 Junkers And Junk Pickers

1. Definition. A junker is defined as any person, firm or corporation who picks up, gathers, assorts, carries away or in any manner handles or causes to be handled any material of any kind on a public or City dump for salvage, junking or scavenging.
2. Permit Required. No person, firm or corporation shall operate as a junker or junk picker on a public or City dump without first having secured a permit from the Director of Public Works to so operate.
3. Permit Fee. The fee for such permit shall be paid to the City Treasurer and shall be ten dollars (\$10) for a period of three (3) months from date of issuance.
4. Restrictions.
 - a. Each junker to whom a permit is issued under this section shall wear an appropriate badge with the words "City Junker and Permit No.," as issued by the Public Works Department with the junker's permit number impressed thereon.
 - b. Each junker shall meet, follow and obey the rules and regulations of the Director of Public Works governing the conduct of public or City dumps or junkers.
 - c. Each junker shall obey any reasonable order of any City police officer or any officer, agent or employee of the City in charge of or supervising the operations of such public or City dump.
5. Rules by Director of Public Works. The Director of Public Works may make and promulgate appropriate rules and regulations governing the physical operation of public and City dumps and junkers, and the conduct of junkers on such dumps.

9.15 Pawn Shops, Secondhand Stores, Secondhand Jewelry Dealers

1. State Regulations. Except as otherwise provided herein, the provisions of Wisconsin Statutes Sec. 134.71, relating to the regulations for pawnbrokers and secondhand article and secondhand jewelry dealers, are adopted by reference.
2. License Required.
 - a. No person shall operate any pawn shop, secondhand or junk store, or deal in secondhand precious metals, gems or jewelry in the City of West Allis without first having obtained a license from the City of West Allis therefor. No license fee shall be charged to a charitable organization registered pursuant to Sec. 440.42, Wis. Stat. [**Ord. O-2011-0006, 3/1/2011**]
 - b. Exceptions. The requirements of this section do not apply to the following:
 - i. Transactions involving occasional garage or yard sales, estate sales, coin, gem, antique or stamp shows, conventions or auctions.
 - ii. Transactions involving the purchase of grindings, filings, slag, sweeps, scraps or dust from an industrial manufacturer, dental laboratory, dentist or agent thereof.
 - iii. Transactions involving the purchase of photographic film, including lithographic and x-ray film for reprocessing.
 - iv. Transactions between dealers licensed under this section.
 - v. Any transaction between a buyer of a new article and the person who sold the article when new which involves a return of the article or jewelry or an exchange of the article for a different, new article or jewelry.
 - vi. Any transaction as a purchaser or seller of a secondhand article which

the person bought from a charitable organization if the secondhand article was a gift to the charitable organization.

- vii. Any transaction entered into by a person while engaged in a business of smelting, refining, assaying or manufacturing precious metals, gems or other valuable articles if the person has no retail operation open to the public. **[Ord. O-2011-0006, 3/1/2011]**

3. Definitions.

- a. "Adequate Identification means one of the following types of identification:

- i. A county identification card;
- ii. A state identification card;
- iii. A valid Wisconsin motor vehicle operator's license;
- iv. A valid motor vehicle operator's license, containing a picture, issued by another state;
- v. A military identification card;
- vi. A valid passport;
- vii. An alien registration card;
- viii. A senior citizen identification card containing a photograph;
- ix. Any identification document issued by a state or federal government, if the pawnbroker, secondhand jewelry dealer, or secondhand article dealer obtains a clear imprint of the customer's right index finger.

- b. "Article" means any of the following objects: **[Ord. O-2015-0004, 1/20/2015]**

- i. Audiovisual equipment.
- ii. Bicycles.
- iii. China.
- iv. Computers, printers, software, and computer supplies.
- v. Computer toys and games.
- vi. Crystal.
- vii. Electronic equipment.
- viii. Firearms, knives, and ammunition.
- ix. Fur coats and other fur clothing.
- x. Furniture.
- xi. Jewelry.
- xii. Lawn decorations.
- xiii. Lawn equipment.

- xiv. Leather coats or other leather clothing.

- xv. Microwave ovens.
- xvi. Motors.
- xvii. Office equipment.
- xviii. Paper money.
- xix. Pianos, organs, guitars, and other musical instruments.
- xx. Silverware and flatware.
- xxi. Small electrical appliances.
- xxii. Snow removal equipment.
- xxiii. Sports equipment.
- xxiv. Sports memorabilia, excluding trading cards.
- xxv. Telephones.
- xxvi. Tools.
- xxvii. Video tapes or discs, audio tapes or discs, and other optical media.

- c. "Pawnbroker" is defined as any person who engages in the business of

lending money on the deposit or pledge of any article or jewelry other than choses in action, securities or written evidences or indebtedness; or purchases any article or jewelry with an expressed or implied agreement of understanding to sell it back at a subsequent time at a stipulated price.

- d. "Secondhand Article or Junk Dealer" is defined as any person, other than an auctioneer, who engages in the business of purchasing or selling secondhand articles as defined above, who is not either a "pawnbroker" or a "secondhand jewelry dealer," as defined above. **[Ord. O-2010-0004, 1/5/2010]**
 - e. "Secondhand Jewelry Dealer" is defined as any person, other than an auctioneer, who engages in any business of any transaction consisting of purchasing, selling, receiving, or exchanging secondhand jewelry, who is not a pawnbroker within the above definition.
4. Licenses. All licenses issued under this section shall expire effective June 30 of the calendar year following issuance.
- a. Fees. **[Ord. O-2009-0033, 11/3/2009]**
 - i. The license fee for a pawnbroker's license shall be two hundred twenty-five dollars (\$225.00) per year.
 - ii. The license fee for a secondhand jewelry dealer shall be one hundred seventy-five dollars (\$175.00) per year.
 - iii. The license fee for a secondhand article dealer shall be ninety dollars (\$90) per year.
5. License Issuance and Granting.
- a. Application for licenses shall be submitted to the City Clerk who shall refer each application to the Common Council. Required license fees shall accompany any application received by the Clerk.
 - b. It is hereby deemed to be in the public interest to discourage trafficking in stolen property and to assist the police authorities in the recovery of stolen goods and the apprehension of thieves. Therefore, the Common Council may grant the license if the following apply:
 - i. The applicant, including an individual, a partner, a member of a limited liability company or an officer, director or agent of any corporate applicant, has not been convicted of a felony, misdemeanor, statutory violation punishable by forfeiture, or county or municipal ordinance violation in which the circumstances of the felony, misdemeanor, or other offense substantially relate to the circumstances of being a pawnbroker, secondhand article dealer, or secondhand jewelry dealer.
 - ii. With respect to an applicant for a pawnbroker's license, the applicant provides to the City Clerk a bond of five hundred dollars (\$500) with not less than two (2) sureties, for the observation of all municipal ordinances relating to pawnbrokers.
 - iii. Compliance with all other applicable codes and regulations.
 - c. No license issued under this subsection may be transferred.
 - d. Whenever anything occurs to change any fact set out in the application of any licensee, such licensee shall file with the issuing authority a notice in writing of such change within ten (10) days after the occurrence thereof.
6. Investigation of License Applicant.
- a. The Chief of Police or his or her designee shall investigate each applicant for a pawnbroker's, secondhand article dealer's, or secondhand jewelry dealer's license to determine whether the applicant has been convicted of a felony,

misdemeanor, statutory violation punishable by forfeiture, or county or municipal ordinance violation in which the circumstances of the felony, misdemeanor, or other offense substantially relate to the circumstances of the licensed activity and, if so, the nature and date of the offense and the penalty assessed. The results of the investigation shall be furnished to the City Clerk in writing.

7. Records To Be Maintained.

a. Identification of Seller. No pawnbroker, secondhand article dealer, or secondhand jewelry dealer may engage in a transaction of purchase, receipt or exchange of any secondhand article or secondhand jewelry from a customer without securing adequate identification from the customer at the time of the transaction.

b. Dealer to Maintain, Register, and Obtain Declaration of Seller's Ownership.

i. For each purchase, receipt, or exchange of any secondhand article or secondhand jewelry from a customer, every pawnbroker, secondhand article dealer, and secondhand jewelry dealer licensed under this section shall require the customer to complete and sign, in ink, a property transaction form, in compliance with Wis. Stat. Sec. 134.71(12). No entry on such a form may be erased, mutilated, or changed. The pawnbroker, secondhand article dealer, or secondhand jewelry dealer shall retain an original and a duplicate of each form for not less than one year after the date of the transaction.

ii. For each purchase, receipt, or exchange of any secondhand article or secondhand jewelry from a customer, every pawnbroker, secondhand article dealer, and secondhand jewelry dealer licensed under this section shall keep a permanent record and inventory in such form as the Chief of Police shall prescribe, in which the dealers shall record legibly in English the name, address and date of birth of each customer and driver's license number or number of other adequate identification presented. The dealer shall also record the date, time, and place of the transaction and an accurate and detailed account and description of each article being purchased, including, but not limited to, any trademark, identification number, serial number, model number, brand name, description by weight and design of such article, and other identifying marks, identifying descriptions of the personal nature, and when applicable, whether the article is a male or female item. The book shall be kept in ink, and no entry in such book shall be erased, mutilated, or changed. The pawnbroker, secondhand article dealer, or secondhand jewelry dealer shall retain an original and a duplicate of each record and inventory for not less than one year after the date of transaction.

iii. Every pawnbroker, secondhand article dealer, and secondhand jewelry dealer shall on a weekly basis prepare a list that contains the name and address of each customer during the week for which the list was prepared, the date, time, and place of each transaction with each of those customers, and a detailed description of the secondhand article or secondhand jewelry, including the serial number and model number, if any. The dealer or pawnbroker shall retain the list for not less than one year after the date on which the list was prepared.

iv. The dealer or pawnbroker shall also obtain a written declaration of the

seller's ownership which shall state whether the article or jewelry is totally owned by the seller, how long the seller has owned the article or jewelry, whether the seller or someone else found the article or jewelry and, if the article or jewelry was found, the details of its finding. The dealer or pawnbroker shall retain an original and duplicate of the declaration for not less than one year after the date of the transaction.

- v. The seller shall sign, in ink, his or her name in such inventory register and on the declaration of ownership.
 - vi. Such inventory registers, declarations of ownership, and weekly lists shall be made available to any police officer for inspection at any time that the dealer's principal place of business is open or within one business day of an officer's request.
- c. Electronic Reporting. [**Ord. O-2010-0004, 1/5/2010; Ord. O-2015-0004, 1/20/2015**]
- i. Any dealer or pawnbroker shall electronically report each article purchased or received using a computer program approved by the West Allis Police Department. Such report shall occur no more than twenty-four (24) hours after the article is purchased or received and shall contain a complete description as required in Subsection (7)(b) (2) and a clear, unaltered digital photograph of any jewelry or article without a serial or identification number.
- d. Holding. [**Ord. O-2010-0004, 1/5/2010**]
- i. Holding times.
 - (1) Any secondhand article or secondhand jewelry purchased or received by a pawnbroker shall be kept on the pawnbroker's premises or other place for safekeeping for not less than 30 days after the date of purchase or receipt, unless the person known by the pawnbroker to be the lawful owner of the secondhand article or secondhand jewelry recovers it. Any secondhand article or jewelry purchased by a secondhand article dealer or secondhand jewelry dealer shall be kept on the dealer's premises or other place for safekeeping for not less than 21 days after the date of purchase or receipt. Any article or jewelry shall be held separate and apart from any other transaction and shall not be changed or altered in any manner. The dealer shall permit the Chief of Police or any other police officer designated by the Chief to inspect the article or jewelry during the holding period within one business day of an officer's request.
 - (2) Subsection (7)(d)1a does not apply if the secondhand article or secondhand jewelry transaction is submitted to the police electronically as described in Subsection (7)(c)1. Any secondhand article or secondhand jewelry purchased or received by a pawnbroker, secondhand article dealer, or secondhand jewelry dealer that is submitted to the police electronically as described in Subsection (7)(c)1 shall be kept on the pawnbroker's, secondhand article dealer's or secondhand jewelry dealer's premises or other place for safekeeping for not less than 15 days after the date the report

is electronically submitted. Any secondhand article or secondhand jewelry shall be held separate and apart from any other transaction and shall not be changed or altered in any manner. The dealer shall permit the Chief of Police or any other police officer designated by the Chief to inspect the article or jewelry during the holding period within one (1) business day of an officer's request.

- (3) Any coin or bullion purchased by a pawnbroker, secondhand article dealer, or secondhand jewelry dealer shall be kept on the dealer's premises or other place for safekeeping for not less than 48 hours after the date of purchase or receipt. Any coin or bullion shall be held separate and apart from any other transaction and shall not be changed or altered in any manner. The dealer shall permit the Chief of Police or any other police officer designated by the Chief to inspect the coin or bullion during the holding period.
- (4) No holding periods apply to any secondhand articles or secondhand jewelry consigned to a pawnbroker, secondhand article dealer, or secondhand jewelry dealer.
 - ii. The Chief of Police, or any police officer designated by the Chief, may, in his or her discretion, cause any object which has been exchanged or purchased by a dealer licensed under this section, which he or she has reason to believe was not sold or exchanged by the lawful owner, to be held for the purposes of identification or investigation for such additional reasonable length of time as the Chief of Police or designee deems necessary.

8. Firearms and Jewelry Records to be Maintained.

- a. Report of Receipt. Every pawn broker, secondhand jewelry dealer, or secondhand article dealer in the City of West Allis who obtains by pawn, purchase or exchange any secondhand firearm, whether smooth bore, shotgun, rifle or handgun, shall, within one business day after receiving such firearm, report to the Chief of Police of the City of West Allis the fact that the same has been received, with the name, address, date of birth, and description of the person from whom such firearm was received, together with a description of such firearm.
- b. Every pawnbroker, secondhand article dealer, or secondhand jewelry dealer in the City of West Allis who obtains in pawn, purchase or exchange any secondhand article made in whole or in part of platinum, gold, silver, copper, brass, bronze or other precious metal, or precious or semi-precious stones or pearls, shall, within one business day after receiving such article, report to the Chief of Police of the City of West Allis the fact that same has been received, with the name, address, date of birth, and description of the person from whom such jewelry was received, together with the description of such article.

9. Transactions with Minors.

- a. No pawnbroker, secondhand article dealer, or secondhand jewelry dealer may engage in a transaction of purchase, receipt or exchange of any secondhand article or secondhand jewelry from an unemancipated minor unless the minor is accompanied by his or her parent or guardian at the time of the transaction or the minor provides written consent from his or her parent or guardian to

engage in the transaction.

10. License Revocation.

- a. The Common Council may, upon sufficient cause, suspend, revoke, or not renew a license issued under this section. Cause for suspending, revoking or not renewing such license shall include, but not be limited to, the following:
 - i. Violations of this section; violations of Secs. 134.71, 943.10 (Burglary), 943.11 (Entry into locked vehicle), 943.12 (Possession of burglarious tools), 943.20 (Theft), 943.201 (Unauthorized use of an individual's personal identifying information or documents), 943.203 (Unauthorized use of an entity's identifying information or documents), 943.34 (Receiving stolen property), 943.37 (Alteration of property identification marks), 943.38 (Forgery), 943.39 (Fraudulent writings), 943.392 (Fraudulent data alteration), 943.40 (Fraudulent destruction of certain writings), 948.62 (Receiving stolen property from a child), 948.63 (Receiving property from a child) of the Wisconsin Statutes, or local ordinances in conformity with such provisions.
 - ii. Any fraud, misrepresentation, or false statement contained in the application for a license.

11. Penalties. **[Ord. O-2014-0080, 12/2/2014]**

- a. Any person, firm or corporation violating this section shall, upon conviction for a first offense, forfeit not less than fifty dollars (\$50) nor more than one thousand dollars (\$1,000), together with the costs of prosecution, and, in default of payment, shall be imprisoned in the House of Correction until such forfeiture and costs are paid, but not more than the number of days set forth in sec. 800.095(1)(b)1, Wis. Stats.
- b. Any person, firm or corporation violating this section shall, upon conviction for the second or subsequent offenses, forfeit not less than five hundred dollars (\$500), nor more than two thousand dollars (\$2,000), together with the costs of prosecution, and, in default of payment, shall be imprisoned in the House of Correction until such forfeiture and costs are paid, but not more than the number of days set forth in sec. 800.095(1)(b)1, Wis. Stats.

12. Transaction Involving Article Not Owned. **[Ord. O-2014-0080, 12/2/2014]**

- a. No person shall pawn, pledge, sell, consign, leave, or deposit any item with or to a licensed pawnbroker if the item of property is not owned by the person; the item of property is owned by another, regardless of whether the transaction is occurring with the permission of the owner; or another person has a security interest in the item of property.
- b. This subsection shall not apply to any person pledging, selling, consigning, leaving, or depositing any item with or to a licensed pawnbroker if the person is any of the following: a duly executed power of attorney for the owner of the item of property; a personal representative of the estate to which the item of property belongs; or a recipient of a lawful written authorization to pledge, sell, consign, leave, or deposit the item of property issued by the owner of the property prior to the time of the transaction.

13. Conditions of License. All pawnbroker licenses granted hereunder shall be granted subject to the following conditions, and all other conditions of this section, and subject to all other ordinances and regulations of the City applicable thereto: **[Ord. O-2014-0080, 12/2/2014]**

- a. Every applicant procuring a pawnbroker license thereby consents to the entry

of police or other duly authorized representatives of the City at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of City ordinances or state laws.

- b. The pawnbroker licensee and/or the employees and agents of the licensee shall cooperate with police investigations of theft, fraud, burglary, and other violations of City and state laws. "Cooperate," as used in this subsection, shall mean calling the police when a violation of the law, including, but not limited to, loitering, disturbance of the peace, or suspected theft of items to be pawned or sold, occurs on the licensed premises and providing complete and truthful responses to police inquiries. A pawnbroker licensee shall also appear before the License and Health Committee when requested to do so and shall otherwise follow the lawful directives of the License and Health Committee.
- c. The pawnbroker licensee shall comply with all other provisions of this section and all other ordinances of the City of West Allis and the laws of the State of Wisconsin.

14. Plan of Operation and Floor Plan. [**Ord. O-2014-0080, 12/2/2014**]

- a. In any application for a pawnbroker license, the applicant shall file a detailed floor plan on an 8½-inch-by-11-inch-sized sheet of paper for each floor of the licensed premises. The floor plan shall include:
 - i. Area in square feet and dimensions of the licensed premises.
 - ii. Locations of all entrances and exits to the premises together with a description of how patrons will enter the premises.
 - iii. Locations of all public restrooms.
 - iv. Locations of all stairs and elevators.
 - v. Location of public areas and nonpublic areas in the premises.
 - vi. Location of all fire extinguishers and other safety equipment.
 - vii. Location of all refuse/recycling containers inside and outside of the premises for items that are not purchased or received by the licensee.
 - viii. The North point and date.
- b. In any application for a pawnbroker license, the applicant shall file a completed plan of operation on forms provided therefor by the City Clerk. The plan of operation shall require:
 - i. The current or planned hours of operation for the premises.
 - ii. The legal occupancy capacity of the premises.
 - iii. What plans the applicant has to insure the orderly appearance and operation of the premises with respect to noise and litter. This shall include a description of the number and location of exterior and interior trash receptacles.
 - iv. What other types of business enterprises, if any, are planned or currently conducted at the premises.
 - v. The number of security personnel expected to be on the premises, their responsibilities, and the equipment they will use in carrying out their duties.
 - vi. The number of parking spaces on the premises.
 - vii. The number and location of security cameras, if any.
 - viii. The name of the waste/recycling company that the licensee has or plans to contract with for removal of waste and recycling.
 - ix. Any other reasonable information the License and Health Committee may require either for all applicants or in a particular case.

- c. For any renewal application for a pawnbroker license for which there is no change in any information that is reported in the floor plan and plan of operation as submitted with the original or previous renewal application, the licensee may refile the previous documents. The License and Health Committee may require changes to a floor plan or plan of operation based on the licensee's past operation.
 - d. The plan of operation is subject to approval by the License and Health Committee prior to the issuance of the license or any building, zoning, or other permits. Any alteration, change, or addition to the plan of operation shall be approved by the License and Health Committee. The License and Health Committee may change all or part of the plan of operation or may impose additional requirements to address problems created by the licensee's operation.
15. For all transactions where a pawnbroker licensee pays a customer for an item where payment equals or exceeds \$250, the payment shall be paid by check or prepaid debit card from the pawnbroker licensee to the customer. The pawnbroker licensee shall not thereafter cash said check and provide cash to the customer. A transaction may not be broken down in increments of less than \$250 to avoid the requirements of this provision.

[Ord. O-2004-0011, 3/16/2004; Ord. O-2007-0049, 12/18/2007; Ord. O-2009-0020, 8/4/2009]

9.16 (Reserved)

[Ord. 6187, 9/19/1995]

9.17 (Reserved)

[Ord. 6604, 2/5/2002]

9.18 Direct Sellers And Solicitors

- 1. Statement of Purpose.
 - a. The intent of this ordinance is to assist in ascertaining that the direct seller and solicitor is fair in dealing with all persons, and to assist in the event that the seller's or solicitor's conduct may threaten the health, safety or welfare of the citizens of West Allis.
 - b. Findings of Fact. It is found and declared that:
 - i. The primary purpose of the public streets and sidewalks is for use by vehicular and pedestrian traffic;
 - ii. Reasonable regulation of direct sale and solicitation is necessary to protect the public health, safety and welfare.
 - iii. The regulations contained in this ordinance do not prohibit pure speech by any person, but merely regulate the activities of any persons which is commercial in nature.
- 2. Definitions. In this ordinance:
 - a. "Charitable Organization" shall mean any patriotic, philanthropic, social service, welfare, benevolent, educational, civic or fraternal, person, partnership, association or corporation.
 - b. "Clerk" shall mean the City Clerk/Treasurer.

- c. "Contributions" shall mean and include the words alms, food, clothing, money, property, financial assistance or other thing of value. A contribution, as defined herein, shall also include a sale or offer to sell any book, card, magazine, membership, merchandise, subscription, ticket or other thing in connection with which an appeal is made of any charitable or religious purpose.
- d. "Direct Sellers" means any individual who, for him/herself, or for a partnership, association or corporation, sells goods or services, or takes sales orders for the later delivery of goods or services, at any location other than the permanent business place or residence of said individual, partnership, association or corporation, and shall include, but not be limited to, peddlers, solicitors and transient merchants. The sale of goods includes donations or contributions, whether direct or indirect, required by the direct seller for the retention of goods by a donor or prospective customer.
- e. "Goods" shall include personal property of any kind and shall include goods provided incidental to services offered or sold.
- f. "Hawker" means any person who publicly displays, exposes for sale or offers for sale any goods or services from, upon or in any vehicle, nonpermanent structure or in the open, upon any property of which he is not the legally permitted occupant, including public property.
- g. "Permanent Merchant" means a direct seller who, for at least six (6) months prior to the consideration of the application of this ordinance to said merchant, has continuously operated an established place of business in this City with a business occupancy permit or has for six (6) months resided in this City and legally does business from said residence.
- h. "Permanent business place" shall mean and include any one or more of the following:
 - i. A fixed location for which a business occupancy permit has been issued, pursuant to the Building and Zoning Codes, and that the person operating the place of business intends to become a permanent merchant of the City, or
 - ii. A residence, located in this City, from which a business is lawfully operated, or
 - iii. A location in the Farmers Market, or
 - iv. Wisconsin agricultural producers who are selling their own products.
- i. "Person" shall mean any individual, firm, partnership, corporation, company, association, church, religious sect, religious denomination, society, organization or league, or one purporting to be.
- j. "Residential premises" shall mean a building or portion of a building used for residential purposes, including the real estate upon which any such building is located, provided that the predominant use of the real estate is for residential purposes.
- k. "Solicit" and "solicitation" shall mean and include any one or more of the following:
 - i. Selling or offering for sale or taking or attempting to take orders for the sale of goods or services of any kind, character or description, primarily for personal, family or household purposes;
 - ii. Selling or offering for sale or taking or attempting to take orders for books, magazines, periodicals, newspapers and every other type or kind of publication;
 - iii. Requesting, directly or indirectly, contributions on the plea or

representation that such contributions will be used for a charitable or religious purpose.

3. Regulation of Direct Sellers.

- a. Permit Required. No direct seller shall engage in such business within the City without first obtaining a permit from the City Clerk/Treasurer.
- b. Application. An applicant for a permit under this section shall file with the City Clerk/Treasurer a sworn application in writing on a form provided by the City Clerk/Treasurer which shall give the following information:
 - i. Name, address and telephone number of the applicant (temporary and permanent).
 - ii. Name, address and telephone number of the person, firm association or corporation that the direct seller represents or is employed by, or whose goods are being sold.
 - iii. Nature of the business to be conducted and a brief description of the goods offered and any service offered.
 - iv. The location from which the business will be conducted and the proposed dates and times.
 - v. Make, model and license number of any vehicle to be used by the applicant in the conduct of the business.
 - vi. Last municipalities, not to exceed three (3), where the applicant conducted similar business.
 - vii. Statement as to whether the applicant has been arrested or convicted of any crime or ordinance violation related to applicant's direct sellers business within the last five (5) years, together with the nature of the offense and the place of conviction.
 - viii. Proof of a state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing devices approved by state authorities.
 - ix. Proof of a retail food permit issued by the West Allis Health Department where the applicant's business involves the handling of food.
 - x. Where the sale of tangible personal property is involved, proof of a retail sales tax permit as required by § 77.52 of the Wisconsin Statutes.
- c. Permit Fee. A nonrefundable permit fee of fifty dollars (\$50.00) shall be paid to the City Clerk/Treasurer at the time of application. If the permit is granted, as set forth in Section 9.18(3)(d), it shall be valid for a period of sixty (60) days from the date of issuance unless sooner revoked, pursuant to Section 9.18(10) **[Ord. O-2009-0033, 11/3/2009]**
- d. Investigation/Disapproval.
 - i. Upon receipt of an application and fee, the City Clerk/Treasurer may refer the application to the Chief of Police. The Chief of Police may make an investigation of the statements made in the application.
 - ii. If, as a result of such investigation, the Chief of Police discovers that any representation on the application contains a material omission or inaccuracy, or the Chief is of the opinion that the applicant is not a fit person to conduct such sales, the Chief of Police shall disapprove the application and return it to the City Clerk/Treasurer along with the reason(s) for disapproval. Upon return of the disapproved application, the City Clerk/Treasurer shall notify the applicant that the permit has

been denied, along with the reasons therefor.

- iii. Issuance. If the City Clerk/Treasurer does not send the application to the Chief of Police, or if the Chief of Police returns an application without a disapproval, the City Clerk/Treasurer shall then issue a permit to the applicant. The permit shall be carried by the direct seller at all times he or she is engaged in direct selling and shall contain the name of the permittee, the date of issuance and expiration and permit number. The direct seller is required to display the permit to a police officer at all times the person is engaged in direct selling.

4. Special Event Direct Sellers.

- a. Definition. A special event direct seller means any individual who, for him/herself, or for a partnership, association or corporation, sells goods within the boundaries of a special event for which a permit has been issued, pursuant to Section 6.032.
- b. Permit required. No person may operate as a special event direct seller without first obtaining a permit badge. The permit badge shall be valid only for the duration of the special event.
- c. Application. No person may operate as a special event direct seller without first obtaining a permit badge. The permit badge shall be valid only for the duration of the special event.
- d. Fee. A fee of twenty-five dollars (\$25.00) shall be paid to the City Clerk/Treasurer at the time of application. Upon submission of a completed application and the permit fee, the City Clerk/Treasurer shall issue a permit badge. Said badge shall be individually numbered and shall identify which event the permit is valid for.
- e. Any person engaged in special event direct selling shall wear the permit badge in a conspicuous place and display it to a police officer upon request. No special event direct seller may display or sell goods upon a roadway during a special event that is a parade.

5. Regulation of Hawking.

- a. Permit required. No person may operate as a hawker without first obtaining a permit. A permit shall be valid for a sixty (60) day period from the date of issuance, unless sooner revoked pursuant to Section 9.18(a).
- b. Application. An applicant for a permit under this section shall file with the City Clerk/Treasurer a sworn application in writing on a form provided by the City Clerk/Treasurer which shall give the following information:
 - i. The information required of direct sellers in Section 9.18(3)(b).
 - ii. Proof of written permission from the owner or tenant of the property, public or private, upon which the business will be conducted, that the applicant may conduct such business on the premises. Such written permission shall include the name, address and telephone number of the owner or tenant.
 - iii. Proof that adequate toilet facilities are available to the employees and patrons of the Hawker, together with hours of accessibility. Portable or temporary toilet facilities are not adequate.
- c. Zoning. No hawker may display, offer for sale or sell any goods or services in a zoning district where such a use is not permitted.
- d. Permit Fee. A non-refundable permit fee of fifty dollars (\$50) shall be paid to

the City Clerk/Treasurer at the time of application.

- e. Investigation.
 - i. Upon receipt of an application and fee, the City Clerk/Treasurer shall refer the application to the Chief of Police and the Building Inspector. The Chief shall make an investigation of the statements made in the application. The Building Inspector shall investigate the proposed site to determine whether secs. 9.18(5)(b) and (c) have been complied with.
 - ii. If, as a result of such investigation, the Chief of Police discovers that any representation on the application contains a material omission or inaccuracy, or the Chief is of the opinion that the time and location of the sale is likely to disturb the public peace or traffic flow, or that the applicant is not a fit person to hold a permit, the Chief shall disapprove the application and return it to the City Clerk/Treasurer along with the reason(s) for disapproval.
 - iii. If the Building Inspector discovers that the provisions of secs. 9.18(5)(b) and (c) have not been complied with, he shall disapprove the application and return it to the City Clerk/Treasurer along with the reason(s) for disapproval.
 - iv. Upon return of the disapproved application, the City Clerk/Treasurer shall notify the applicant that issuance of a permit has been denied, along with the reasons therefor.
 - f. Issuance. If the investigation of the Chief of Police and Building Inspector is found to be satisfactory, the Chief of Police and Building Inspector shall approve the application and return it to the City Clerk/Treasurer. The City Clerk/Treasurer shall then issue the permit which shall contain the name of the permittee, the location of the business, the kinds of goods to be sold, the date of issuance and expiration and the permit number.
6. Appeal. Any person denied a permit may appeal the denial to the License and Health Committee of the Common Council, pursuant to Section 2.48(5) of the Revised Municipal Code.
7. Exemptions. The following are exempt from the permit and registration provisions of this ordinance:
- a. Any person renting space at the Farmers Market under Section 11.14 of the Revised Municipal Code.
 - b. Any person selling goods at wholesale to dealers in such goods.
 - c. Any person selling agricultural products which such person has grown.
 - d. Any person delivering newspapers, fuel, dairy products, bakery goods or similar goods to regular customers on established routes.
 - e. Any permanent merchant engaged in a transaction initiated by the buyer specifically requesting a home visit.
 - f. Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods.
 - g. Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law.
 - h. Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization; provided, that there is submitted to the Clerk proof that such charitable organization is registered under sec. 440.41 of the Wisconsin Statutes.
 - i. Any person exempt by sec. 440.51 of the Wisconsin Statutes.

8. Prohibited Practices.

- a. No person engaged in direct selling shall misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale or the organization he/she represents. A charitable organization direct seller shall specifically disclose, upon request, what portion of the sale price of goods being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the goods.
- b. No direct seller shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one hundred (100) foot radius of the source.
- c. No seller shall allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.
- d. No Hawker shall conduct his business upon City property within the City without first obtaining permission to engage in such business.
- e. No Hawker shall conduct his business upon the property of another in which he is not the legally permitted occupant, without written permission from the owner of such property.
- f. No direct seller shall conduct his business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, or create or become a public nuisance, increase traffic congestion or constitute a hazard to traffic, life or property or an obstruction to adequate access by fire, police or sanitation vehicles.
- g. No direct seller shall solicit or conduct business with persons in motor vehicles.
- h. No direct seller shall solicit without first complying with the laws of this state and all other relevant provisions of the Revised Municipal Code of the City of West Allis.
- i. No Hawker may engage in displaying or selling goods or services at a location other than the location set forth in the permit.
- j. No person shall engage in direct selling at any residential premises or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning.
- k. No person shall engage in direct selling at any residential premises or upon any other premises, after having been asked by the owner or occupant thereof to leave such premises or residence.
 - l. There shall be no direct selling or solicitation upon any residential or other premises between the hours of 9 p.m. and 9 a.m., except by appointment.
- m. Not more than two (2) individuals shall engage in direct selling upon any premises for the same goods or services, or for the same religious or charitable purposes. Each individual member of a group engaged in solicitation in violation of this provision shall be deemed to have violated such provision.
- n. No person shall make more than one solicitation call at the same residential premises for identical goods or services or for the same religious or charitable purposes within any consecutive thirty (30) day period, without receiving a prior invitation thereof from the occupant of any such premises. This provision shall be construed to include solicitation upon the same premises by employees, agents or representatives of any person more than once during the aforesaid period without a prior invitation as herein provided.
- o. No person engaged in solicitation shall, at the time of initial contact with a prospective customer or donor, fail to verbally identify himself and the

purpose of the solicitation.

- p. No person engaged in solicitation shall misrepresent the purpose of his solicitation or use any false, deceptive or misleading representation to induce a sale or contribution, or use any plan, scheme or use which misrepresents the status or mission of the person.
- q. No person engaged in making a solicitation shall violate any of the provisions of the Wisconsin Administrative Code, Section Ag121, concerning Referral Selling Plans, and Ag122 concerning Chain Distributor Schemes, the provisions of which are hereby adopted by reference and made a part hereof with the same force and effect as if more fully set forth herein.
- r. No person shall sell or solicit agricultural goods within a three-hundred-foot radius of the Municipal Market during the hours that said market is open for business.
- s. No solicitation shall be made at a rear door of a residence that has a usable front entrance.
- t. No person or corporation shall engage in selling or offering for resale any admission tickets to the Wisconsin State Fair for an amount greater than the face value of the ticket within 500 feet of the Wisconsin State Fairgrounds as designated on the City of West Allis Zoning Map. This prohibition includes holders of a direct seller's permit. **[Ord. No. O-2009-0018, 6/16/2009]**
 - i. Penalty. Any person or corporation in violation of this subsection shall, upon conviction, be subject to a forfeiture of not less than five hundred dollars (\$500.) and not more than one thousand dollars (\$1,000.), together with the costs of prosecution, and, in default of payment thereof, shall be confined in the House of Correction of Milwaukee County until the forfeitures and costs have been paid, but not more than the number of days set forth in sec. 800.095(4) of the Wisconsin Statutes. Each and every day that an offense continues shall constitute a separate offense.
- u. No person, corporation, or other entity shall, during the dates established for the Wisconsin State Fair by the State Fair Park Board under Section 42.01 of the Wisconsin Statutes, engage in any direct selling under this section within an area bounded by the north City limits, the east side of South 84th Street, the north side of West Greenfield Avenue and the west side of South 77th Street. The center line of each designated street or avenue shall constitute the outer edge of the boundary. **[Ord. O-2011-0020, 6/21/2011]**

9. Disclosure Requirements.

- a. If any sale of goods is made by a direct seller, or any sales order for the later delivery of goods is taken by the seller at residential premises, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than twenty-five dollars (\$25.), in accordance with the procedure as set forth in secs. 423.202 and 423.203 of the Wisconsin Statutes.
- b. If the direct seller takes a sales order at a residential premises for the later delivery of goods, he/she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.
- c. It shall be the responsibility of each solicitor to display or have available, upon

demand, evidence of compliance with any license, inspection, registration or permit requirement provided for under the laws and administrative regulations of this state and the provisions of the Revised Municipal Code of the City of West Allis. Any police officer or other authorized official of the City shall have the right to request evidence of compliance with the above provisions requiring any license, inspection, registration or permit.

10. Revocation.

- a. The permit of a hawker or direct seller, may be revoked by the License and Health Committee after notice and hearing, if the holder made any material omission or materially inaccurate statement in the application, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales, violated any provision of this section or was convicted of any crime or ordinance or statutory violation which is directly related to the permittee's fitness to engage in direct selling.
- b. Written notice of the hearing shall be served personally on the permittee at least seventy-two (72) hours prior to the time and place of hearing and a statement of the acts upon which the hearing will be based.

11. Penalty.

- a. Any person convicted of violating any provisions of this ordinance shall forfeit not less than fifty dollars (\$50.) nor more than five hundred dollars (\$500.) for each violation, together with the costs of prosecution and, in default of payment thereof, the defendant's operating privileges shall be suspended pursuant to sec. 343.30 and 345.47 of the Wisconsin Statutes, or by imprisonment in the Milwaukee County House of Correction until such forfeiture and costs are paid, but not in excess of the number of days set forth in sec. 800.095(4) of the Wisconsin Statutes.

12. Severance Clause. The provisions of this ordinance are declared to be severable and, if any section, sentence, clause or phrase of this ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this ordinance; they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

[Ord. 6125, 9/20/1994; Ord. 6185, 9/19/1995; Ord. 6312, 5/6/1997]

9.20 Handbill Distribution

1. Definitions.

- a. "Handbill" shall mean any leaflet, dodger, poster, booklet, circular, card, pamphlet, novelty, sample, advertisement or other similar printed material that is not a bona fide newspaper;
- b. "Newspaper" shall mean a daily, weekly or other periodic publication containing recent news, useful information, editorials, feature articles and advertisements.

2. Throwing/Distributing Handbills in Public Places. No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the City; nor shall any person hand out or distribute or sell any commercial handbill in any public place; provided, however, that it shall be lawful on any sidewalk, street or other public place within the City for any person to hand out or distribute, without charge to the receiver thereof, any handbill to any person willing to accept it. **[Ord. O-2006-0034, 10/3/2006]**

3. Placing Handbills on Vehicles Prohibited Where Properly Posted. No person shall throw, deposit or place any handbill in or upon any vehicle if notified by a person who appears to be in control of the vehicle not to do so, or if there is conspicuously placed in or upon the vehicle a sign bearing the words "No Handbills," "No Advertisements." or any similar notice on the vehicle, indicating that handbills are not to be left upon the vehicle.
4. Depositing Handbills on Uninhabited or Vacant Premises. No person shall throw, deposit or place any handbill in or upon any private premises, which are temporarily or continuously uninhabited or vacant.
5. Handbill Distribution Prohibited Where Properly Posted. No person shall throw, deposit or distribute any handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed upon said premises in a conspicuous position near the entrance thereof, a sign bearing the words "No Peddlers or Agents," "No Advertisements," "No Trespassing" or any similar notice, indicating in any manner that the occupants do not desire to be molested or have their right to privacy disturbed or to have any such handbills left upon the premises.
6. Distributing Handbills at Inhabited Private Premises. No person shall throw, deposit or distribute any handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant or other person in or upon such private premises; provided, however, that in the case of inhabited private premises which are not posted, pursuant to Section 9.20(4), such person, unless requested by anyone upon such premises not to do so, may place or deposit any handbill in or upon such inhabited private premises if the handbill is so placed or deposited in a receptacle, clip or other device designed or intended to receive paper matter when such receptacle, clip or other device has been erected in a conspicuous place near the front door or front entrance or near the mailbox of any private property. If no such receptacle, clip or other device has been erected as hereinabove provided, then a person may hand any handbill to an occupant of the property or place any handbill upon the porch or vestibule of a house or building on the private property, provided that in the latter case, the handbill is wrapped, tied, folded or otherwise so prepared or placed so that it will not be blown or drifted about such property or sidewalks, streets or other places by the winds, and except that mailboxes may not be so used when prohibited by Federal Postal laws or regulations. The provisions of this section shall not apply to the distribution of newspapers, except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place.
7. Handbilling Hours. No person shall distribute any handbills before 9:00 a.m. and after 9:00 p.m., of any day, except upon private premises, with prior permission or invitation from the owner of such premises.
8. Manner of Handbill Distribution. No person distributing handbills shall cross any lawn or go over or through any hedge or shrubbery.

[Ord. 6104 (repealed & recreated), 6/21/1994; Ord. 6582, 9/4/2001; Ord. O-2004-0031, 9/7/2004]

9.21 Manufactured And Mobile Home Community Licenses

1. State Laws Adopted. Except as otherwise provided herein, Wisconsin Statute Sections 66.0435 and 101.935, Safety and Professional Services (hereinafter "SPS") Chapter 326, and SPS Section 302.33 of the Wisconsin Administrative Code, as related to

manufactured and mobile homes, as they are from time to time amended, are hereby adopted and by reference made part of this section as if fully set forth herein.

2. License Required. No person shall construct, maintain, or operate a manufactured and mobile home community in the City without a license from the Common Council and the Health Commissioner. Only a person who complies with the requirements of this section shall be entitled to receive and retain a license.
3. License Application. A written application for the licenses required by this section shall be filed with the City Clerk upon forms provided by the City Clerk. Initial license fees for both the community license and health license shall be paid at the time the application is filed. Renewal license fees shall be paid prior to the expiration of a license, and no person shall operate any manufactured and mobile home community until all renewal fees have been paid. Any renewal license fee paid on July 1 or later shall be subject to a late fee. A licensee or applicant shall notify the City Clerk in writing if any information listed in the application form has changed within ten (10) days of such change.
 - a. Applications shall contain the following information:
 - i. Name, street address, phone number, date of birth, and email address of the person applying for the license. If the applicant is not an individual, the corporation name as registered with the Wisconsin Department of Financial Institutions, federal employer identification number, and names and addresses of the partners or the applicant's principal officers and registered agent.
 - ii. The name, street address, phone number, and email address of the registered contact person for the manufactured and mobile home community.
 - iii. A scale drawing of the manufactured and mobile home community prepared by a registered professional engineer, surveyor, or architect and certified by him or her as such. The drawing shall contain accurate dimensions of the community in feet; location and width of all roads and approaches, the method of ingress and egress from, and dimensions and locations of public highways; the complete electric service installation and the location of poles, wire service outlets, and lighting facilities; all snow storage areas and utility easements; a complete layout of unit spaces and number of square feet therein, together with the dimensions thereof; the location of the electric power distribution systems, water mains, or wells for water supply outlets for domestic water users; location of sanitary facilities, bathrooms, garbage disposal units, incinerators, sanitary sewers, sewer drain lines, and any other building or structure contemplated to be used by the applicant in connection with said business; and the location of required vehicle and supplementary parking spaces for vehicles, boats, and other towed vehicles. Each unit space shall bear a number in accordance with a numbering system approved by the Director of the Department of Building Inspection and Neighborhood Services. Every renewal application shall be accompanied by a scale drawing in accordance with the foregoing requirements for an original application when any changes have been made or are proposed which are not shown on previous submittals.
 - iv. An affidavit that states that the applicant is the owner or lessee, manager, and operator of such manufactured and mobile home

community; that he or she shall be responsible for the proper upkeep, maintenance, and sanitary condition of the premises; and that he or she shall keep the premises, buildings, and all equipment in a state of good repair and in full compliance with all laws and applicable ordinances.

4. Truth of Statements. All matters submitted in writing to the City by any applicant or licensee pertaining to a license issued under this section shall be true.
5. Investigation. The City Clerk shall notify the Fire Chief, Police Chief, Health Commissioner, and Director of Building Inspection and Neighborhood Services (hereinafter "Director") or their designees of each application, and these officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, and whether the applicant is a proper recipient of a license. These officials shall furnish to the Common Council, in writing, the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused. No license shall be renewed without a re-inspection of the premises and report as originally required.
6. Granting of License. Licenses are to be granted subject to the following standards:
 - a. All necessary equipment, roads, sanitary facilities, lighting facilities, water facilities, and other facilities that are required to operate such community shall be erected and installed.
 - b. All necessary occupancy permits shall be obtained from the Department of Building Inspection and Neighborhood Services.
 - c. Municipal sanitary facilities shall be available on the community's premises.
 - d. The applicant shall pass a background check and pay the required record check fee.
 - e. Compliance with the applicable ordinances of the City and State Statutes, as well as payment of all outstanding obligations due the City.
 - f. Compliance with all Health Department regulations and inspections, including the payment of any inspection fees.
7. Transfer of License. Any license granted pursuant to this section may be transferred to another person, subject to Common Council approval on the same basis as a new applicant, during the license year upon filing an application therefor and payment of a transfer fee in the sum of ten dollars (\$10). The applicant shall be subject to a background check and pay the required record check fee.
8. License Year. License periods shall be for one (1) year, and shall commence as of the first day of July and shall expire on the 30th day of June of the following year.
 - a. Licenses granted for the 2015-2016 license year shall be extended until June 30, 2016.
9. Fees.
 - a. License Fees. The annual license fee for a manufactured and mobile home community is two dollars (\$2) for each space located on the premises.
 - b. Health Department Permit Fee. The annual permit fee shall be as listed in SPS Section 302.33(3). The plan examination and inspection fee shall be as listed in SPS Section 302.33(2).
 - c. Monthly Permit Fee. Pursuant to Wis. Stat. Sec. 66.0435(3), each licensee shall pay a monthly permit fee as determined by the City Assessor. The community licensee shall be responsible for collecting the proper amount from each unit's owner or occupant. All fees shall be due to the City Treasurer on or

before the 10th day of the month following the month for which such fees are due.

10. Responsibilities of Licensee. Every person licensed to operate and manage a manufactured and mobile home community shall be responsible for:
 - a. Maintaining all records pertaining to the management, operation, and supervision of the manufactured and mobile home community for the current licensing year and previous two (2) licensing years.
 - b. The maintenance of an orderly and clean manufactured and mobile home community and the maintenance of all streets, roadways, or thoroughfares necessary as fire lanes of a manufactured and mobile home community free and clear of all refuse, rubbish, snow, ice, or other materials or objects.
 - c. The numbering of all units, which numbers shall correspond to the number shown in the registry signed by each new arrival, permitting such person to occupy a given site.
 - d. The proper illumination on the licensed premises of all streets, roadways, private driveways, and entrances and exits to and from the premises from thirty (30) minutes after sunset to thirty (30) minutes before sunrise on the succeeding day.
 - e. The prompt reporting to the Police Department of any violation of an ordinance, statute, or other law committed on the premises that the licensee knew or should have known about.
 - f. The observation of fire prevention rules and laws; the keeping of all buildings, fences, illumination, streets, roadways, water systems, sewer systems, and electric streetlighting systems in good serviceable condition, clean, sanitary, and in good repair; and the keeping of the entire premises clean and sanitary so as to minimize obnoxious odors, rodent harborage, flies, mosquitoes, vermin, or other insects.
 - g. The maintenance of a register of all owners and occupants of manufactured and mobile homes located in the manufactured and mobile home community.
11. Availability of Licensee. The licensee's registered contact person shall, during reasonable hours, be available in the community, in close proximity to the community, or via electronic or telephonic means.
12. License Condition. The licensee shall appear before the License and Health Committee when requested to do so and shall otherwise follow the lawful directives of the License and Health Committee.
13. Revocation of License.
 - a. Causes. Any license issued under this section may be suspended, revoked, or nonrenewed for cause by the Common Council after notice to the licensee and a hearing. Licenses may be suspended, revoked, or nonrenewed for the following causes:
 - i. The making of any material false statement in any application for a license.
 - ii. The violation of any applicable provisions of this section.
 - iii. The violation of any of the applicable provisions of Wisconsin Statute Sections 66.0435 and 101.935, SPS Chapter 326 and SPS Section 302.33 as related to manufactured and mobile homes, as they are from time to time amended; the violation of any City building and zoning code, health code, or any other ordinance or law relating to the construction, maintenance, use, or occupancy of the premises.
 - iv. The failure to conduct the licensed activity at the authorized location

for a period of thirty (30) consecutive days, unless such thirty-day period shall, for good cause shown, be extended by the Common Council.

- v. The operation of the premises in such a manner that it constitutes a public and private nuisance, is designated a chronic nuisance premises under Section 18.04 of this Code, or that conduct on or emanating from the licensed premises, including but not limited to loud and raucous noise, has had a substantial adverse effect upon the health, safety, convenience, or prosperity of the immediate neighborhood.
 - vi. The failure to pay any tax or forfeiture as provided in Section 1.08(9)(a) and (b).
- b. Commencement of Proceedings. Suspension, revocation, or nonrenewal proceedings may be instituted by the License and Health Committee of the Common Council upon its own motion or upon written charges made and filed with the City Clerk by the Health Commissioner, Police Chief, Director, or any resident of the City of West Allis.
- c. Procedure. The procedure shall be the same as in Section 9.02(20)(d) through (h), except that the summons and complaint shall be served on the licensee no later than ten (10) days prior to the hearing.
- d. Disqualification for License.
- i. Whenever a license is not renewed or is revoked, the City Clerk shall enter it into record, and no other license shall be granted to such person within twelve (12) months of the date of its nonrenewal or revocation, nor shall any part of the money paid for any license be refunded.
 - ii. If the license was not renewed or revoked for a reason relating to the fitness of the location, no other license for a manufactured and mobile home community at that location shall be granted within twelve (12) months from the date of the nonrenewal or revocation of the license.
- e. Appeal. Within twenty (20) days of the date of the revocation or suspension, the licensee may appeal the decision to the Circuit Court by filing a written notice of appeal with the City Clerk, together with a bond executed to the City, in the sum of five hundred dollars (\$500) with two (2) sureties or a bonding company approved by the City Clerk, conditioned for the faithful prosecution of the appeal and the payment of costs adjudged against the licensee.

14. Penalties.

- a. Every person convicted of a violation of any of the provisions of this section, except for Subsection (9)(c), shall for each offense be punished by a forfeiture of not less than twenty-five dollars (\$25) nor more than one thousand dollars (\$1,000), together with the cost of prosecution; in default of payment of such forfeitures and costs, by imprisonment in the Milwaukee County House of Correction or Milwaukee County Jail until payment of such forfeiture and costs, but not in excess of the number of days set forth in Section 800.095(1)(b)(1) of the Wisconsin Statutes. Each and every day constitutes a separate offense. Additionally, where appropriate, legal or equitable actions may be commenced to enjoin any person from violating any of the provisions of this section.
- b. Every person convicted of a violation of Subsection (9)(c) shall for each offense be punished by a forfeiture of twenty-five dollars (\$25), together with the cost of prosecution; in default of payment of such forfeitures and costs, by

imprisonment in the Milwaukee County House of Correction or Milwaukee County Jail until payment of such forfeiture and costs, but not in excess of the number of days set forth in Section 800.095(1)(b)(1) of the Wisconsin Statutes. Each failure to report constitutes a separate offense. Additionally, where appropriate, legal or equitable actions may be commenced to enjoin any person from violating any of the provisions of this section.

[Ord. O-2004-0001, 1/6/2004; Ord. O-2009-0033, 11/3/2009; Ord. O-2016-0008, 3/15/2016]

9.23 Quarries, Sand And Gravel Pits

1. Permit Required. No person, firm or corporation shall open or operate a quarry, sand pit, gravel pit or similar business, without first securing a permit from the Common Council.
2. Application for Permit. Application shall be on forms provided by the City Clerk. The form shall set forth the applicant's name, address, legal description of the premises for which the permit is sought, a description of the type of operation planned, the type, size and number of machines to be used in the operation, and the zoning of the premises. There shall be submitted with each application a contour map of the premises and the surrounding area to a distance of three hundred (300) feet on each side, and a contour plan for the restoration and backfilling of the premises.
3. Public Hearing. The Common Council shall set a date for a public hearing on the application, which hearing shall be held within thirty (30) days after the application is presented to the Common Council, with a notice of hearing to be published once a week for two (2) successive weeks prior to the hearing. All persons desiring to be heard shall be given an opportunity to be heard. The Common Council shall inquire into:
 - a. Population Density.
 - b. The zoning of the site for which the permit is sought, and the zoning of areas within a thousand (1,000) foot radius, measured from the approximate center of the site.
 - c. The effect of the proposed operation upon the health, safety and general welfare of the inhabitants in the immediate area.
 - d. The adequacy of existing streets and highways to accommodate the trucks and machinery incidental to the proposed operation.
4. Restoration Plan and Bond. Each application must be accompanied by a restoration plan in the form of an agreement with the City, whereby the applicant binds and obligates himself to restore the premises to a condition and within a time to be established by the Common Council which, in its judgment, is necessary to safeguard the health, safety and public welfare of the City. The agreement shall be accompanied by a bond, written by a licensed surety company, and both agreement and bond shall be approved as to form by the City Attorney. In the event of the applicant's failure to restore the premises in accordance with the agreement, the City, by action of the Common Council, may notify the applicant and his surety of its election to perform the restoration and collect the cost thereof from the applicant, or his surety.
5. Granting of Permit. The Common Council shall determine:
 - a. Whether the applicant has met applicable state and local laws, including this ordinance.
 - b. Whether zoning requirements have been met.
 - c. Whether population density tolerates the proposed operation.

- d. Whether existing streets and highways are adequate.
 - e. Whether the health, safety and public welfare of the inhabitants of the immediate area will be adequately protected.
- Upon an affirmative determination, the permit shall issue.
- 6. Zoning. No permit shall be issued for a site in a residential zone, nor for a site which lies within one thousand (1,000) feet of a residential zone.
 - 7. Restrictions.
 - a. Fencing. A substantial fence having the minimum height of four (4) feet and the maximum height of six (6) feet shall be erected and maintained by the owner around the boundaries of all activities, including excavation, storage stockpiling, building, plant and equipment, also non-operating quarries, sand and gravel pits, except for proper gates for ingress and egress purposes, with a minimum setback of ten (10) feet from the side and rear property lines and a minimum setback of eighty-five (85) feet from the center line of any street or highway.
 - b. Cutting Operation. The top of the slope in a cut for any excavation for quarry or pit shall not be closer than twenty-five (25) feet to the tract boundaries or closer than eight-five (85) feet to the center line of any street or highway or to the centerline of any proposed street or highway as shown by the building setback base lines on the official zoning maps. Slopes in sand and gravel pits along outer edges of excavation shall not be steeper than 1-1/2 horizontal to 1 vertical.
 - c. Back-Filling Operation. Filling of the excavated quarry, hole, pit or area shall proceed simultaneously with the excavating operations or reasonably close thereafter, such filling to be done with earth, foundry sand or its equivalent to be determined by the Building Inspector. If backfilled with material other than earth, the top two (2) feet of such fill shall be of earth. Ashes, garbage, rubbish, junk, refuse, odorous or combustible material for filling purposes shall not be permitted. The backfilling shall be completed within one (1) year after the completion of the excavation of materials from the site or within the period of the agreed specified time as designated by the Building Inspector.
 - d. Stockpiling. Stockpiling of materials shall be within the fenced enclosure and shall not exceed twenty (20) feet in height above the original topography.
 - e. Trucks, etc. Trucks and other machinery operated to and from the quarry or pit shall be over a route established by the Common Council.
 - f. Dustproofing of Roadways. Roadways or areas on the site which are driven upon by vehicles and machinery shall be dustproofed in accordance with the orders of the Building Inspector.
 - g. Hours. Quarry or pit operation shall be limited to the hours between 7:30 A.M. and 6:30 P.M.

9.235 Topsoil Removal

- 1. Permit Required. No person, firm or corporation shall engage in the stock piling or commercial removal of topsoil without first securing a permit from the Commissioner of Health.
- 2. Application for Permit. The application shall be on forms provided by the Commissioner of Health. Upon application being made to him for the stockpiling or commercial removal of topsoil, the Commissioner of Health shall make an investigation to determine the effect of the proposed operation upon the health, safety and general welfare of inhabitants in the area of the proposed operation.

3. Granting of Permit. The Commissioner of Health shall evidence his approval of such application by a permit issued by him for such duration and with such conditions as he may deem necessary for the protection of health, safety and general welfare. The Commissioner of Health may require a bond, in an amount to be determined by him, with the approval of the License and Health Committee, from an applicant in order to guarantee compliance with the conditions of such permit.

9.24 Vehicle Towing Contracts

1. Declaration of Policy. The public interest requires that there be available to the City and all Departments thereof the services of a qualified and responsible towing contractor on a twenty-four (24) hour a day basis to remove from public ways and places any wrecked, disabled or abandoned vehicles or any vehicle which constitutes an obstruction or hazard to vehicular or pedestrian traffic.
 - a. Danger to the public shall be eliminated as quickly as possible.
 - b. Impediments to traffic shall be removed and normal traffic flow restored as soon as possible.
 - c. Towed vehicles shall be placed where directed by an authorized agent of the City or where they are safe and secure until the owner, his agent or representative, can determine further disposition thereof.
2. Definitions.
 - a. A vehicle is deemed to be wrecked or disabled within the meaning of this section when it cannot safely be moved under its own power.
 - b. A vehicle is deemed to be abandoned within the meaning of this section whenever it has remained standing on any highway, public place or in any building in the City more than twenty-four (24) hours.
 - c. A vehicle is deemed to constitute an obstruction or hazard to vehicular or pedestrian traffic whenever it shall, while stationary and unable to proceed, block the lane of traffic which would otherwise be open for travel by motor vehicles or pedestrians. A vehicle shall also be deemed to constitute an obstruction or hazard to vehicular traffic when it is parked in violation of the snow emergency regulations and the winter parking regulations of Section 10.11 of this Code.
3. Removal of Vehicles. Any wrecked, disabled or abandoned vehicle or any vehicle which constitutes an obstruction or hazard to vehicular or pedestrian traffic is hereby declared to be a public nuisance and may be abated or removed as provided in Section 6.015 of this Code.
4. Towing Contract Let by Bid.
 - a. The Board of Public Works shall take bids for the West Allis towing contract and submit same to the Common Council for approval.
 - b. An advertisement for bids shall be published in the official City newspaper by the Board of Public Works for two (2) successive weeks before the date established for taking of bids. Bids shall be upon forms provided by the Board.
 - c. The towing contract shall be awarded to that responsible bidder whose bid shall result in the lowest overall cost for the service provided and who, in the judgment of the Common Council, shall render the most satisfactory and dependable service to the City.
5. Minimum Qualifications for Bidders.
 - a. Bidders shall have their business locations in the City or within three (3) miles

of the City's boundaries at a place properly zoned for such purpose. No business activities pursuant to the towing contract shall be conducted from or in connection with residential property in the City or from any place not properly zoned for such purpose.

- b. Bidders may qualify for contract only by presenting evidence that they meet the following requirements:
 - i. Experience in the towing and winching of vehicles.
 - ii. Financial responsibility.
 - iii. Adequate towing equipment and storage facilities; that the bidder shall have in service at least four (4) towing vehicles, plus one (1) flatbed vehicle, and have inside storage for five (5) vehicles and outside storage for ten (10) vehicles on the same premises and shall have trained personnel available twenty-four (24) hours a day, seven (7) days a week.
 - iv. Certificate for law enforcement wrecked or disabled towing.
 - c. Bidders shall post a surety bond in the amount of five thousand dollars (\$5,000) as a guaranty of satisfactory performance of the contract; such bond to be approved by the City Attorney as to form and execution.
 - d. Bidders shall file, with the executed contract, proof of worker's compensation insurance and liability insurance in minimum amounts of \$500,000/\$1,000,000/\$500,000 covering all operations, premises, storage of vehicles and the contents thereof, and vehicles used in carrying out the work required under the contract. The liability policy shall be endorsed to name the City of West Allis as an additional insured. The insurance policies shall provide for a thirty (30) day notice to the City in the event of cancellation.
6. Contract; Terms to be Included.
- a. The contract shall be subject to approval by the Common Council and shall be executed by the Mayor and City Clerk/Treasurer on behalf of the City and shall be approved as to form by the City Attorney.
 - b. The term of the contract shall be for a period of three (3) years, except that the contract shall be terminable at will by the Common Council for such cause as shall seem sufficient to the Council.
 - c. The contractor shall bind himself as follows: within thirty (30) minutes of notification by a commanding officer of the Police Department, the Director of Public Works or other duly authorized officer or employee of the City to be on site and prepared to remove the vehicle as directed by such officer or employee of the City. Such thirty (30) minute response time shall not be applicable if the Chief of Police or Director of Public Works is satisfied that a bona fide emergency prevented the towing contractor from responding. **[Ord. 6385, 5/19/1998]**
 - d. The bidder agrees to have at least two (2) vehicles available to respond to calls from authorized City of West Allis representatives during declared snow emergencies.
 - e. The contractor's compensation for the rendition of services shall be paid by the owner of the vehicle or by his agent or representative or, where applicable, by the City according to the fee schedule submitted with the contractor's bid. In the case of abandoned or unclaimed vehicles sold by the City under secs. 68.28 or 342.40 of the Wisconsin Statutes, the City shall pay only the portion of the compensation which is in excess of the value of the vehicles obtained by the contractor or upon disposal by him. It shall be unlawful for the towing

contractor to charge in excess of the fee schedule submitted with the contractor's bid, where an authorized agent of the City has called for the contractor's services.

- f. Contractor shall notify the Chief of Police of all vehicles which have remained unclaimed in his custody for a period of thirty (30) days or, in case of abandoned vehicles, for a period of ten (10) days, including make, model, year and date of possession. If it is determined by the Chief of Police or any member of his Department designated by him that the cost of towing and storing charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked or sold prior to the expiration of the impoundment period upon determination that the vehicle is not stolen or otherwise wanted for evidence or other reason.

The Chief of the Police may authorize the contractor to dispose of such vehicles and to advise the Department of Transportation of the disposition of any such vehicle according to the provisions of sec. 342.40(3)(e) of the Wisconsin Statutes. In addition, the contractor shall be responsible for complying with the provisions of sec. 342.40(3)(c) relating to notice to owners and lienholders.

- g. The contractor shall submit to the Chief of Police, on or before the tenth day of each month, a sworn statement covering all operations performed under the towing contract for the preceding month. The statement shall contain the following information:
- i. Name and address of owner of vehicle.
 - ii. Date of removal of vehicle.
 - iii. Make and model of the vehicle.
 - iv. Location from which the vehicle was removed.
 - v. Location to which the vehicle was removed.
 - vi. The total charge made for such removal.

- h. The Chief of Police is hereby authorized to assign to the contractor any cause of action which may accrue to the benefit of the City, pursuant to sec. 342.40(3)(b) of the Wisconsin Statutes, for the costs of towing, impounding and disposing of an abandoned vehicle. Any vehicle not disposed of under Section (6)(e) of this contract shall be disposed of in accordance with the provisions of sec. 342.40(3)(c) of the Wisconsin Statutes.

The Chief of Police, or any member of his Department designated by him, shall dispose of any vehicle not disposed of under subsection (6)(e) of this ordinance by sealed bid or auction after the contractor has complied with the provisions of subsection (6)(e) of this ordinance. Notice of such sale shall be done by publishing it in the official City newspaper.

- i. The contractor shall agree to hold the City harmless for any and all claims and damages resulting from operations conducted under the towing contract, including damage or loss to vehicles and personal property contained in said vehicles held in storage by the contractor. The contractor further agrees to defend any claim on behalf of the City and to pay all costs, damages and attorneys fees which may result from such claims. The insurance policies required in subsection (5)(d) shall reflect the terms of this paragraph. The contractor shall agree to hold the City harmless from any and all claims and damages resulting from any and all operations conducted under the towing contract, and shall agree to defend any claims on behalf of the City,

and to pay all costs, damages and attorneys fees which may result from such claims. The certificates of insurance required by section (5)(d) shall reflect the terms of this paragraph.

- j. The bidder agrees to post a list of prices in conformity with the bid. The list of prices shall be conspicuously posted and in a form designed to give reasonable notice to a person retrieving a towed vehicle. **[Ord. 6427, 3/16/1999]**

7. Police Department Fees for Services. **[Ord. O-2007-0030, 8/7/2007 (repeal and recreate)]**

- a. Storage of Vehicles. In addition to any other fees set forth herein, the West Allis Police Department is authorized to charge ten dollars (\$10) per day for the storage of vehicles outside the West Allis Police Department and fifteen dollars (\$15) per day for the indoor storage of vehicles at the West Allis Police Department. The same rates shall apply to the storage of vehicles on any other property owned by the City of West Allis and designated by the Chief of Police for such purpose.
- b. Administrative fee. The West Allis Police Department is authorized to charge a twenty-five dollar (\$25) administrative fee for West Allis Police Department services related to the towing of vehicles. Said fees shall be collected by the City's vehicle towing contractor along with that company's regular towing charges and paid to the City on a monthly basis.

[Ord. 6377, 4/21/1998]

9.25 Racing Cars, "Go-Karts" And Similar Vehicles

- 1. Vehicles to Operate on Licensed Track. No person shall operate a racing car, "Go-Kart" or similar vehicle in the City, except upon a track constructed and licensed under the provisions of this section.
- 2. Track License Application. License application for a vehicle race-track license shall be on forms supplied by the City Clerk. Before any license is granted, the Common Council shall hold a public hearing on the application, with at least one notice thereof to be published in the official City newspaper. The license shall issue only if the Council determines that the public health, safety and welfare will not be adversely affected thereby.
- 3. Exceptions. A vehicle race track license shall be issued for a license year from July 1 to June 30, and shall be subject to the following terms and conditions:
 - a. The track must be located at least two thousand (2,000) feet from any dwellings.
 - b. The track must be covered by a public liability insurance policy with limits of \$100,000/300,000/10,000, and a certificate specifying such coverage shall be filed with the City Clerk before the license is issued.
 - c. The track must have toilet facilities approved by the Health Commissioner of the City.
 - d. All structures must comply with the Building Code and zoning regulations of the City and be approved by the Building Inspector.
 - e. The track shall be operated only between the hours of 9:00 A.M. and 10:00 P.M.
 - f. The track shall be hard surfaced with concrete, macadam or equivalent material.
 - g. The licensee shall post a bond with the City, indemnifying and holding the City harmless in the amount of one hundred thousand dollars (\$100,000) from

any and all claims and damages which might arise from the licensing or operation of the track.

4. Noise and Smoke Regulations. No vehicle shall be operated on a licensed track which is not equipped with an adequate muffler in constant operation and properly maintained to prevent the emission of any excessive or unusual noise or annoying smoke.
5. This section shall not prohibit the operation of "Go-Karts" and similar vehicles in parades conducted under a permit issued by the City, nor shall this section apply to any races or track operations conducted upon the grounds of the Wisconsin State Fair.

9.26 Coin-Operated Or Self Service Dry Cleaning Machines

1. Whenever used in this section, the following terms shall mean and include:
 - a. "Person" shall mean and include any person, firm, partnership, association, corporation, company or organization of any kind.
 - b. "Dry Cleaning" is the process of removing dirt, grease, paint, spots, stains or any other form of foreign matter from wearing apparel or household furnishings, by any other means than washing with soap or detergent and water.
 - c. "Plant" is any business establishment or location where wearing apparel and/or household furnishings are dry cleaned on the premises by the use of coin-operated or self-service dry cleaning machines.
 - d. "Coin-operated dry cleaning machine" is any machine used for the purpose of "dry cleaning," whose operation is actuated by the insertion of a coin in a slot or other receptacle.
 - e. "Flammable liquid" is any liquid, viscous or other compound, powder or solid product or substance, having the capacity to evaporate, generate and emit a gas or vapor propagative of flame, fire or explosion incident to evaporation.
2. It shall be unlawful for any person to establish or operate within the City of West Allis any plant containing coin-operated or self service dry cleaning machines available for use by the public without first obtaining a permit therefor in compliance with the provisions of this section.
3. Application for permit shall be on forms furnished by the Building Inspector and shall set forth information required by the terms of this section and such other information as the Building Inspector shall deem necessary to safeguard the public health and welfare.
4. Permits shall be granted by the Building Inspector only upon the applicant's compliance with the requirements of this section, and those requirements of the Building Inspector authorized by this section, and upon compliance with all applicable state and local laws, rules and regulations.
5. The permit fee shall be five dollars (\$5) per year for each machine or unit of such machine which can be independently actuated by means of the insertion of a coin, or otherwise. The permit year shall be from July 1 to June 30 of the succeeding year.
6. Every applicant procuring a permit consents to the entry of the Building Inspector, or other authorized officers of the City, at all reasonable hours for the purpose of inspection to ascertain whether there is compliance with the requirements of this section and the requirements of state and local laws, rules and regulations.
7. Each person operating a plant shall be responsible for any violation of the terms of this section, whether by himself or by an agent or an employee, and any such violation shall be grounds for the revocation of the permit.

8. In order to protect the health and safety of the citizens of the City of West Allis and other members of the public who may use coin-operated or self-service dry cleaning machines, as defined in this section, there shall be compliance with the following requirements prior to the issuance of a permit or the renewal of any permit hereunder.
 - a. No flammable solvent shall be used in any coin-operated or self-service dry cleaning machine.
 - b. No spotting operations utilizing flammable liquid or any substance which causes toxicity in the atmosphere shall be permitted, and no liquid of this nature shall be permitted on the premises.
 - c. Filters for solvent on each machine shall be removed and replaced or cleaned not less than once each day.
 - d. The contents of the sludge can of such machine shall be placed in containers provided with closely fitting lids and disposed of at regular intervals, not less than once each week.
 - e. All solvents, when used in a coin-operated or self-service dry cleaning machine, shall be contained within a liquid and vapor-tight closed system.
 - f. All electrical connections shall be in accordance with the Electrical Code of the City of West Allis and the State of Wisconsin and each machine shall be tested and listed by the Underwriters Laboratories, Inc. The main electrical switch controlling each machine or a bank of machines shall be accessible in an area removed from such machine or machines.
 - g. Each machine shall be so equipped that it cannot be opened while operating nor until after the drying cycle is completed and shall be so equipped that it cannot be opened in the event of mechanical or electrical failure, except by an attendant.
 - h. No permit shall be granted hereunder unless the plant shall operate in a single story, non-frame building with concrete or other moisture-impervious floor, containing no dwelling units in the same building. No basement installations of machines shall be allowed.
 - i. In the installation of the machines the following partitions are required so as to insure safety to the public:
 - i. The front or customer side of the machine shall be the only portion of the machine exposed in the customer area.
 - ii. The remainder of the machine shall be separated from the customer area by a solid partition.
 - iii. Access doors to the rear of the partition shall be kept closed and locked when not in use.
 - iv. Each machine or bank of machines shall be completely separated by an enclosure from other areas that contain heating devices requiring air for combustion.
 - j. An exhaust system shall be provided at each plant for the removal of toxic vapors, as follows:
 - i. An individual exhaust shall be provided on each machine.
 - ii. Scavenger ducts shall be provided for each machine or bank of two (2) machines and so designed and constructed as to pick up vapors surrounding the equipment near the floor.
 - iii. Such scavenger pipes shall be located not less than two (2) nor more than four (4) inches above the floor and not more than eighteen (18) inches from each machine.
 - iv. An exhaust fan or fans shall be provided for the enclosure behind

- each machine or machines to be utilized in the event of solvent spill.
- v. An exhaust fan or duct shall be provided at the front grill or loading door intake on each machine and so arranged and controlled that when such machine is not in operation, air is drawn through the front door or grill of the machine at a face velocity of not less than one hundred (100) feet per minute.
 - vi. The exhaust ventilation system as required shall be operated continuously while occupancy of the plant is open to the public and shall be so interlocked with each machine that such machine cannot be operated unless the exhaust system is functioning.
 - vii. The entire ventilation system shall exhaust to the outside atmosphere and terminate not less than twenty-five (25) feet from any building opening and in such a manner as to not expose the passing public; and, in such manner as to prevent injury, detriment, nuisance or annoyance, or to endanger the health or safety of any person, or to cause or have a natural tendency to cause injury or damage to business or property. The exhaust shall be located as remotely as possible from all air intakes for appliances or other purposes.
- k. Ventilation from the outside atmosphere shall be provided for the customer area equivalent to that exhausted from within such area by the ventilation requirements of this section.
 - l. No solvent contaminated air shall be allowed into the air intakes of any combustion equipment. Ventilation from the outside atmosphere shall be provided for all heating devices requiring air for combustion.
 - m. Each machine or bank of machines, together with appurtenant appliances, shall be diked with a four (4) inch floor curb suitable to contain spilled or leaking solvent. Such diked area shall be provided with an untrapped floor drain to conduct any such spilled or leaking solvent to a sealed recovery tank. No such drain shall be connected to any sewer system.
 - n. Each plant shall be provided with a portable fire extinguisher of the carbon dioxide or dry chemical type, of at least (thirty) 30 pounds capacity.
 - o. Detailed instructions for use of dry cleaning machines shall be posted in a conspicuous location near each machine in the customer area.
 - p. Each plant shall have a competent attendant on duty at all times such coin-operated or self-service dry cleaning machines are available for use by the public.
 - q. No permit shall be granted for any plant which contains coin-operated or self-service dry cleaning machines involving or requiring the handling of garments or materials to be cleaned between operations of the machine.
9. Any person violating any of the provisions of this section shall, upon conviction thereof, be punished by a fine not to exceed one hundred dollars (\$100) or, in default thereof, by imprisonment not to exceed sixty (60) days.
10. The provisions of this ordinance are declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this ordinance, but they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

9.27 Penalties

1. Every person, firm or corporation convicted of a violation of any of the provisions, or parts thereof, of this Chapter shall, for each offense, forfeit not less than twenty-five dollars (\$25), nor more than five hundred dollars (\$500), together with the costs of prosecution; and, in default of payment of such forfeiture and costs, by imprisonment in the Milwaukee County House of Correction until payment of the forfeiture and costs, but not in excess of the number of days set forth in sec. 800.095(4) of the Wisconsin Statutes.
2. Each and every day a violation of a provision or part thereof of this Chapter continues constitutes a separate offense.

9.28 Adult Oriented Establishments

1. Definitions. For the purpose of this section, the following words and phrases shall have the following definitions:
 - a. "Adult-oriented establishment," shall include, but is not limited to, "adult bookstores," "adult motion picture theaters," "adult mini-motion picture establishments" or "adult cabarets," and further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common area of the premises for the purposes of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect. An "adult-oriented establishment" further includes, without being limited to, any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.
 - b. "Adult bookstore" means a retail establishment that has: **[Ord. O-2004-0050, 12/21/2004]**
 - i. As one of its principal business purposes the sale or rental of, or a substantial or significant portion of its stock in trade for sale or rental:
 - (1) Publications which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified anatomical areas or specified sexual activities, as defined in this section; and/or
 - (2) Sexually oriented devices, as defined in this section.
 - ii. As used in this definition, publications include, by way of illustration, books, magazines, other periodicals, movies, videotapes, and other products offered in photographic, electronic, magnetic, digital, or other imaging medium.
 - iii. Any of the following shall be indicia that an establishment has as one of its principal business purposes the sale or rental of: (1) publications which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section, and/or (2) sexually oriented devices, as defined in this section:
 - (1) The business advertises the sale or rental of adult publications including but not limited to "x-rated" movies, and/or sexually oriented devices;
 - (2) Access by persons under eighteen (18) years of age to the

- business establishment or portions of the business establishment is restricted;
- (3) Signs or notices are posted outside and/or inside the business establishment indicating that the material offered for sale or rental might be offensive;
 - (4) The building or portion of the building containing the business establishment does not have windows or has windows that are screened or otherwise obstructed or are situated in a manner that restricts visual access from outside the building to materials displayed within for sale or rental. Such indicia shall be considered along with all other factors and available information.
- iv. Notwithstanding the foregoing, a general circulation video store that does not offer for sale any sexually oriented devices shall not constitute an "adult bookstore" even though it offers for sale and/or rental videotapes which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified anatomical areas or specified sexual activities, as defined in this section, so long as:
- (1) Such described videotapes are stocked and displayed in a room separate from the area of the business establishment where general circulation videotapes are stocked and displayed;
 - (2) Access by persons under eighteen (18) years of age to the room where such described videotapes are stocked and displayed is restricted;
 - (3) The square footage of the separate room where such described videotapes are stocked and displayed in no more than ten (10) percent of the square footage of the area where general circulation videotapes are stocked and displayed; and
 - (4) The general circulation videotapes portion of the business establishment offers a quantity and selection of new release general circulation videotapes that is typical of a general circulation video store and offers a quantity and selection of other general circulation video tapes that are organized and displayed in a manner that is typical of a general circulation video store.
- c. "Adult cabaret" means an establishment where a dancer or other entertainer provides live adult entertainment, expositions, or shows, including but not limited to floor shows, exotic dancing, male or female impersonators, or similar entertainment and engages in a private performance, acts as a private model, displays or exposes any specified anatomical area(s) to a patron or customer, or wears or displays to a customer any covering, tape, pastie, or other device which simulates or gives the appearance of the display or exposure of any specified anatomical area(s). **[Ord. 6541 (amended), 2/6/2001]**
- d. "Adult entertainment" means any exhibition of any motion pictures, live performance, display or dance of any type, which has as a significant or substantial portion of such performance or is distinguished or characterized by an emphasis on, any actual or simulated performance of "specified sexual activities," or exhibition and viewing of "specified anatomical areas," as

defined below, appearing unclothed, or the removal of articles of clothing to reveal "specified anatomical areas."

- e. "Adult mini-motion picture theater" means a commercial establishment with one or more adult mini motion picture booths where: **[Ord. O-2004-0050, 12/21/2004]**
 - i. One of the principal business purposes is the presentation and viewing of still or motion pictures in the viewing booths that are distinguished or characterized by their emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation by patrons therein.
 - ii. A substantial or significant portion of the stock of still or motion pictures available for viewing or that are actually viewed in the viewing booths are distinguished or characterized by their emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined below.
 - iii. Any of the following shall be indicia that the business establishment has as one of its principal business purposes the presentation and viewing in viewing booths still or motion pictures which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined below:
 - (1) Restricted access to the business establishment or portions of the business establishment where viewing booths are located by persons under eighteen (18) years of age.
 - (2) Posted signs or notices outside and/or inside the business establishment indicating that the material offered for presentation and viewing in the viewing booths might be offensive.Such indicia shall be considered along with other factors and available information.
- f. "Adult motion picture theater" means an enclosed building with a capacity of fifty (50) or more persons used for presenting material having as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation by patrons therein.
- g. "Booth," "room" or "cubicle" shall mean such enclosures as are specifically offered to the public or members of an adult-oriented establishment for hire or for a fee as part of a business operated on the premises which offers as part of its business the entertainment to be viewed within the enclosure; which shall include, without limitation, such enclosures wherein the entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, "booth," "room" or "cubicle" does not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee, and are not open to any persons other than employees; nor shall this definition apply to hotels, motels or other similar establishments licensed by the State of Wisconsin pursuant to Chapter 50 of the Wisconsin Statutes.
- h. "Church" means a building, whether situated within the City or not, in which

persons regularly assemble for religious worship intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.

- i. "Customer" means any person who:
 - i. Is allowed to enter an adult oriented business in return for the payment of an admission fee or any other form of consideration or gratuity; or,
 - ii. Enters an adult oriented business and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or,
 - iii. Is a member of and on the premises of an adult oriented business operating as a private club.
- j. "Day Care Center" means a facility licensed by the State of Wisconsin, pursuant to sec. 48.65 of the Wisconsin Statutes, whether situated within the City or not.
- k. "Residential" means pertaining to the use of land, whether situated within the City or not, for premises such as homes, townhouses, duplexes, condominiums, apartments and mobile homes, which contain habitable rooms for non-transient occupancy and which are designed primarily for living, sleeping, cooking and eating therein. A premises which is designed primarily for living, sleeping, working and eating therein shall be deemed to be residential in character unless it is actually occupied and used exclusively for other purposes. Hotels, motels, boarding houses, nursing homes and hospitals shall not be considered to be residential.
- l. "School" means a building, whether situated within the City or not, where persons regularly assemble for the purpose of instruction or education, together with the playgrounds, stadia and other structures or grounds used in conjunction therewith. The term is limited to:
 - i. Public and private schools used for primary or secondary education in which any regular kindergarten or grades one through twelve (1-12) classes are taught; and,
 - ii. Special educational facilities in which students who have physical or learning disabilities receive specialized education in lieu of attending regular classes in kindergarten or any of grades one through twelve (1-12).
- m. "Common Council" means the Common Council of the City of West Allis, Wisconsin.
- n. "Employee" means any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.
- o. "Entertainer" means any person who provides entertainment within an adult-oriented establishment as defined in this ordinance, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or independent contractor.
- p. "Operator" means any person, partnership or corporation operating, conducting, maintaining or owning any adult-oriented establishment.
- q. "Specified anatomical areas" means: **[Ord. O-2004-0050, 12/21/2004]**
 - i. Less than completely and opaquely covered:
 - (1) Human genitals, pubic region; or
 - (2) Showing the areola or nipple of a female breast.

- ii. Human male genitals in a discernible turgid state, even if opaquely covered.
- r. Specified sexual activities" means simulated or actual: **[Ord. O-2004-0050, 12/21/2004]**
 - i. Showing of human genitals in a state of sexual stimulation or arousal;
 - ii. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus;
 - iii. Fondling or erotic touching of human genitals, pubic region, or areola or nipple of a female breast.
 - iv. Excretory functions, as part of or in connection with any of the activities set forth in subsections 1 through 3 above.
- s. "Substantial," as used in various definitions shall mean fifty percent (50%) or more of a business' stock in trade, display space, floor space or retail sales in any one month during the license year.

2. License.

- a. Except as provided in subsection (e) below, from and after the effective date of this ordinance, no adult-oriented establishment shall be operated or maintained in the City of West Allis without first obtaining a license to operate issued by the City of West Allis.
- b. A license may be issued for only one (1) adult-oriented establishment located at a fixed and certain place per application filed. Any person, partnership or corporation which desires to operate more than one adult-oriented establishment must have a license for each.
- c. No license or interest in a license may be transferred to any person, partnership or corporation except as set forth in subsection (11).
- d. It shall be unlawful for any entertainer, employee or operator to knowingly work in or about, or to knowingly perform any service directly related to, the operation of any adult-oriented establishment which does not have a valid license pursuant to this ordinance.
- e. Nothing in this ordinance shall be construed as to permit material or performances prohibited by sec. 944.21 of the Wisconsin Statutes.

3. Application for License.

- a. Any person, partnership or corporation desiring to secure a license shall make application to the City Clerk. The application shall be filed with and dated by the City Clerk. A copy of the application shall be distributed promptly by the City Clerk to the City of West Allis Police Department, Building Inspector and Health Department and to the applicant.
- b. The application for a license shall be upon a form provided by the City Clerk. An applicant for a license shall furnish the following information under oath:
 - i. The names (including all aliases), addresses and dates of birth of the applicant and any partner or limited partner in a partnership applicant; and any shareholder holding more than ten (10%) percent of the stock of a corporate applicant and each corporate officer and director.
 - ii. Written proof that any person required to be named under paragraph (3)(b) 1. of this section is at least eighteen (18) years of age.
 - iii. The exact nature of the adult use to be conducted and the proposed address of the adult-oriented establishment to be operated.
 - iv. Whether any person required to be named under paragraph (3)(b) 1. of this section is currently operating, or has previously operated, in

this or any other county, city or state under an adult-oriented establishment license or similar business license or permit; whether the applicant has ever had such a license revoked or suspended, the reason therefor, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.

- v. If the applicant is a corporation, the application shall also specify the name of the corporation, the date and state of incorporation and the name and address of the registered agent.
 - vi. Proof of ownership or proof of a lease or other legally enforceable right to possess and use the premises where the adult-oriented business is to be located.
- c. Within sixty (60) days of receiving an application for a license, the Common Council shall grant or deny the license or hold the application for an additional thirty (30) days for further investigation. The City Clerk shall notify the applicant whether the application is granted, denied or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigation, the Common Council shall grant or deny the permit and the City Clerk shall advise the applicant in writing whether the application is granted or denied.
- d. Whenever an application is held for further investigation, the City Clerk/Treasurer shall advise the applicant in writing of the reasons for such action. If an application is denied, the City Clerk/Treasurer shall advise the applicant in writing of the reasons therefor and that the applicant has the right to request that the Common Council review said determination, pursuant to sec. 9.28(17). **[Ord. 6358, 2/3/1998]**
- e. Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this section shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof.
4. Standards for Issuance of License.
- a. To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:
 - i. If the applicant is an individual:
 - (1) The applicant shall be at least eighteen (18) years of age.
 - (2) The applicant shall not have been found to have previously violated this ordinance within five (5) years immediately preceding the date of the application.
 - (3) Subject to secs. 111.321, 111.322 and 111.335 of the Wisconsin Statutes, the applicant shall not have been convicted of any offense involving moral turpitude, prostitution, obscenity or other offense of a sexual nature in any jurisdiction within the five (5) years immediately preceding the date of the application, unless the person has been duly pardoned.
 - ii. If the applicant is a corporation: **[Ord. 6359, 2/3/1998]**
 - (1) All officers, directors, shareholders and agents required to be

- named under section (3)(b)1. of this section shall be at least eighteen (18) years of age.
- (2) Neither the corporate applicant nor any officer, director or shareholder required to be named under subsection (3)(b)1. of this ordinance shall have been found to have previously violated sec. 9.28 of the Revised Municipal Code within five (5) years immediately preceding the date of application.
 - (3) Subject to secs. 111.321, 111.322 and 111.335 of the Wisconsin Statutes, no officer, director, shareholder or agent required to be named under subsection (3)(b)1. of this ordinance, or the corporate applicant, shall have been convicted of any offense involving moral turpitude, prostitution, obscenity or other offense of a sexual nature in any jurisdiction within the five (5) years immediately preceding the date of the application, unless the person or applicant has been duly pardoned.
- iii. If the applicant is a partnership, joint venture or any other type of organization where two (2) or more persons have a financial interest:
- (1) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.
 - (2) Neither the applicant nor any person having a financial interest in the organization shall have been found to have violated any provision of this section within five (5) years immediately preceding the date of application.
 - (3) Subject to secs. 111.321, 111.322 and 111.335 of the Wisconsin Statutes, no applicant or person having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of any offense involving moral turpitude, prostitution, obscenity or other offense of a sexual nature in any jurisdiction within the five (5) years immediately preceding the date of the application, unless the person or applicant has been duly pardoned.
- b. Any act or omission by any person identified in subsection (4)(a) that results in a conviction identified in subsection (4)(a) shall be deemed the act or omission of the applicant for purposes of determining whether the license shall be granted. **[Ord. 6359, 2/3/1998]**
- c. Prior to granting the license, the Common Council shall determine whether the applicant complies with sec. 9.28(13) or is exempt or excluded under sec. 9.28(18) and has substantially complied with all building, zoning, plumbing, electrical, fire and health codes. **[Ord. 6359, 2/3/1998]**
5. Permit Required. In addition to the license requirements previously set forth for owners and operators of adult-oriented establishments, no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the City Clerk under authority of the Common Council. During the pendency of an application for an annual permit, the City Clerk shall issue the applicant a temporary permit which shall be valid only until such time as the application for an annual permit is approved or denied by the Common Council pursuant to the procedures set forth herein. Under no circumstances shall any temporary permit be valid for more than ninety (90) days. Temporary permits shall be

nontransferable. [Ord. O-2006-0025, 5/16/2006]

6. Application for Permit.

- a. Any person desiring to secure a permit shall make application to the City Clerk. The application shall be filed with and dated by the City Clerk. A copy of the application shall be distributed to the West Allis Police Department and to the applicant.
- b. The application for a permit shall be upon a form provided by the City Clerk. An application shall furnish the following information under oath:
 - i. Name (including all aliases), age and address.
 - ii. Written proof that the individual is at least eighteen (18) years of age.
 - iii. Whether the applicant, while previously operating in this or any other municipality or state under an adult-oriented establishment license or similar business license or permit, has ever had such a license or permit revoked or suspended, the reason therefor, and the business entity or trade name for whom applicant was employed or associated at the time of such suspension or revocation.
- c. Within sixty (60) days of receiving an application for a permit, the Common Council shall grant or deny the permit or hold the application for an additional thirty (30) days for further investigation. The City Clerk shall notify the applicant whether the application is granted, denied or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigation, the Common Council shall grant or deny the permit and the City Clerk shall advise the applicant in writing whether the application is granted or denied.
- d. Whenever an application is denied or held for further investigation, the City Clerk shall advise the applicant in writing of the reasons for such action, and that the applicant has the right to request that the Common Council review said determination, pursuant to sec. 68.11 of the Wisconsin Statutes, and sec. 2.48(5) of the West Allis Revised Municipal Code.
- e. Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this section shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof.

7. Standards for Issuance of Permit.

- a. To receive a permit as an employee for an adult-oriented establishment, an applicant must meet the following standards:
 - i. The applicant shall be at least eighteen (18) years of age.
 - ii. The applicant shall not have been found to have previously violated this section within five (5) years immediately preceding the date of the application.
 - iii. Subject to §§ 111.321, 111.322 and 111.335 of the Wisconsin Statutes, the applicant shall not have been convicted of any offense involving moral turpitude, prostitution, obscenity or other offense of a sexual nature in any jurisdiction within the five (5) years immediately preceding the date of the application unless the applicant has been duly pardoned.

8. Fees. **[Ord. O-2009-0033, 11/3/2009]**

- a. A license fee of five hundred seventy-five dollars (\$575.00) shall be submitted with the application for a license.
- b. A permit fee of sixty dollars (\$60.00) shall be submitted with the application for a permit.

9. Display of License or Permit.

- a. The license shall be displayed in a conspicuous public place in the adult-oriented establishment.
- b. The permit shall be carried by an employee upon his or her person and shall be displayed upon request of any member of the West Allis Police Department or any person designated by the Common Council.

10. Renewal of License or Permit.

- a. Every license issued pursuant to this section shall terminate on June 30 pursuant to Section 9.01, unless sooner revoked, and must be renewed before operation is allowed in the following license year. Any operator desiring to renew a license shall make application to the City Clerk. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed with and dated by the City Clerk. A copy of the application for renewal shall be distributed promptly by the City Clerk to the West Allis Police Department, Building Inspector, Health Department and to the operator. The application for renewal shall be upon a form provided by the City Clerk and shall contain such information and data, given under oath or affirmation, as is required for an application for a new license. The application shall otherwise be considered pursuant to Section 9.28(3). It is not guaranteed that operators filing late applications will receive a decision on their application prior to expiration of the license year.
- b. A license renewal fee of five hundred seventy-five dollars (\$575.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred fifty dollars (\$150.00) shall be assessed against any applicant who filed for a renewal less than sixty (60) days before the license expires. **[Ord. O-2009-0033, 11/3/2009]**
- c. If the West Allis Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the City Clerk.
- d. Every permit issued pursuant to this section shall terminate on June 30 pursuant to Section 9.01, unless sooner revoked, and must be renewed before an employee is allowed to continue employment in an adult-oriented establishment. Any employee desiring to renew a permit shall make application to the City Clerk. The application for renewal must be filed not later than sixty (60) days before the permit expires. The application for renewal shall be filed with and dated by the City Clerk. A copy of the application shall be distributed promptly by the City Clerk to the West Allis Police Department and to the employee. The application shall be upon a form provided by the City Clerk and shall contain such information and data, given under oath or affirmation, as is required for a new permit. The application shall otherwise be considered pursuant to Section 9.28(6). It is not guaranteed that employees filing late applications will receive a decision on their application prior to expiration of the permit year.
- e. A permit renewal fee of sixty dollars (\$60.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of

twenty-five dollars (\$25.00) shall be assessed against any applicant who files for a renewal less than sixty (60) days before the permit expires. [Ord. O-2009-0033, 11/3/2009]

- f. If the West Allis Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the City Clerk.

11. Transfer of License or Permit.

- a. A license is personal to the owner(s) and operator designated in the application, provided it may be transferred pursuant to this section. A transfer application must be filed by the tenth day next following any change of the owner(s) or operators designated on the application. In the event that a transfer application is not timely filed, then the license shall be invalid for any purpose relating to the operation of the adult-oriented business, and any transfer shall require the filing of an original application and be subject to the regulations applicable thereto.
- b. The Clerk shall prescribe a form on which license transfer applications shall be made. The form shall include a statement under oath that the original application remains correct as previously submitted in all respects except those that are amended by the transfer application. The transfer application shall contain a statement under oath that the individual signing the transfer application has personal knowledge of the information contained therein and that the information is true and correct and shall not be complete unless accompanied by a nonrefundable transfer fee of one hundred dollars (\$100). Transfer applications shall be filed in the same place and at the same time as original applications and the fee shall be payable in the same manner as for original applications.
- c. Transfer applications shall be reviewed, issued and subject to appeal in the same manner as original applications and they shall be issued for the remaining term of the license to be transferred.
- d. Any transfer of an adult-oriented establishment, other than as provided in this section, from the licensed premises to any other premises shall cause such license to lapse and become void. A license which has lapsed and become void shall be subject to revocation under Section 9.28(12).
- e. Permits shall not be transferrable.

12. Revocation, suspension and non-renewal of license or permit.

- a. A license or permit issued under this section may be suspended or revoked for any of the following reasons:
 - i. Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.
 - ii. The operator, entertainer or any employee of the operator, violates any provision of this section or any rule or regulation adopted by the Common Council pursuant to this section; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee or customer, the penalty shall not exceed a suspension of thirty (30) days if the Common Council shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.
 - iii. The operator or employee becomes ineligible to obtain a license or permit.

- iv. An operator employs an employee who does not have a permit or provides space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without a permit.
 - v. Any cost or fee required to be paid by this section is not paid.
 - vi. Any intoxicating liquor or fermented malt beverage, narcotic or controlled substance is served or consumed on the premises of the adult-oriented establishment.
 - vii. Any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult-oriented entertainment or adult-oriented material.
- b. The Common Council, upon receipt of information that provides a reasonable basis to believe that a violation of this section has occurred, shall serve written notice of said violation(s) on the operator or employee. Said written notice shall include specific charges and shall provide the operator or employee with notice that revocation, suspension or nonrenewal of the license or permit will occur, unless a written request for a review of the Common Council's decision is made to the Common Council within thirty (30) days after service of said notice to the operator or employee. Unless otherwise extended by an agreement with the aggrieved party, within fifteen (15) days of receipt of a request for review, the Common Council shall conduct a hearing, pursuant to sec. 9.28(17) of the Revised Municipal Code. **[Ord. 6358, 2/3/1998]**
- c. The transfer of a license or permit or any interest in a license or permit without approval of the Common Council as set forth in subsection (11) shall automatically and immediately revoke the license or permit.
- d. Any operator or employee whose license or permit is revoked and who seeks to obtain a license or permit under this section must apply for a license or permit according to the application provisions set forth in this section and must meet the standards for the issuance of a license or permit as set forth in this section. No location or premises for which a license has been revoked shall be used as an adult-oriented establishment for six (6) months from the date of revocation of the license. No employee whose permit has been revoked shall be eligible for a permit for six (6) months from the date of revocation.

13. Location.

- a. No adult-oriented establishment shall be located:
 - i. Within a residential district as defined in Chapter 12 of the West Allis Revised Municipal Code.
 - ii. Within five hundred (500) feet of an existing adult-oriented establishment.
 - iii. Within five hundred (500) feet of any residential area.
 - iv. Within five hundred (500) feet of any pre-existing school, church or day care center.
 - v. Within five hundred (500) feet of any pre-existing establishment licensed to sell or dispense fermented malt beverages or intoxicating liquor where such establishment also possesses an entertainment license under section 9.033.
- b. For purposes of this section, distances are to be measured in a straight line, without regard to intervening structures or objects, from the property line of the adult-oriented establishment, to the nearest property line of another adult-oriented establishment, school, place of worship or residential district or

establishment selling or dispensing fermented malt beverages or intoxicating liquor and possessing an entertainment license.

14. Hours of Operation.

- a. No adult-oriented establishment shall be open between the hours of 2 a.m. and 8 a.m., Monday through Friday, between the hours of 3 a.m. and 8 a.m. on Saturdays, or between the hours of 3 a.m. and 12:00 noon on Sundays.
- b. All adult-oriented establishments shall be open to inspection at all reasonable times by the West Allis Police Department, the Building Inspector and the Health Department.

15. Physical Layout of Adult-Oriented Establishment. Any adult-oriented establishment having available for customers, patrons or members, any booth, room or cubicle for the private viewing of any adult entertainment must comply with the following requirements:

- a. Access. Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the adult-oriented establishment and shall be unobstructed by any door, lock or other control-type devices.
- b. Construction. Every booth, room or cubicle shall meet the following construction requirements:
 - i. Each booth, room or cubicle shall be separated from adjacent booths, rooms or cubicles and any non-public areas by a wall.
 - ii. Have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying the same.
 - iii. All walls shall be solid and without any openings, extended from the floor to a height of not less than six (6) feet and be light colored, non-absorbent, smooth textured and easily cleanable.
 - iv. The floor must be light colored, non-absorbent, smooth textured and easily cleanable.
 - v. The lighting level of each booth, room or cubicle shall be a minimum of ten (10) foot candles at all times, as measured from the floor.
- c. Occupants. Only one individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.

16. Responsibility of the Operator.

- a. The operator shall maintain a register of all employees, showing the name and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, telephone numbers, date of employment and termination, and duties of each employee and such other information as may be required by the Common Council. The above information on each employee shall be maintained in the register on the premises for a period of one (1) year following termination of the employee and shall be made immediately available for inspection upon demand of a member of the West Allis Police Department at all reasonable times.
- b. Every act or omission by an employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

- c. Any act or omission of any employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator for purposes of determining whether the operator's permit should be revoked, suspended or renewed. **[Ord. 6360, 2/3/1998]**
 - d. There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment provided on the premises. Said list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the West Allis Police Department at all reasonable times.
 - e. No minor shall be allowed to enter or remain inside an adult oriented establishment or be permitted to loiter on the business premises. For purposes of this section, "business premises" shall include property owned or leased by the adult oriented establishment and contiguous with the licensed premises, parking lots or sidewalk approaches. **[Ord. 6360, 2/3/1998]**
 - f. The operator shall maintain the premises in a clean and sanitary manner at all times.
 - g. The operator shall maintain at least ten (10) foot candles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles, provided, however, at no time shall there be less than one (1) foot candle of illumination in said aisles, as measured from the floor.
 - h. The operator shall insure compliance of the establishment and its patrons with the provisions of this ordinance.
 - i. View from street. No adult-oriented establishment shall be situated in such manner as to allow public view of either its stock in trade or adult entertainment from outside of the establishment.
17. Administrative Review Procedure. Except as otherwise set forth herein, the provisions of Chapter 68 of the Wisconsin Statutes, and sec. 2.48 of the Revised Municipal Code, shall govern the administrative procedure and review concerning the granting, denial, renewal, nonrenewal, suspension or revocation of a license or permit. A decision of the Common Council may be reviewed upon the request of an aggrieved person and shall be made to the City Clerk/Treasurer within thirty (30) days of the decision. Upon such appeal, the Common Council shall afford the aggrieved person with a hearing substantially in compliance with § 68.11 of the Wisconsin Statutes, except that the Common Council shall hear and review its own decisions. The decision of the Common Council subsequent to the hearing shall be the "final determination," as set forth in § 68.12 of the Wisconsin Statutes. Any party to a proceeding resulting in a final determination may seek judicial review, pursuant to the provisions contained in § 68.13 of the Wisconsin Statutes. **[Ord. 6358, 2/3/1998]**
18. Exclusions and Exemptions.
- a. All private schools and public schools, as defined in Chapter 115 of the Wisconsin Statutes, located within the City of West Allis are exempt from obtaining a permit hereunder when instructing pupils in sex education as part of its curriculum.
 - b. Licensed medical care facilities and the West Allis Health Department are exempt from obtaining a permit, when engaged in the providing of medical

care or sex education.

c. (reserved)

19. Penalties and Prosecution.

a. Any person, partnership or corporation who is found to have violated this section shall forfeit a definite sum of not more than one thousand dollars (\$1,000), together with the costs of prosecution, and, in default of payment of such forfeiture and costs, by imprisonment in the Milwaukee County House of Correction until payment of the forfeiture and costs, but not in excess of the number of days set forth in § 800.095(4) of the Wisconsin Statutes. In addition to the monetary penalty imposed, violation of this section may further result in the suspension, revocation or nonrenewal of any license or permit issued under this section.

b. Each violation of this section shall be considered a separate offense, and any violation continuing more than one day shall be considered a separate offense.

20. Severability. If any provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the other provisions of same. The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and not affect the validity of all other provisions, sections or portions thereof of the ordinance which shall remain in full force and effect.

21. Enforcement. The City of West Allis Police Department shall have the authority to enter any adult-oriented establishment at all reasonable times to inspect the premises and enforce this section.

22. Discontinuation of Operation. Any discontinuation in the operation of the adult-oriented business for a period of twelve (12) months shall also cause the license to lapse and become void. A license holder whose license has lapsed and become void shall thereafter be subject to Paragraph 9.28(12).

23. Adult Cabaret Entertainment Standards. **[Ord. 6541 (amended) 2/6/2001]**

a. Sufficient lighting shall be provided and equally distributed throughout the premises which are open to or used by patrons so that the lighting level is a minimum of ten (10) footcandles, as measured from the floor.

b. No dances or other entertainment shall occur closer than one (1) foot to any patron.

c. No employee, dancer, or other entertainer shall, during the entertainment, allow, encourage, or knowingly permit any patron or other person to touch, caress, or fondle, directly or indirectly, the employee, dancer, or entertainer.

d. No employee, dancer, or other entertainer shall, during the entertainment, knowingly touch, caress, or fondle, directly or indirectly, any patron or any other employee, dancer, or entertainer.

e. A dancer or entertainer employed or otherwise working or performing at an adult cabaret may accept a gratuity or other payment from a patron but no direct physical contact is permitted other than hand to hand.

f. No patron or customer shall touch, caress, or fondle a dancer or other entertainer except that a gratuity may be paid as set forth in Paragraph (e).

9.29 Escorts And Escort Services

1. Definitions.

- a. "Escort" means any person who, for a fee, commission, salary, hire, profit, payment or other monetary considerations accompanies or offers to accompany another person to or about social affairs, entertainments or places of amusement or consorts with another person about any place of public resort or within any private quarters.
 - b. "Escort Service" means service provided by any person who, for a fee, commission, salary, hire, profit, payment or other monetary consideration, furnishes or offers to furnish names of persons, or who introduces, furnishes or arranges for persons, who may accompany other persons to or about social affairs, entertainments or places of amusement, or who may consort with others about any place of public resort or within any private quarters.
 - c. "Person" means any natural person, sole proprietorship, partnership, corporation or association, excepting the United States of America, the State of Wisconsin and any political subdivision thereof.
2. Exemptions. This section does not apply to businesses, agencies and persons licensed by the State of Wisconsin or the City, pursuant to a specific statute or other ordinance, and employees employed by a business so licensed, and which perform an escort or an escort service function, as a service merely incidental to the primary function of such profession, employment or business, and which do not hold themselves out to the public as an escort or an escort service.
3. Escort Service License Required. No person may engage in, conduct or carry on or permit to be engaged in, conducted or carried on, the operation of an escort service within the City without first having a valid escort service license issued under this section.
4. Application for Escort Service License.
- a. Filing fee. Any person desiring to obtain an escort service license shall pay a fee of one hundred dollars (\$100) to defray the costs of administration and investigation of the application. Such fee shall be paid at the time of application and is not refundable.
 - b. Application. Any person desiring an escort service license shall file a written application with the City Clerk on a form to be provided by the City Clerk. The information provided to the City Clerk shall be provided under oath. If the applicant is a corporation, the name of the corporation shall be set forth exactly as set forth in its articles of incorporation, together with the date and state of incorporation, the names and residence addresses of each of its officers, directors and each stockholder holding ten percent (10%) or more of the stock or beneficial ownership of the corporation. The application shall also be verified by an officer of the corporation. If the applicant is a partnership, the application shall set forth the name and residence address of each of the partners, including limited partners, and the application shall be verified by each partner. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the corporate partner. If the applicant is neither a corporation nor a partnership, the application shall set forth the true, full name and residence address of the applicant and be verified by the applicant. The application shall also include any other name by which the applicant has been known during the previous five (5) years. The application for an escort service license shall set forth the proposed place of business of the escort service by business address, including suite number, and not by post office box, and shall contain a description of the nature and scope of the proposed business operation. In addition, the following information shall be furnished concerning the applicant, if an

individual, and concerning each stockholder holding ten percent (10%) or more of the stock or beneficial ownership of the corporation, each officer and director, if the applicant is a corporation, and concerning each partner, including limited partners, if the applicant is a partnership:

- i. The previous residence addresses, if any, for a period of three (3) years immediately prior to the date of application and the dates of such residence.
 - ii. The date of birth.
 - iii. The business, occupation or employment history for three (3) years immediately preceding the date of application, including, but not limited to, whether such person previously operated under any permit or license in another city in this or another state and whether any such permit or license had ever been suspended or revoked.
 - iv. All convictions in any state or federal court within the past ten (10) years, including municipal ordinance violations, exclusive of traffic violations, with a brief statement of the nature of the convictions and the jurisdiction in which the convictions occurred.
 - v. All pending criminal charges in any state or federal court, with a brief statement of the nature of the pending charges and the jurisdiction in which the charges are pending.
 - vi. The name of persons who will have custody of the business records at the business location.
 - vii. The name and address of the person who will be the agent for service of process.
- c. Investigation. Applications for an escort service license shall be referred to the Chief of Police, who shall cause an investigation to be made and report the findings of the investigation to the License and Health Committee of the Common Council. Applicants shall cooperate with any investigation conducted under this section.
- d. Granting of Licenses. Within sixty (60) days of the receipt of an application for an escort service license, the Common Council shall either grant or deny a license. If there is a possibility that an application will be denied, the License and Health Committee shall, after notice to the applicant, conduct a hearing. The Common Council shall grant an escort service license if, upon a recommendation by the License and Health Committee, it finds that:
- i. The required fee has been paid.
 - ii. The application conforms in all respects to this section.
 - iii. The applicant has not knowingly made a material misstatement in the application for an escort service license.
 - iv. The applicant has fully cooperated in the investigation of his or her application.
 - v. The escort service, as proposed by the applicant, would comply with all applicable laws, including, but not limited to, the City's building and zoning regulations.
 - vi. The applicant has not had an escort service license or permit or other similar license or permit revoked or suspended in this state or any other state within three (3) years prior to the date of application.
 - vii. The applicant, if an individual, or any of the stockholders holding ten percent (10%) or more of the stock or beneficial ownership of the

corporation, and any officers, agent, or directors, if the applicant is a corporation, or any of the partners, including limited partners, if the applicant is a partnership, does not, at the time of application, have pending any criminal charge for, or within five (5) years prior to the date of application has not been convicted of, any offense involving dishonesty, fraud, deceit, robbery, the use or threatened use of force or violence upon the person of another, or sexual immorality under Chapter 944 of the Wisconsin Statutes, as amended, or other offenses subject to sec. 111.335 of the Wisconsin Statutes, as amended.

- viii. The applicant, if a corporation, is licensed to do business and is in good standing in the State of Wisconsin.
5. Escort Permit Required. No person may work or perform services as an escort in the City, either individually or while working for an escort service, unless the person has first obtained a valid escort permit issued under this section.
6. Application for Escort Permit.
- a. Filing Fee. Any person desiring to obtain an escort permit shall pay to the City a fee of twenty-five dollars (\$25) to defray the costs of administration and investigation of the application. Such fee shall be paid at the time of application and is not refundable.
 - b. Application. Any person desiring an escort permit shall file a written application with the City Clerk on a form to be provided by the City Clerk. The application shall be verified by the applicant and the information provided to the City Clerk shall be provided under oath. Any applicant for an escort permit shall furnish all information required by sec. (4)(b) above, as well as a description of the applicant's height, weight, color of eyes and color of hair. The applicant shall provide two (2) passport size color photographs at least one inch by one inch taken within three (3) months of the date of application. In addition, the applicant shall identify, by name and address, the escort service at which the applicant is currently working, if any, or at which the applicant expects to be employed.
 - c. Investigation. Applicants for an escort permit shall be referred to the Chief of Police who shall cause an investigation to be made of the applicant and report the findings of the investigation to the License and Health Committee of the Common Council. Applicants shall cooperate with any investigation conducted under this section.
 - d. Granting of Permit. Within sixty (60) days of the receipt of an application for an escort permit, the Common Council shall either grant or deny the applicant an escort permit. If there is a possibility that an application will be denied, the License and Health Committee shall, after notice to the applicant, conduct a hearing. The Common Council shall grant an escort license if, upon a recommendation by the License and Health Committee, it finds that:
 - i. The required fee has been paid.
 - ii. The application conforms in all respects to this section.
 - iii. The applicant has not knowingly made a material misstatement in the application for an escort permit.
 - iv. The applicant has fully cooperated in the investigation of his or her application.
 - v. The applicant has not had an escort license or permit or other similar license or permit revoked or suspended in this state or any other state within three (3) years prior to the date of application.

- vi. The applicant is at least eighteen (18) years of age.
 - vii. The applicant does not, at the time of application, have pending any criminal charge for, or within five (5) years prior to the date of application has not been convicted of, any offense involving dishonesty, fraud, deceit, robbery, the use or threatened use of force or violence upon the person of another, or sexual immorality under Chapter 944 of the Wisconsin Statutes, as amended, or other offenses subject to sec. 111.335 of the Wisconsin Statutes, as amended.
7. Issuance and Display of Escort Permit.
- a. The City Clerk shall issue an escort permit on which there shall be the person's true first name, surname and middle initial, if any, the picture of the applicant, the permit number and the expiration date of the permit. The permit shall be in such form as to avoid alteration.
 - b. The certificate shall be carried on the person of the escort and shall be exhibited to any person, including law enforcement personnel, requesting to see it at any time while the person is engaged in acting as an escort.
8. Restrictions on Corporate Licenses. Any corporation holding an escort service license under this section shall report to the City Clerk, in writing, within fifteen (15) days of the event described herein, any of the following:
- a. Any change of officers of the corporation.
 - b. Any change in the membership of the board of directors of a corporation.
9. Sale or Transfer. Upon the sale or transfer of any interest in an escort service, the license shall be void. Any person desiring to continue to operate an escort service following sale or transfer shall apply for a license.
10. Escort Service Responsibility. Each person obtaining an escort service license from the City shall be responsible for the acts of the escorts, employed or working with the escort service, regardless of whether the escorts are employees, agents or independent contractors. An escort service licensed by the City shall be subject to all of the penalties under this section to which an escort would be subject, if an escort violated this section, including suspension or revocation of the escort service's license.
11. Prohibited Practices.
- a. No person who conducts, manages or operates an escort service may allow or permit any person to work as an escort for such escort service unless the person so employed has a valid escort permit issued by the City.
 - b. No escort may work for any person who conducts, manages or operates an escort service unless the person for whom he or she works has a valid escort service license issued by the City.
 - c. No escort service may operate other than from a fixed location identified in the application filed with the City Clerk's office.
 - d. No person granted an escort service license under this section may operate under any name or conduct an escort service business under any designation for any location not specified in the license issued by the City.
 - e. No escort service may conduct any business without maintaining on its premises a daily register containing the name of each escort currently employed or otherwise working for the escort service on the date in question, a duplicate of the escort license certificate provided under sec. 9.29(6) above, and the actual hours of employment of each escort for each day. The daily register shall be available during all business hours for inspection by law enforcement personnel.
 - f. No person licensed as an escort or escort service may in many manner

advertise its services as licensed by the City.

12. Renewal of Licenses and Permits. All applications for the renewal of escort permits or escort service licenses issued by the City shall be filed with the City Clerk's office, on a form to be provided by the City Clerk, no later than sixty (60) days prior to the expiration of the license or permit. Applications to renew licenses or permits previously issued under this chapter shall disclose whether there has been any change in any answer or information supplied to the City Clerk's office in connection with the original application. Applications to renew permits or licenses shall be processed by the City in the same fashion as new applications.
13. Suspension or Revocation of Licenses and Permits.
 - a. An escort service license or an escort permit may be suspended or revoked after notice and hearing before the License and Health Committee of the Common Council to determine if grounds for such suspension or revocation exist. Notice of the hearing shall be in writing and may be served by certified mail addressed to the licensee or permittee at the current address of the licensee or permittee on file with the City Clerk's office. The notice shall be served at least ten (10) days prior to the date of hearing. The notice shall state the grounds of the complaint against the licensee or permittee and shall designate the time and place where the hearing will be held.
 - b. Any escort service license or escort permit may be suspended for not more than ninety (90) days or revoked by the Common Council for a violation of any of the provisions of this Chapter or for any of the grounds that would warrant the denial of the original application for a license or permit.
14. Penalties.
 - a. Any person who violates any provision of this section shall, upon conviction, be subject to a forfeiture of not less than five hundred (\$500) nor more than two thousand (\$2,000), together with the costs of prosecution, and upon default of payment, be imprisoned in the County Jail or House of Correction until the costs are paid, but not to exceed the number of days set forth in sec. 800.095(4) of the Wisconsin Statutes.
 - b. Each violation of this section shall be considered a separate offense, and any violation continuing more than one day shall be considered a separate offense.

9.30 Tattoo And Body Piercing Establishments

1. State Regulations Adopted. **[Ord. O-2014-0007, 2/4/2014]**
 - a. The provision of Sections 252.23 to 252.25 of the Wisconsin Statutes and Wisconsin Administrative Code Chapter DHS 173, as they may be from time to time amended, are adopted by reference and incorporated into this section as if fully set forth herein.
 - b. Interpretation. If the provisions of the regulations set forth in subsection (a) conflict with the regulations set forth below, the provisions of this section shall govern.
2. Agent for the State. Pursuant to Wisconsin Statutes Sections 252.245, the West Allis Health Department is authorized to enter into a written agreement with the Department of Health Services to be the Department's agent for the licensing, investigating, and inspecting of tattoo establishments, body piercing establishments, tattoo practitioners, and body piercing practitioners. **[Ord. O-2014-0007, 2/4/2014]**
3. License.
 - a. No tattoo establishment or body piercing establishment shall be operated or maintained in the City of West Allis without first obtaining a license.

- b. A license may be issued for only one (1) tattoo establishment or body piercing establishment at a fixed and certain place. Any operator desiring to operate more than one tattoo or body piercing establishment must have a license for each, except that a combination tattoo/body piercing establishment license may be issued for one location.
 - c. No license or interest in a license may be transferred to any person, partnership, or corporation. **[Ord. O-2014-0007, 2/4/2014]**
 - d. It shall be unlawful for any tattooist, body piercer or operator to knowingly perform any service directly related to the operation of a tattoo or body piercing establishment which does not have a valid license pursuant to this section.
4. Application for License.
- a. Any person, partnership, or corporation desiring to secure a tattoo establishment, body piercing establishment, or combination tattoo/body piercing establishment license shall make application to the Health Department.
 - b. The application shall be on a form provided by the Health Department and shall provide the following information:
 - i. The name(s) (including aliases,) addresses and dates of birth of the applicant, any partner or limited partner in a partnership application, any shareholder holding more than ten percent (10%) of the stock of a corporate applicant, and each corporate officer and director.
 - ii. Written proof that each person required to be identified in subsection (4)(b)1. is a least eighteen (18) years of age.
 - iii. The address of the establishment to be licensed.
 - iv. Whether the applicant or any person required to be identified in subsection (4)(b)1. Is currently operating or has previously operated, in this or any other municipality or state, under a tattoo or body piercing establishment license, whether the applicant or person required to be named in subsection (4)(b)1. has ever had such a license or permit suspended or revoked, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
 - v. If the applicant is a corporation, the name of the corporation, the date and state of incorporation, and the name and address of the registered agent.
 - vi. Proof of ownership, lease, or other legally enforceable right to possess, use, and control and premises where the licensed establishment is to be located.
 - c. Failure or refusal of the applicant to completely and truthfully provide responses to the application questions, to give any information relevant to the investigation of the application, or refusal to appear at any reasonable time and place for examination regarding said application shall constitute an admission by the applicant that the applicant is ineligible for such license and shall be grounds for denial thereof.
5. Investigation. Upon receipt of an application and fee, the Health Department shall refer the application to the Police Department. The Police Department shall make an investigation of the statements made in the application. The Police Department shall notify the Health Department as to the results of its investigation. **[Ord. O-2006-0018, 5/2/2006]**
6. Standards for Granting of a License. The Health Department may grant a license if it is

found:

- a. That the business operation as proposed by the applicant will comply with the provisions of this section and all other applicable rules, regulations, ordinances and state law.
 - b. That, subject to sections 111.321, 111.322, and 111.335, Wis. Stats., the applicant, or any of the officers, directors, or persons holding more than ten percent (10%) of the corporation stock or any of the partners have not, within the five (5) years immediately preceding the date of the application been convicted of violating this ordinance, or of any other offense substantially related to tattooing or body piercing.
 - c. That the applicant, if an individual, partners, or the officers, directors, or persons holding more than ten percent (10%) of the corporate stock if the applicant is a corporation, are at least eighteen (18) years of age on the date of application.
 - d. That the applicant has not knowingly made any false, misleading or fraudulent statement of fact in the license application or other information required in conjunction therewith.
 - e. That the applicant, if a corporation, is licensed to do business and is in good standing in the State of Wisconsin.
 - f. That the applicant has substantially complied with all building, zoning, plumbing, electrical, fire, and health codes.
7. Fees. [**Ord. O-2006-0018, 5/2/2006; Ord. O-2014-0007, 2/4/2014; Ord. O-2017-0018, 4/18/2017**]
- a. A nonrefundable license fee of three hundred thirty dollars (\$330.) shall be submitted with the original or renewal application for a tattoo establishment license.
 - b. A nonrefundable license fee of three hundred thirty dollars (\$330.) shall be submitted with the original or renewal application for a body piercing establishment license.
 - c. A nonrefundable license fee of three hundred eighty-five dollars (\$385.) shall be submitted with the original or renewal application for a combination tattoo/body piercing establishment license.
 - d. The preinspection fee for each original establishment license shall be two hundred sixty-eight dollars (\$268.) for a tattoo establishment, two hundred sixty-eight dollars (\$268.) for a body piercing establishment, and four hundred twenty-two dollars (\$422.) for a combination tattoo/body piercing establishment. Such fee shall be submitted with the application for the license.
 - e. A nonrefundable license fee of one hundred ninety-eight dollars (\$198.) shall be submitted with the original application for a temporary establishment.
 - f. The fee for a tattooist or body piercer operating without a practitioner's license shall be one hundred sixty-five dollars (\$165.), and the fee for operating a tattoo and/or body piercing establishment without a license shall be seven hundred forty-nine dollars (\$749.).
 - g. A late fee of one hundred dollars (\$100.) shall be assessed to establishment license renewals not paid prior to July 1.
 - h. Any licensee or applicant that requires a reinspection due to the Health Department finding a violation of this section, or state statute or state regulation relating to tattoo and/or body piercing establishments, or finding a health nuisance, as defined in Section 7.03 of the Revised Municipal Code, shall pay a first reinspection fee as follows: a tattoo establishment shall be one hundred three dollars (\$103.); a body piercing establishment shall be one

hundred three dollars (\$103.); a combination tattoo/body piercing establishment shall be two hundred six dollars (\$206.).

- i. Any licensee or applicant that requires a second or subsequent reinspection during the licensing year due to the Health Department finding a violation of this section, or state statute or state regulation relating to tattoo and/or body piercing establishments, or finding a health nuisance, as defined in Section 7.03 of the Revised Municipal Code, shall pay a second or subsequent reinspection fee as follows: a tattoo establishment shall be two hundred six dollars (\$206.); a body piercing establishment shall be two hundred six dollars (\$206.); a combination tattoo/body piercing establishment shall be four hundred twelve dollars (\$412.).
- j. The fee for a duplicate license shall be fifteen dollars (\$15.).

8. Approval of Sterilization Procedures.

- a. Prior to issuance of a tattoo or body piercing establishment license, each operator shall submit written procedures to the Health Department setting forth each step to be taken by a tattooist, body piercer, or other employee in sterilizing equipment that is not single use.
- b. Prior to issuance of a tattoo or body piercing establishment license, each operator shall submit written procedures to the Health Department setting forth each step to be taken by a tattooist or body piercer in cleaning, preparing, and applying antiseptic to the skin of the patron.
- c. No tattoo or body piercing establishment may operate until the procedures required in subsections **(a)** and **(b)** have been approved by the Health Department.
- d. Prior to issuance of a tattoo or body piercing establishment license, the operator shall demonstrate the sterilization of equipment following the approved sterilization procedure set forth in subsection **(a)**. A spore test shall be conducted at the applicant's expense and by an approved laboratory. The license shall only be issued upon a negative spore result.

9. Care Instructions. The written care instructions required to be provided to each patron after completion of the tattoo or body piercing procedure shall be submitted to the Health Department for approval prior to issuance of the tattoo or body piercing establishment license.

10. Insurance.

- a. Prior to issuance and renewal of a tattoo or body piercing establishment license, the applicant or license holder shall submit to the Health Department proof of comprehensive general liability insurance in a minimum amount of \$500,000 per occurrence/1 million aggregate covering all personal injury to patrons and all operations and procedures conducted on the licensed premises including but not limited to the tattooing and piercing of a persons' skin and complications therefrom.
- b. Such insurance shall contain a provision from the insurance company to the City pledging to notify the City within ten (10) days of any change or cancellation of the policy.
- c. Such insurance shall be maintained at all times the tattoo or body piercing establishment is open for business. Failure to maintain such insurance shall constitute grounds for immediate suspension at the order of the Health Commissioner or his designee.

11. Display of License. The tattoo, body piercing, or combination license shall be posted in a conspicuous place in the establishment, so that it may be read by the patrons

thereof.

12. License Year. The license year shall begin on July 1st in each year, and terminate on June 30th in the next year. There shall be no proration of license fees.
13. Hours of Operation. No tattoo or body piercing establishment shall be open between the hours of 2:00 a.m. and 6:00 a.m., Monday through Friday, or between the hours of 2:30 a.m. and 6:00 a.m. on Saturday and Sunday.
14. Temporary establishments.
 - a. No temporary establishment may be operated in the City of West Allis without first obtaining a license.
 - b. A temporary tattoo or body piercing establishment shall comply with all regulations for regular establishments as well as those set forth in Wisconsin Administrative Code § HFS 173.11.
15. Sharps and Infectious Waste Disposal. Prior to issuance of a license to a tattoo or body piercing establishment, the license applicant shall submit written proof of the establishment's ability to properly dispose of sharps and infectious waste as provided in Wisconsin Administrative Code § NR 526.
16. Single Use Needles for Tattooing. Tattoo needles shall be disposable, sterile, and for single patron use only.
17. Piercing Gun Use. No body piercer may use a piercing gun or similar device for body piercing a patron unless such piercing gun is disposable, sterile, and for single patron use only or is sterilized between each use as set forth in Wisconsin Administrative Code Section DHS 173.03(20). **[Ord. O-2014-0007, 2/4/2014]**
18. (Reserved) **[Ord. 6636, 11/4/2002]**
19. Licenses To Be Posted. No tattooist or body piercer may perform tattooing or body piercing procedures unless the current and valid establishment license and all current and valid practitioner licenses are posted in the establishment in a public and conspicuous place. A license may not be altered or defaced. **[Ord. O-2014-0007, 2/4/2014]**
20. Lead in Solder Prohibited. No tattooist shall use and no tattoo establishment shall suffer or permit the use of solder which contains lead to be used to fasten needles.
21. Aprons. All tattooist and body piercers shall wear single use aprons which shall be disposed of after completing the procedure on a patron.
22. Loitering Prohibited. No operator or employee of a tattoo or body piercing establishment shall allow, suffer, or permit loitering on the business premises. For purposes of this section, "business premises" shall include the licensed premises, property owned or leased by the tattoo or body piercing establishment and contiguous with the licensed premises, and parking lots, alleys, and sidewalks contiguous with the licensed premises.
23. Implanting, Branding, and Scarification Prohibited.
 - a. Definitions. As used in this section:
 - i. "Branding" means the burning of skin with a hot tool, cauterizing laser, or dry ice so that a mark is imbedded in the deep tissue.
 - ii. "Implantation" means the insertion of an object under the skin, so that it remains under the skin, in whole or in part, after the procedure. This definition shall not apply to the post used in body piercing to keep the perforation from closing.
 - iii. "Scarification" means the cutting of the skin so that when it heals, scar tissue remains.
 - b. Prohibition. No person shall intentionally engage in the practice of implanting, branding, or, scarification in the City of West Allis, except as set forth herein.

- c. Exceptions. The prohibition set forth in subsection (b) shall not apply to licensed physicians, or procedures or orders delegated by a licensed physician.
24. Responsibility of the Operator.
- a. Every act or omission by an employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator; or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be liable for such act or omission in the same manner as if the operator committed the act or caused the omission.
 - b. Any act or omission of any employee constituting a violation of the provisions of this ordinance shall be deemed an act or omission of the operator for purposes of determining whether the license shall be suspended, revoked, or not renewed.
25. Enforcement and Inspection. The West Allis Police Department and West Allis Health Department shall have the authority to enter any tattoo or body piercing establishment at all reasonable times to inspect the premises and enforce this ordinance. The Health Department shall inspect each tattoo and body piercing establishment at least once per year to ensure compliance with the provisions of this ordinance. **[Ord. O-2006-0018, 5/2/2006]**
26. Suspension, Revocation and Nonrenewal.
- a. Any license issued under this section may be suspended, revoked, or not renewed for cause by the Common Council after notice to the licensee and a hearing. Suspension, revocation, or nonrenewal proceedings may be instituted by the License and Health Committee of the Common Council upon its own motion, upon sworn written charges made and filed with the Clerk/Treasurer by the Chief of Police or Health Commissioner, or upon a sworn written complaint filed with the Clerk/Treasurer by any City resident. **[Ord. O-2014-0007, 2/4/2014]**
 - b. The Common Council may suspend, revoke, or refuse to renew a tattoo or body piercing license for the following reasons:
 - i. Violation of this section or any other ordinance, administrative rule, or statute related to the practice of tattooing or body piercing.
 - ii. Knowingly misrepresenting, misstating or failing to disclose information requested on the application form(s) or requested by the License and Health Committee.
 - iii. Using, causing, or promoting the use of false, misleading, or deceptive: advertising; promotional literature; warranty; label, or insignia.
 - iv. Knowingly deceiving a patron or the public by acting in a manner as to mislead the patron or the public as to the person's professional or license status.
 - v. Knowingly employing, directly or indirectly, any suspended, revoked, or unlicensed person to perform tattooing or body piercing.
 - vi. Knowingly permitting another person to use a license issued under this section. **[Ord. O-2014-0007, 2/4/2014]**
 - vii. Practicing tattooing or body piercing under a false, misleading, or deceptive name.
 - viii. "Sexual harassment," as that term is defined in § 111.32(13), Wis.

Stats., of a patron.

ix. The operation of the tattoo or body piercing establishment constitutes a nuisance. As used herein "nuisance" means any unreasonable activity or use of the licensed premises that interferes substantially with the comfortable enjoyment of life, health, or safety of another or others.

x. The failure to pay any tax or forfeiture as provided in Section 1.08(9) (a) and (b). **[Ord. O-2014-0007, 2/4/2014]**

- c. An operator whose license has been revoked or not renewed shall not be eligible for licensure under this ordinance for a period of one year from the date the revocation or non-renewal takes effect.
- d. Except for emergency suspensions for the public health and safety, a suspension shall be for not less than ten (10) days, nor more than ninety (90) days.
- e. Any aggrieved person may appeal the decision of the Common Council to the Circuit Court of Milwaukee County within thirty (30) days from the date of service of the decision upon the operator.

27. Summary Suspension. The provisions of Subsection 9.30(28) notwithstanding, whenever the Health Commissioner or his or her designee has reasonable cause to believe that the sanitary condition, operation, method of operation of the premises, or equipment used on the premises creates an immediate danger to health or safety, or whenever the Health Commissioner or his or her designee has reasonable cause to believe that the insurance required in Subsection 9.30(10) has been changed or cancelled so as not to provide the required insurance, the Health Commissioner or his or her designee may issue a temporary order suspending the operation of a tattoo or body piercing establishment. **[Ord. O-2014-0007, 2/4/2014]**

28. Penalties and Prosecution.

- a. Any person, partnership, or corporation who is found to have violated any provision of this ordinance shall forfeit the sum of not less than one hundred dollars (\$100.) nor more than one thousand dollars (\$1,000.), together with the costs of prosecution, and in default of payment of such forfeiture and costs, by imprisonment in the Milwaukee County House of Correction until the forfeiture and costs are paid, but not in excess of the number of days set forth in Section 800.095(1)(b) of the Wis. Stats. In addition to the monetary penalty imposed, violation of this section may further result in the suspension, revocation, or nonrenewal of any license issued under this section and legal action for injunction or other relief.
- b. Each violation of this ordinance shall be considered a separate offense, and each and every day an offense continues shall be considered a separate offense.

29. Severability. If any provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the other provisions. The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and no affect the validity of all other provisions, sections or portions of the ordinance which shall remain in full force and effect.

[Ord. 6393, 8/4/1998]

9.31 Entertainment Clubs

1. Definitions. As used in this section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
 - a. "City" means the City of West Allis.
 - b. "Entertainment Club; means commercial premises which are open to the public, a substantial function of which is to offer patrons an opportunity to engage in social activities such as dancing, or the enjoyment of live or prerecorded music, or the enjoyment of entertainment provided by dancers or other performers. As an incidental function, an entertainment club may sell and serve food and non-alcoholic beverages to its patrons. The term "entertainment club" does not include the following: premises licensed by the City to serve alcohol beverages unless the premises are operating alcohol free pursuant to sections 125.07(3)(a)8 or 10, Wis. Stats., in which case the premises shall be considered a entertainment club; theaters where the patrons sit in parallel rows of fixed seats; full service restaurants where the only entertainment consists of background music which is incidental to the primary function of serving food; a banquet, party or celebration consisting of invited guests which is not open to the public; dances or events sponsored and operated by a governmental entity, or an educational institution.
 - c. "Club premises" means any place where an entertainment club is operated or maintained, including all hallways, bathrooms, parking areas, private sidewalks, and other adjacent portions of the premises which are accessible to the public during operating hours.
 - d. "Licensed Premises" means the building or that portion thereof in which the entertainment club's business is conducted. Such licensed premises shall be identified on a drawing of the premises to be attached to the application. The Common Council may approve the applicant's designation of the licensed premises or may alter it.
 - e. "Over Twenty-One Club" means any entertainment club which restricts or is required to restrict its admissions to persons age 21 years and over.
 - f. "Adult Oriented Establishments" are defined in Section 9.28(1)(a) of the Revised Municipal Code.
 - g. "Person" means one or more natural persons, corporations, partnerships, associations, or other entities capable of having an action at law brought against such entity.
 - h. "Teen Club" means any entertainment club which restricts or is required to restrict its admissions to persons under 21 years of age.
2. Entertainment Club.
 - a. License Required. It is unlawful for any person to own, lease, operate, manage or maintain an entertainment club in the City without first obtaining an entertainment club license as set forth herein.
3. License Application. An applicant for an entertainment club license shall provide the following information on a form provided by the City Clerk/Treasurer:
 - a. The name(s) (including aliases), addresses and dates of birth of the applicant, any partner or limited partner in a partnership application, and each corporate officer and director.
 - b. The address of the establishment to be licensed.
 - c. Whether the applicant or any person named in subsection 9.31(3)(a) is currently operating or has previously operated, in this or any other municipality or state, under an entertainment club license; whether the

- applicant or person required to be named in subsection 9.31(3)(a) has ever had such license suspended or revoked; the reason(s) therefore; and the business entity and/or trade name under which the applicant operated that was subject to the suspension or revocation.
- d. If the applicant is a corporation, or limited liability company, the name of the corporation, or limited liability company, the date and state of incorporation, and the name and address of the registered agent.
 - e. Proof of ownership, lease, or other legally enforceable right to possess, use, and control the premises where the licensed club is to be located.
4. Additional Application Materials. In addition to the written application, an applicant shall also furnish to the Clerk/Treasurer the following:
- a. A written statement setting forth all measures proposed to insure that adequate traffic control, crowd monitoring and security, both inside and outside the premises, will be maintained, and that the ages of patrons admitted to the club will be monitored.
 - b. A written statement electing whether the entertainment club will be operated either exclusively as a teen club or an over twenty-one club.
 - c. A written statement of whether the applicant or the applicant's partners or offices, directors, or any other person involved in the operation or management of the entertainment club has been convicted within the preceding five years of any crime or ordinance violation involving firearms, gambling, racketeering, controlled substances, sexual offenses, prostitution, assault, contributing to the delinquency of a minor, or other offenses involving the allowance or suffering of minors in places where they are not to be admitted.
5. Duty to Cooperate. The applicant shall have a duty to cooperate in the application and investigation process. Failure or refusal of the applicant to completely and truthfully provide responses to the application questions, to give any information relevant to the application or investigation, or refusal to appear at any reasonable time and place for examination regarding the application and/or operation of an entertainment club shall constitute an admission by the applicant that the applicant is ineligible for such license and shall be grounds for denial thereof.
6. Investigation. Upon receipt of an application and fee, the Clerk/Treasurer shall refer the application to the Police Department, Fire Department, Department of Building Inspection and Zoning, and the Health Department. Each department except the Police Department shall make an investigation of the premises to ensure that it complies with applicable state and city laws. The Police Department shall make an investigation of the applicant and the statements made in the application. Each department shall notify the Clerk/Treasurer as to the results of its investigation.
7. Standards for Granting and Issuance or Denial of License. The Common Council shall consider the following factors in acting on an application:
- a. Whether the entertainment club proposed by the applicant will comply with the provisions of this section and all other applicable rules, regulations, ordinances, and state laws.
 - b. Whether the application is complete or if it contains any material misrepresentation(s).
 - c. Whether the application shows that adequate measures for the protection of the public health, safety, and welfare in terms of traffic control, crowd monitoring and security, both inside and outside the premises, and the

monitoring of the ages of patrons admitted to the entertainment club will be provided.

- d. Whether, subject to Sections 111.321, 111.322, and 111.335, Wis. Stats., the applicant or other persons required to be named in Subsection 9.31(3)(a) have been convicted of violating this ordinance or any other offense substantially related to operating an entertainment club. Convictions for events occurring within five (5) years of the date of application shall be considered except that if any such convictions exist, the Common Council may consider prior convictions to determine a pattern of conduct. **[Ord. O-2015-0049, 10/6/2015]**
 - e. Whether the applicant, if a corporation or limited liability company, is in good standing and licensed to do business in the State of Wisconsin.
 - f. Whether the applicant has substantially complied with all building, zoning, plumbing, electrical, fire, and health codes.
8. Fees. A nonrefundable license fee of two hundred fifty dollars (\$250.00) shall be submitted with the application for an entertainment club license. **[Ord. O-2009-0033, 11/3/2009]**
9. Operating Rules and Regulations. The following operating rules and regulations shall apply to all entertainment clubs in the City:
- a. Persons of the following ages shall not be permitted to enter or remain on the premises of a teen club:
 - i. Under the age of 16 years unless accompanied by a parent or legal guardian.
 - ii. 21 years of age or older except for bona fide employees or entertainers hired by the licensee to work in the club and while actually performing work-related functions, or a parent or guardian accompanying a person under 21 years of age present in the club.
 - b. No person under the age of 21 years shall be permitted nor may a licensee suffer or permit a person under the age of 21 years to enter or remain on the licensed premises of an over twenty-one club unless accompanied by a parent or legal guardian except for bona fide employees or entertainers hired by the licensee to work in the club and while actually performing work related functions.
 - c. Teen clubs shall be closed between the hours of 10:30 p.m. and 3:00 p.m. of each day.
 - d. Over twenty-one clubs shall be closed between the hours of 2:00 a.m. and 11:00 a.m. of each day.
 - e. The licensee shall maintain a current list of all persons employed to work in or entertain at the licensed premises. Said list shall contain the name or names (legal, trade, and alias), current address and date of birth of each employee or entertainer. Such list shall be provided to any police officer upon request.
 - f. The licensee shall employ an adequate number of qualified security personnel who will be present on the club premises during all operating hours and at such times before and after operation so as to maintain peace and order and to ensure compliance with all applicable laws of the City and State of Wisconsin.
 - g. The licensee shall meet all obligations as set forth in its application and approved by the Common Council.
 - h. The licensee shall insure that no alcohol beverages or controlled substances are offered for sale or consumed on the entertainment club premises.

- i. It shall be the obligation of the licensee to summon the police when any person is or appears to be, under the influence of, or affected by the use of, alcohol or controlled substances, or whose conduct creates a public disturbance or poses a physical danger to the safety of others present.
 - j. All portions of the licensed premises which are available for public use shall be adequately illuminated. Such illumination shall not be less than 10 foot-candles at floor level at all times when the licensed premises are open to the public or when any member of the public is permitted to enter or remain on the licensed premises.
 - k. The licensee shall prevent loitering, the creation of public nuisances or disturbances of the peace by any patron or patrons of the entertainment club on the club premises or in the immediate vicinity.
10. Access by Police Officers. Any police officer of the City shall have free access to all entertainment clubs for the purpose of inspection and to enforce compliance with the provisions of this ordinance at all times that the licensed premises are open to patrons and such other times as would be reasonable under the circumstances.
11. Location.
 - a. Entertainment clubs may be located as a special use in business districts as provided in Chapter 12 of this code. **[Ord. 6532, (amend), 9/5/2000]**
 - b. No teen club shall be located on premises used at any time as an adult oriented establishment or as a facility to serve alcohol beverages.
 - c. No teen club shall be permitted to be operated on the same premises as an over twenty-one club.
12. Checking the Age of Patrons.
 - a. The licensee shall require picture identification upon which it is reasonable to rely showing the date of birth of each person admitted to an entertainment club. It is unlawful for a person to knowingly or recklessly suffer or permit a person to enter or remain on the licensed premises of an entertainment club in violation of the age restrictions of this ordinance.
 - b. It is unlawful for any person to enter or remain upon the licensed premises of an entertainment club if the person does not meet the age restrictions of this ordinance.
 - c. It is unlawful for any person to misrepresent his or her age for the purpose of obtaining or attempting to obtain admission to an entertainment club in violation of the provisions of this ordinance.
13. Responsibility of Licensee. Every act or omission by an employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the licensee and the licensee shall be subject to the penalties for such act or omission in the same manner as if the licensee committed the act or caused the omission.
14. Suspension or Revocation of License. In addition to the penalties specified for violation of the provisions of this section, a license issued under this section may be suspended for ten (10) to ninety (90) days or be revoked by the Common Council after written notice to the licensee, a hearing before the License and Health Committee, and a recommendation by said Committee to the Common Council. The Common Council shall then act on the Committee's recommendation after affording the licensee an opportunity to submit its views, in writing, to the Common Council. A licensee whose license has been revoked shall not be eligible for a license for a period of two (2) years from the date of revocation.
15. Penalty. Any person violating any provision of this ordinance shall forfeit not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00) for each offense,

together with the costs of prosecution; and, in default of payment of such forfeiture and costs, by imprisoned in the Milwaukee County House of Corrections until payment of the forfeiture and costs, but not in excess of the number of days set forth in § 800.095(4), Wis. Stats. Each and every day a violation of a provision of this ordinance continues constitutes a separate offense.

16. Nuisance. Any violation of this ordinance is declared to be a nuisance. In addition to any other relief provided by this ordinance, the City Attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this ordinance. The application for relief may include seeking a temporary restraining order, temporary and/or permanent injunction, and such other relief, as the City Attorney deems appropriate.
17. Severability. The provisions of this ordinance are severable. If any provisions of this ordinance or its application to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provisions(s) or applications(s.)

[Ord. 6520 (create) 6/6/2000]

9.32 Check-Cashing Businesses

1. Definition. Check-cashing businesses. A check-cashing business, also referred to as a payday loan business, title for cash business, convenient-cash business or similar enterprise means any person licensed pursuant to Wis. Stat. § 218.05, or a person licensed pursuant to Wis. Stat. § 138.09, who accepts a check or title, holds the check or title for a period of time before negotiating or presenting the check or title for payment, and pays to the issuer an agreed-upon amount of cash, or who refinances or consolidates such a transaction.
2. Hours of Operation. No check-cashing business shall be open for business between the hours of 9:00 p.m. and 9:00 a.m.
3. Penalty. Any person violating the provisions of this subsection shall forfeit:
 - a. The sum of two thousand five hundred dollars (\$2,500.) upon the first conviction under this ordinance within a one-year period.
 - b. The sum of five thousand dollars (\$5,000.) upon the second conviction under this ordinance within a one-year period.
 - c. The sum of seven thousand five hundred dollars (\$7,500.) upon the third and subsequent conviction under this ordinance within a one-year period.
 - d. For purposes of counting the one-year period, the date of violation shall be used.

[Ord. O-2006-0041, 10/17/2006]

9.33 General Provisions As To Licenses

1. Record Check Fee. Whenever a record check search is required prior to the issuance of a City license or permit, the applicant shall pay an additional \$7.00 for each personal history search. The City Clerk/Treasurer shall collect the fee at the time the applicant has submitted the license application. **[Ord. O-2009-0033, 11/3/2009]**

9.34 Property Owner Registration

1. Purpose.

- a. Property owner registration of residential and commercial properties is essential for the proper enforcement of the City's Building, Zoning, Fire and Health Codes and to safeguard persons, property and general welfare.
 - b. The Common Council of the City of West Allis has determined that, in order to best safeguard the health, safety, and general welfare of the public, it is necessary to maintain a listing of current property owner contact information so that City agencies may expeditiously process property-related enforcement issues.
 - c. The Common Council of the City of West Allis has further determined that in order to expeditiously process enforcement issues, the property owner shall provide owner contact information and designate a registered contact person and if the owner does not reside in the State of Wisconsin, designate a person or legal entity located within the State of Wisconsin for service of process.
2. Definitions. In this section:
- a. "Commercial" means use of property that is not classified by the City Assessor as residential and includes classifications of mixed use, multifamily, commercial, manufacturing, industrial and institutional property classifications.
 - b. "Registered Contact Person" means a person designated by the property owner to be contacted regarding related enforcement issues for the subject property. The property owner may be listed as the registered contact person, except where the owner's residency is not within the State of Wisconsin. The property owner may designate more than one registered contact person. The owner shall authorize the City to serve any legal process on the contact person and service shall have the same effect as having served the owner.
 - c. "Domicile" means the owner's true, fixed and permanent residence and to which, whenever absent, the individual intends to return, except that no individual may have more than one domicile at any time. The domicile address shall not be a post office box or similar depository.
 - d. "Entity" means the legal owner of the property and includes the mortgagee in possession, a trustee, a trust, a life estate holder, a condominium association, a land-contract buyer, a general partnership, a limited partnership, a limited liability company, a cooperative, a corporation, or other property ownership type.
 - e. "Owner" means each person who jointly or severally is vested with all or part of legal title to (or beneficial ownership of) the premises, and who has the right to use and enjoyment of the premises. The term includes, but is not limited to, a mortgagee in possession, a trustee, a trust, a life estate holder, a condominium association, a land-contract buyer, a general partnership, a limited partnership, a limited liability company, a cooperative, and a corporation or other property ownership type.
 - f. "Owner-occupied" means the owner's residence and domicile is on the subject property.
 - g. "Person" means an individual.
 - h. "Physical address" means a unit-specific building or house number and street name and not a post office box or commercial alternative to a post office box.
3. Exceptions. The following are exempt from registering as required under this section.
- a. Land parcels of owner-occupied one-, two-, and three-family residential classified properties where the ownership is recorded with the Milwaukee County Register of Deeds.
 - b. Land parcels classified by the Assessor's as a residential vacant lot and where

- the legal property owner's domicile is adjacent to the vacant lot.
- c. Owners of owner-occupied condominium units where the ownership is recorded with the Milwaukee County Register of Deeds and a Condominium Association declaration is established, and the association has an appointed condominium agent.
 - d. Government-owned properties, including federal, state, county, City of West Allis and West Allis/West Milwaukee School District properties, Milwaukee Metropolitan Sewerage District properties, Milwaukee Area Technical College properties, and property owned by public utilities where ownership is recorded with the Milwaukee County Register of Deeds Office.
 - e. Owners of properties which are currently registered in accordance with RMC 18.10 or RMC 18.11. **[Ord. O-2016-0039, 8/2/2016]**
4. Registration Required.
- a. The following shall file with the City the required registration form provided by the City, for registering the property in compliance with this section:
 - i. Residential or Commercial Property Owner: one (1) registration for each tax-key-numbered parcel classified as residential or commercial, including properties classified as a vacant lot.
 - b. Exceptions. See Subsection (3) for exceptions to registration.
5. Registration Information Required.
- a. The property owner is legally responsible for compliance with the registration requirements of this section and submittal of the required form with required information.
 - b. The registration form shall be provided by the City to the property owner by first-class mail to the last known address of the property owner. The City may allow electronic filing of registration information.
 - c. Information required to be submitted to the City shall be typed or printed legibly and shall include the following:
 - i. In the case of a person or persons owning the property: legal name; domicile residence address, with street address, city, state, zip code; and phone number for emergency contact. The domicile address shall not be a post office box or similar depository.
 - ii. In the case of property ownership by corporation, limited partnership, limited liability partnership, or other similar ownership as registered with the State of Wisconsin: Wisconsin corporation identification number; legal name of entity; registered agent's legal name; domicile residence address of registered agent including city, state, zip code and phone number for emergency contact. The domicile address shall not be a post office or similar depository.
 - iii. In the case of a trust, trustee or life estate holder: Wisconsin Registration Identification Number; legal name of representative; domicile residence address of representative, including street address, city, state, zip code and phone number for emergency contact of the representative. The domicile address shall not include a post office box or similar depository.
 - iv. The property owner shall designate and state on the registration a registered contact person. The registered contact person may be the property owner. The listing of the contact person shall include his/her address, city, state, zip code and phone number.
 - v. The property address and tax key number of the property being

registered.

6. Registration and Changes In Information.

- a. Initial Registration. Beginning in the calendar year 2010, each owner of a property required to be registered by this Section shall file the required registration form and pay the required fee. The registration form shall be sent by first-class mail. Any registration filed after December 1, 2010 or, in the case of change of ownership, later than stated in (b) through (e) below, shall result in the fee being increased to one hundred fifty dollars (\$150.). The increased fee may be waived by the City.
- b. Registration. Any change of ownership after the initial registration shall be filed within 30 days of conveyance. Any registration filed after 30 days of conveyance shall result in the fee being tripled. The increased fee may be waived or rescinded by the City.
- c. Recording After Death. In the event of death of the property owner required to be registered under this section, the subsequent owner shall file a new registration form within 60 days after conveyance from the estate or other acquisition of interest.
- d. Registering After Conveyance, Change of Ownership. In the event of any conveyance of any property required to be recorded under this section, the new owner shall file a new registration within 30 days of the date of conveyance, or if the conveyance is by sale after foreclosure, then within 30 days of the date of court confirmation of the sale.
- e. Change of Contact Information. If any information listed on a properly filed registration changes, other than ownership events listed in Subparagraphs (a) through (d) above, a revised registration form shall be filed within 30 days of the change of information. There shall be no fee to change contact information for a registered owner or his designated registered contact person(s). The City may periodically require property owners to verify recorded contact information for changes.

7. Failure To Register.

- a. The property owner is responsible for compliance with the registration requirements of this section.
- b. Failure of the owner of the property to file the required registration form, failure to file a change of information form, or failure to file the required fee is a violation of this Code. Notice of violation shall be outlined in written form and served upon the owner of the property. The City shall serve such notice and order by first-class mail to the last known address of the property owner.
- c. Such notice and order shall include the following:
 - i. The address or tax key number of the property so affected.
 - ii. A statement of violation, including the corresponding reference to the Code requirement.
 - iii. An order for remedial action to correct such violation.
 - iv. Statement of time for compliance to the Code requirement.
 - v. Statement of fee due.
 - vi. Statement of penalty.
 - vii. Statement of appeals process.
- d. The time period for compliance may be extended at the discretion of the City. A request for time extension may be considered after receiving a written communication from the property owner, registered contact person, or legal representative stating reasonable cause.

- e. Failure of the property owner to comply with the notice and order may be cause for the City to file a court action for violation of this code and be subject to the penalties in Subsection (11).
- 8. Falsification of Registration Form.
 - a. No person shall knowingly or intentionally submit information on the registration form that she/he knows to be false or misleading. Falsification shall be subject to penalties as stated in Subsection (11).
- 9. Registration Fee.
 - a. The registration fee is fifty dollars (\$50.) per new registration. A registration not filed timely, as required by this code, shall result in a fee increase to one hundred fifty dollars (\$150.). The increased fee may be waived or reduced by the City.
- 10. Appeals.
 - a. A property owner or owner's agent may appeal any compliance order to the City of West Allis Administrative Review Board pursuant to Section 2.48, by filing a written request for a hearing with the City Clerk within twenty (20) days of the date of the issuance of the order.
 - b. The appeal and hearing procedure shall conform to the standard rules and hearing procedures of the Administrative Review Board.
 - c. If the Administrative Review Board upholds the Order of the City, the property owner may appeal the decision within thirty (30) days to the circuit court.
 - d. If a property owner does not file a timely written request for a hearing with the Administrative Review Board, he or she waives the right to assert that the property did not meet the criteria for registration under this section.
- 11. Penalties.
 - a. Any property owner or entity violating the provisions of this ordinance shall be required to forfeit not less than one hundred dollars (\$100.) nor more than five hundred dollars (\$500.), along with the costs of prosecution. In default of payment thereof, the person shall be imprisoned in the Milwaukee County House of Correction until such forfeiture and costs are paid, but not more than the number of days set forth in Section 800.095(4) of the Wisconsin Statutes.

[Ord. O-2010-0024, 8/3/2010; Ord. O-2010-0033, 9/21/2010; Ord. O-2010-0036, 10/5/2010; Ord. O-2011-0073, 10/18/2011]

9.35 Control Of Premises And Lapse Of Operation

1. Control of Premises. No applicant will be considered for any license or permit issued under this chapter unless the applicant has the right to possession of the premises described in the application for the license. The applicant shall present documentation, in a form acceptable to the City Attorney, of proof of right to possession for the license/permit period. Loss of the right to the premises subjects the license or permit to immediate revocation. Only one (1) license or permit for the same activity may be issued per premise at one time.
2. Lapse of License/Permit. Whenever any licensee or permittee under this chapter shall not conduct the licensed or permitted business at the authorized location for a period of thirty (30) consecutive days, the license or permit shall become subject to revocation, unless such thirty-day period is, for good cause, extended by the License and Health Committee.
3. Procedure for Suspension, Revocation, or Nonrenewal. The procedures for

suspension, revocation, and nonrenewal of licenses set forth in Subsection 9.02(20)(d) through (h) of the Revised Municipal Code shall apply to all licenses and permits issued under this chapter.

4. Applicability. The provisions of Subsection (1) shall not apply where the licensed or permitted activity is, by its nature, not conducted at a particular premises. Where there is a specific requirement or procedure set out in this chapter for a particular license or permit, the more specific procedure or requirement shall govern.

[Ord. O-2013-0026, 6/4/2013]

9.36 Electronic Smoking Device Sales

1. Findings. The Common Council of the City of West Allis finds that:
 - a. Electronic smoking devices are battery-operated devices designed to deliver nicotine, flavor, and/or other substances through a vapor inhaled by the user; and
 - b. The use of electronic smoking devices has increased significantly in recent years, as evidenced by the fact that:
 - i. Between 2011 and 2015, e-cigarette use rose from one and five-tenths percent (1.5%) to sixteen percent (16%) among high school students and from six-tenths percent (0.6%) to five and three-tenths percent (5.3%) among middle school students;
 - ii. In 2013-14, eighty-one percent (81%) of current youth e-cigarette users cited the availability of appealing flavors as the primary reason for use;
 - iii. In 2015, more than three million (3,000,000) middle and high school students were current users of e-cigarettes, and e-cigarettes were the most commonly used tobacco products among youth;
 - iv. Nine and three-tenths percent (9.3%) of youth who have used electronic smoking devices have never smoked conventional cigarettes;
 - v. Between 2010 and 2011, rates of both awareness and use of unregulated electronic smoking devices by adults also increased significantly; and
 - c. Some cartridges used by electronic smoking devices can be refilled with liquid nicotine solution, creating the potential for exposure to dangerous concentrations of nicotine. As a result:
 - i. Poisonings from electronic smoking devices have increased dramatically in the past five (5) years from once a month in September 2010 to two hundred fifteen (215) a month in February 2014.
 - ii. Analysis of reports of poisonings from electronic smoking devices finds that calls reporting exposure to electronic smoking devices are much more likely to involve adverse health effects when compared to calls reporting exposure to conventional cigarettes; and
 - d. A study published in the Journal of Environmental and Public Health suggests that electronic smoking devices "may have the capacity to 're-normalize' tobacco use in a demographic that has had significant denormalization of tobacco use previously"; and
 - e. Electronic smoking devices often mimic conventional tobacco products in shape, size, and color, with the user exhaling a smoke-like vapor similar in appearance to the exhaled smoke from cigarettes and other

- conventional tobacco products; and
- f. TheandThe purported health benefits from electronic smoking devices have not been scientifically proven, and use of these devices has not been proven safe, either for their users or for bystanders. More than one (1) study has concluded that exposure to vapor from electronic smoking devices may cause passive or secondhand vapor inhalation. Clinical studies about the safety and efficacy of electronic smoking devices have not been submitted to the Food and Drug Administration (FDA) for the more than four hundred (400) brands of electronic smoking devices that are on the market, and consumers have no knowledge of whether electronic smoking devices are safe; what types of concentration of potentially harmful chemicals the products contain; and what dose of nicotine the products deliver. The World Health Organization has strongly advised consumers against the use of electronic smoking devices until they are "deemed safe and effective and of acceptable quality by a competent national regulatory body." The World Medical Association has determined that electronic smoking devices "are not comparable to scientifically proven methods of smoking cessation" and that "neither their value as therapeutic aids for smoking cessation nor their safety as cigarette replacements is established"; and
- g. ResearchandResearch indicates electronic smoking devices may lead youth to try other tobacco products. In addition, research indicates that youth who use electronic smoking devices are more likely to use tobacco products, including cigarettes, than those youth who do not use electronic smoking devices; and
- h. ElectronicandElectronic smoking devices are currently unregulated and have been proven to emit nicotine, ultrafine particles, volatile organic compounds, and other toxins. Inhalation of nicotine is proven to be dangerous to everyone, especially children and pregnant women. Exposure to ultrafine particles may exacerbate respiratory illnesses, such as asthma, and may constrict arteries which could trigger a heart attack. The volatile organic compounds, such as formaldehyde and benzene, found in electronic smoking device aerosols, as well as conventional cigarette smoke, are proven carcinogens; and
- i. ThatandThat a Harvard University health study found high levels of diacetyl in thirty-nine (39) of fifty-one (51) unique flavors of chemicals used in electronic smoking devices. Diacetyl is associated with bronchiolitis obliterans and other severe respiratory diseases among workers who have inhaled heated vapors containing diacetyl; and
- j. ThatandThat existing studies on electronic smoking devices' vapor emissions and cartridge contents have found a number of dangerous substances, including: carcinogens such as formaldehyde, acetaldehyde, lead, nickel, and chromium; PM 2.5, acrolein, tin, toluene, and aluminum which are associated with a range of negative health effects, such as skin, eye, and respiratory irritation, neurological effects, damage to reproductive systems, and premature death from heart attacks and stroke; inconsistent labeling of nicotine levels in electronic smoking device products; and in one (1) instance, diethylene glycol, an ingredient used in antifreeze and toxic to humans; and
- k. ThatandThat many news stories have detailed police reports of individuals using electronic smoking devices to smoke illegal narcotics, such as marijuana wax, synthetic marijuana, liquid marijuana, and hash oil; and
- l. ThatandThat in 2016, the FDA adopted regulations prohibiting the sale of

- electronic smoking devices to any person under age eighteen (18); and
- m. That and That on at least two (2) occasions, the West Allis Police Department has discovered hash oil, a prohibited Schedule I narcotic, in electronic smoking device liquids offered for sale at West Allis businesses.

2. Definitions.

- a. "Electronic Smoking Device" means an electronic device that can be used to deliver an inhaled dose of nicotine or any other substance intended for human consumption that may be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. It includes any such device whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, vape pen, or any other product name or descriptor.
- b. "Electronic Smoking Device Paraphernalia" means cartridges, cartomizers, e-liquid, smoke juice, tips, atomizers, electronic smoking device batteries, electronic smoking device chargers, and any other item specifically designed for the preparation, charging, or use of electronic smoking devices. It does not include any cigarette, as defined in § 139.30(1m) Wis. Stats., nicotine product, as defined in § 134.66(1)(f) Wis. Stats., or tobacco products, as defined in § 139.75(12) Wis. Stats.
- c. "Person" means any individual, firm, corporation, or organization.
- d. "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. Smoking also includes the use of an electronic smoking device which creates an aerosol or vapor in any manner or in any form or the use of any oral smoking device.
3. License Required. No person shall sell, give, or furnish an electronic smoking device or electronic smoking device paraphernalia in the City of West Allis without having first obtained a license from the City of West Allis therefor. Only a person who complies with the requirements of this section shall be entitled to receive and retain a license.
4. Sale to Minors Prohibited. No person shall sell, give, furnish, or cause to be sold, given, or furnished an electronic smoking device or electronic smoking device paraphernalia to a person less than eighteen (18) years of age.
5. License Application. A written application for the license required by this section shall be filed with the City Clerk upon forms provided by the City Clerk. The annual license fee shall be published in the Fee Schedule and shall be paid at the time the initial application is filed or, for license renewals, prior to the expiration of a license. Any renewal licensee fee paid on July 1 or later shall be subject to a late fee published in the Fee Schedule. A licensee or applicant shall notify the City Clerk in writing if any information listed on the application form has changed within ten (10) days of such change.
6. Qualifications. Each the individual applicant, or each member, officer, or partner of an applicant requirements shall
- a. The Be least 18 years of age.
- b. Not have an arrest or conviction record, subject to Wis. Stat. 111.321, 111.322, and 111.335.
- c. Not be a habitual law offender, subject to Wis. Stat. 111.321, 111.322, and 111.335.

7. License Issuance. The City Clerk is authorized to and issue a license to a qualified applicant. If the license is granted, the City Clerk shall name the licensee and the place wherein such business is authorized to be conducted. If the applicant does not appear to be qualified, the City Clerk shall forward the application to the common council for consideration. The Common Council may grant or deny an application. The City Clerk shall issue any license that has been granted by the Common Council.
8. License Year. The license year for licenses issued under this section shall be from July 1 to June 30 annually, unless sooner suspended or revoked.
9. Posting of License. Every licensee shall display its license at all times in plain view of the public on the licensed premises. Duplicate licenses shall be issued to replace licenses which are misplaced or damaged so as to be illegible. The fee for a duplicate license shall be ten dollars (\$10).
10. Truth of Statements. All matters submitted in writing to the City by any applicant or licensee pertaining to any license issued under this section shall be true.
11. Conditions of License.
 - a. Every applicant procuring a license thereby consents to the entry of the police or other duly authorized representatives of the City at all reasonable hours for the purpose of inspection and search and consents to the removal from said premises of all things and articles there had in violation of City ordinances or state laws.
 - b. The licensee and/or employees and agents of the licensee shall cooperate with police investigations or investigations of any other duly authorized representative of the City. "Cooperate," as used in this subsection, shall mean calling the police when a disturbance of the peace or other violation occurs on the licensed premises and providing complete and truthful responses to any inquiries from the police or other duly authorized representative of the City. A licensee shall also appear before the License and Health Committee when requested to do so and shall otherwise follow the lawful directives of the License and Health Committee.
 - c. Each licensed premises shall be conducted in an orderly manner, and no disorderly, riotous, or indecent conduct shall be allowed at any time on any licensed premises.
 - d. The licensee shall comply with all other provisions of this section and all other ordinances of the City of West Allis and the laws of the State of Wisconsin.
12. Transfer of License. No license shall be transferred to another person or premises.
13. Vending Machines and Self-Service Displays Prohibited. No licensee shall sell, give, furnish, or cause to be sold, given, or furnished an electronic smoking device or electronic smoking device paraphernalia by use of a vending machine or self-service display unless the licensee ensures that no minor is present or permitted to enter the premises at any time.
14. Nuisance Enforcement. In addition to the penalties listed within this section, the City Attorney or his/her designee or the Police Chief or his/her designee may pursue a nuisance enforcement action against a person selling, giving, or furnishing electronic smoking devices under Chapter 18 of this Code.
15. License Revocation.
 - a. Causes. Any license issued under this section may be suspended, revoked, or nonrenewed for cause by the Common Council after notice to the licensee and a hearing. Licenses may be suspended, revoked, or not renewed for the following causes:
 - i. The making of any material false statement in any application for a license.

- ii. The violation of any of the applicable provisions of this section.
 - iii. The failure to conduct its licensed business at the authorized location for a period of thirty (30) consecutive days, unless such thirty-day period shall, for good cause shown, be extended by the Common Council.
 - iv. The licensed premises is operated in such a manner that it constitutes a public or private nuisance or that conduct on or emanating from the licensed premises, including but not limited to loud and raucous noise, has had a substantial adverse effect upon the health, safety, convenience, or prosperity of the immediate neighborhood.
 - v. The failure to pay any tax or forfeiture as provided in Section 1.08(9) (a) and (b).
- b. Commencement of Proceedings. Suspension, revocation, or nonrenewal proceedings may be instituted by the License and Health Committee of the Common Council upon its own motion or upon sworn written charges made and filed with the City Clerk by the Chief of Police or Health Commissioner.
- c. Procedure. The procedure for suspension, revocation, and nonrenewal of licenses shall be as set forth in Subsection 9.02(20)(d) through (h) of the Revised Municipal Code.

~~Chapter 9 Business And Occupations (Repealed)~~

~~9.015 License Year (Repealed)~~

~~9.02 Alcoholic Beverages (Repealed)~~

~~9.025 Public Hearings For Licenses (Repealed)~~

~~9.035 (Reserved) (Repealed)~~

~~9.036 Practice Of Massage Or Bodywork Therapy Requiring State Licensing (Repealed)~~

~~9.037 Public Entertainment License (Repealed)~~

~~9.04 Cigarette And Tobacco Product Sales (Repealed)~~

~~9.07 Misuse Of 911 (Repealed)~~

~~9.08 Entertainment Device Distributor License (Repealed)~~

~~9.11 (Reserved) (Repealed)~~

~~9.128 Trailer And Truck Rental (Repealed)~~

~~9.13 Salvage And Recycling Centers (Repealed)~~

~~9.14 Junkers And Junk Pickers (Repealed)~~

~~9.15 Pawn Shops, Secondhand Stores, Secondhand Jewelry Dealers (Repealed)~~

~~9.16 (Reserved) (Repealed)~~

~~9.17 (Reserved) (Repealed)~~

- ~~9.18 Direct Sellers And Solicitors (Repealed)~~
- ~~9.20 Handbill Distribution (Repealed)~~
- ~~9.21 Manufactured And Mobile Home Community Licenses (Repealed)~~
- ~~9.23 Quarries, Sand And Gravel Pits (Repealed)~~
- ~~9.235 Topsoil Removal (Repealed)~~
- ~~9.24 Vehicle Towing Contracts (Repealed)~~
- ~~9.25 Racing Cars, "Go-Karts" And Similar Vehicles (Repealed)~~
- ~~9.26 Coin-Operated Or Self-Service Dry-Cleaning Machines (Repealed)~~
- ~~9.27 Penalties (Repealed)~~
- ~~9.28 Adult-Oriented Establishments (Repealed)~~
- ~~9.29 Escorts And Escort Services (Repealed)~~
- ~~9.30 Tattoo And Body Piercing Establishments (Repealed)~~
- ~~9.31 Entertainment Clubs (Repealed)~~
- ~~9.32 Check-Cashing Businesses (Repealed)~~
- ~~9.33 General Provisions As To Licenses (Repealed)~~
- ~~9.34 Property Owner Registration (Repealed)~~
- ~~9.35 Control Of Premises And Lapse Of Operation (Repealed)~~
- ~~9.36 Electronic Smoking Device Sales (Repealed)~~

SECTION 11: **ADOPTION** “Chapter 9 Business And Licensing” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

Chapter 9 Business And Licensing(*Added*)

SECTION 12: **ADOPTION** “9.47 General Provisions” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.47 General Provisions(Added)

1. Vicarious Liability. A licensee is liable for any violations of any provision of this chapter committed in the course of conducting the licensed activity by the licensee's employee, agent, or contractor. Each licensee has the affirmative duty to see that every regulation is obeyed by employees, agents, and contractors. The licensee may be convicted for a violation committed by an employee, agent, or contractor only in a civil forfeiture action. None of the following are defenses to the liability imposed under this section:
 - a. The licensee was deceived about or ignorant of the violation.
 - b. The licensee was absent at the time of the violation.
 - c. The licensee had prohibited employees, agents, and contractors from doing the act that resulted in a violation.
2. State Law Applicable. Any duty or authority assigned by state law to a City body, officer, or department shall be in effect unless explicitly declined or rejected in this code. Nothing in this chapter may be construed to implicitly preclude, decline, or reject any authority or duty in state law.
3. License List. The table below indicates by type of license which city officer issues the license, whether the issuing officer may grant the license without council approval, whether a record check is required, the term of the license, and which city departments receive notification of an application for that license.

Type	Issuing Officer				Departments Notified							
	May Grant (a)	Record Check	Yes	Expires	BI NS	Clerk	Engineer	Fire	Health	Planning	Police	Public Works
Adult-Oriented Entertainment	Clerk	No	Yes	June 30	X	X	-	X	X	-	X	-
Alcohol Beverages	-											
Class "B" Beer (provisional)	Clerk	Yes(b)		60 days	X	X	-	X	X	-	X	-
Class												

"B" Beer (regular)	Clerk	No		June 30	X	X	-	X	X	-	X	-
Class "B" Beer (tempor ary)	Clerk	Yes	No	As state d on licen se	-	X	-	-	-	-	X	-
"Class B" Liquor (provisi onal)	Clerk	Yes(b)		60 days	X	X	-	X	X	-	X	-
"Class B" Liquor (regular)	Clerk	No		June 30	X	X	-	X	X	-	X	-
"Class B" Wine (tempor ary)	Clerk	Yes	No	As state d on licen se	-	X	-	-	-	-	X	-
"Class C" Wine (provisi onal)	Clerk	Yes(b)	-	60 days	X	X	-	X	X	-	X	-
"Class C" Wine (regular)	Clerk	No	-	June 30	X	X	-	X	X	-	X	-
Extensio n of Premise s	Clerk	No	-	As state d on licen se	X	X	-	-	X	X	X	-
Operato r's (provisi onal)	Clerk	Yes(c)		60 days	-	X	-	-	-	-	X	-
				Ever								

Operator's (regular)	Clerk	Yes(f)		by other June 30	-	X	-	-	-	-	X	-
Operator's (temporary)	Clerk	Yes		1-14 days	-	X	-	-	-	-	X	-
Animal Sales and Service	Health Commissioner	Yes		June 30	-	-	-	-	X	-	-	-
Bed and Breakfast Establishment	Health Commissioner	Yes	-	June 30 (e)	-	-	-	-	X	-	-	-
Body Piercing	Health Commissioner	Yes		June 30	-	-	-	-	X	-	-	-
Campground and Camping Resort	Health Commissioner	Yes		June 30(e)	-	-	-	-	X	-	-	-
Cigarette and Tobacco Products Retailer	Clerk	Yes		June 30	-	X	-	-	-	-	-	-
Concrete Contractor	Clerk	Yes		June 30	-	X	X	-	-	-	-	-
Entertainment Device Distributor	Clerk	Yes		June 30	-	X	-	-	-	-	X	-

<u>Escort Service</u>	<u>Clerk</u>	<u>No</u>	<u>Yes</u>	<u>June 30</u>	-	<u>X</u>	-	-	-	-	<u>X</u>	-
<u>Fitness Center</u>	<u>Health Commissioner</u>	<u>Yes</u>	-	<u>June 30</u>	-	-	-	-	<u>X</u>	-	-	-
<u>Hotel or Motel</u>	<u>Health Commissioner</u>	<u>Yes</u>	-	<u>June 30(e)</u>	-	-	-	-	<u>X</u>	-	-	-
<u>Junk Picker</u>	<u>Clerk</u>	<u>Yes</u>	-	<u>60 days</u>	-	<u>X</u>	-	-	-	-	<u>X</u>	<u>X</u>
<u>Lodging House</u>	<u>Health Commissioner</u>	<u>Yes</u>	-	<u>June 30</u>	<u>X</u>	-	-	-	<u>X</u>	-	-	-
<u>Manufactured and Mobile Home Community</u>	<u>Clerk</u>	<u>Yes</u>	-	<u>June 30 of even years</u>	<u>X</u>	<u>X</u>	-	-	-	-	<u>X</u>	-
<u>Nicotine Products Retailer</u>	<u>Clerk</u>	<u>Yes</u>	-	<u>June 30</u>	<u>X</u>	<u>X</u>	-	-	<u>X</u>	-	<u>X</u>	-
<u>Pawnbroker</u>	<u>Clerk</u>	<u>No</u>	-	<u>Dec. 31</u>	-	<u>X</u>	-	-	-	-	<u>X</u>	-
<u>Public Entertainment</u>	-											
<u>Regular</u>	<u>Clerk</u>	<u>No</u>	<u>Yes</u>	<u>June 30</u>	<u>X</u>	<u>X</u>	-	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	-
<u>Temporary</u>	<u>Clerk</u>	<u>No</u>	<u>Yes (d)</u>	<u>As stated on license</u>	-	-	-	-	-	-	<u>X</u>	-
<u>Public Swimming Pool</u>	<u>Health Commissioner</u>	<u>Yes</u>	-	<u>June 30(e)</u>	-	-	-	-	<u>X</u>	-	-	-
<u>Recreat</u>												

ional and Educati onal Camp	<u>Health Commi ssioner</u>	<u>Yes</u>	-	<u>June 30(e)</u>	-	-	-	-	<u>X</u>	-	-	-
Retail Food Establis hment	<u>Health Commi ssioner</u>	<u>Yes</u>	-	<u>June 30(e)</u>	-	-	-	-	<u>X</u>	-	-	-
Second hand Article Dealer	<u>Clerk</u>	<u>No</u>	-	<u>Dec. 31</u>	-	<u>X</u>	-	-	-	-	<u>X</u>	-
Second hand Jewelry Dealer	<u>Clerk</u>	<u>No</u>	-	<u>Dec. 31</u>	-	<u>X</u>	-	-	-	-	<u>X</u>	-
Tattoo	<u>Health Commi ssioner</u>	<u>Yes</u>	-	<u>June 30</u>	-	-	-	-	<u>X</u>	-	-	-
Tourist Roomin g House	<u>Health Commi ssioner</u>	<u>Yes</u>	-	<u>June 30(e)</u>	<u>X</u>	-	-	-	<u>X</u>	-	-	-
Transie nt Mercha nt	<u>Clerk</u>	<u>Yes</u>	-	<u>60 days</u>	-	<u>X</u>	-	-	<u>X</u>	-	<u>X</u>	<u>X</u>

- a. The issuing officer may only grant a license to an applicant who is clearly qualified.
- b. The issuing officer shall grant a provisional retail license under Wis. Stat. 125.185 only to applicants whose applications are pending before the common council and all the following applies:
 - i. The License & Health Committee has recommended granting the license.
 - ii. The applicant has obtained all required licenses and permits.
 - iii. The applicant has passed all required inspections.
- c. The issuing officer shall grant a provisional operator's license to any applicant who meets the qualifications under Wis. Stat. 125.17(5).
- d. No record check is required for a temporary public entertainment license if the applicant already holds a Class "B" license.
- e. Licenses initially issued during the period beginning on April 1 and ending on June 30 expire on June 30 of the following year.
- f. The issuing officer may grant and issue a regular operator's license only if the

applicant does not have any of the following:

- i. A pending criminal charge for any offense under Wis. Stat. § 111.335(4)(a)
 - ii. A conviction for an offense counted under Wis. Stat. § 343.307 within two years of the application date
 - iii. A second or subsequent conviction for an offense counted under Wis. Stat. § 343.307 within five years of the application date
 - iv. Convictions for three or more violations of Wis. Stat. § 343.44 within two years of the application date
 - v. A conviction for any offense under Wis. Stat. Ch. 125 or any offense for which the consumption, possession, or sale of alcohol is an element within ten years of the application date, except no violation of Wis. Stat. § 125.07 may be considered unless the applicant has committed two or more violations within one year;
 - vi. A conviction for a felony offense where the sentence for confinement, extended supervision, or probation has ended within five years of the application date; or
 - vii. Convictions for three or more misdemeanors within five years of the application date.
4. Fees. An applicant for a license shall pay any applicable fees listed in the Fee Schedule.

SECTION 13: ADOPTION “9.48 Definitions” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.48 Definitions(*Added*)

In this chapter, the words and phrases below have the corresponding meanings:

Term	Definition
<u>Adult-oriented entertainment</u>	<u>Any of the following:</u> <ul style="list-style-type: none"> - <u>Any image that depicts specified anatomical areas or sexual activities</u> - <u>Any device marketed as an object used for sexual activities</u> - <u>Any live performance in which a person is acts out sexual activities or exposes or simulates the exposure of specified anatomical area or sexual activities</u> - <u>Any video in which a person acts out sexual activities or exposes or simulates the exposure of specified anatomical areas</u>
<u>Amusement device</u>	<u>See Wis. Stat. 77.54(65m)(b)</u>
<u>Approved payment plan</u>	<u>A debt repayment agreement between the City and a license applicant or licensee that is approved by the city attorney or the common council</u>
<u>Entertainment device</u>	<u>Any equipment designed to provide amusement to the user including, but not limited to: amusement devices, jukeboxes, and other similar devices</u>
<u>Indoor premises</u>	<u>Any part of the premises that is an enclosed place as that term is defined in Wis. Stat. 101.123(1)(ak)</u>
<u>Outdoor premises</u>	<u>Any part of the premises that is not an indoor premises.</u>
<u>Outstanding debt</u>	<u>A forfeiture for a violation of a municipal ordinance that is not being appealed, a civil judgment, real estate taxes which are delinquent and have not been reimbursed by the county in the August settlement under Wis. Stat. 74.29, delinquent personal property tax, delinquent room tax, or any other delinquent assessment, charge, or fee</u>
<u>Premises</u>	<u>The area within which the activity licensed under this chapter may occur.</u>
<u>Public entertainment</u>	<u>Any activity or equipment made available with or without fee to the general public for amusement including, but not limited to bowling centers, dance halls, roadhouses, billiard and pool tables, amusement devices, theater, live or pre-recorded music, movies, and other places of amusement. This definition applies to any entertainment provided commercially for gain by membership, season ticket, invitation, or other system open or offered to the public generally</u>

<u>Specified anatomical areas</u>	<u>Any of the following: - Less than completely and opaquely covered human genitals or pubic region - Less than completely and opaquely covered areola or nipple of a human female breast - Human male genitals in a discernible turgid state, even if opaquely covered</u>
<u>Sexual activities</u>	<u>Any of the following: - Simulated or actual acts of sexual intercourse, sodomy, bestiality, necrophilia, human excretion, masturbation, sadism, masochism, fellatio, cunnilingus, or lewd exhibition of human genitals - Simulated or actual fondling or erotic touching of human genitals, pubic region, or female breasts</u>

SECTION 14: **ADOPTION** “9.49 Disqualifiers” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.49 Disqualifiers(*Added*)

This section applies to all licenses to the extent allowed by state law. A license applicant may be denied a license if any of the following applies to the applicant or the applicant's members, shareholders, or owners:

1. The person is under 18 years of age.
2. The person has an arrest or conviction record for any crime or offense, subject to Wis. Stat. 111.335(4).
3. The person owes an outstanding debt to the City without an approved payment plan.
4. The person has failed to make a timely payment under an approved payment plan.
5. The person has failed to pay the fees required to obtain the license.
6. The person made false statements on the application or to the common council or a committee thereof.
7. The person has been denied a license in the 6 months preceding the application date.
8. The person has had a license revoked in the 12 months preceding the application date.
9. The premises, if any, has not passed all required inspections.

SECTION 15: **ADOPTION** “9.50 Application Process” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.50 Application Process(*Added*)

This process only applies to a license that adopts this section.

1. Application

- a. Any person seeking a new or renewal license shall file a complete application with the issuing officer in a form approved by the issuing officer. An application shall include the following information from the applicant and the applicant's members, shareholders, and owners as well as any other information required by the issuing officer:
 - i. Name
 - (1) If an individual, the applicant's full name
 - (2) If an entity, the applicant's legal name as well as the full names of any individuals who directly or indirectly have an ownership or managing interest in the entity
 - ii. Home address of any individuals named
 - iii. Date of birth of any individuals named
 - iv. Business email address
 - v. Business telephone number
 - vi. Business address
- b. Unless the type of license is specifically excluded from this requirement, the applicant shall describe the premises on which all licensed activity will take place.
- c. At the time of filing a new or renewal application, the applicant shall submit:
 - i. A nonrefundable application fee in the amount stated on the Fee Schedule.
 - ii. Where required by WAMC 9.47, a nonrefundable record check fee in the amount stated on the Fee Schedule.
 - iii. Any other information required by the particular license.
- d. The issuing officer shall notify the departments designated under WAMC 9.47 of the application received. Each department shall report to the issuing officer any information that may disqualify the applicant.

2. Granting, Issuance, and Denial

- a. If authorized by state law or under WAMC 9.47, the issuing officer may grant and issue a license to a qualified applicant. If the issuing officer does not grant and issue a license for any reason, the issuing officer shall forward the license application to the common council.
 - b. The common council shall grant or deny a license to an applicant in accordance with applicable law.
 - c. The issuing officer shall issue any license granted by the common council. The issuing officer shall notify any applicant whose application was denied of the applicant's appeal rights under state law or WAMC 2.48(5).
3. Conditions. The common council may place reasonable conditions upon any license it grants, unless prohibited by law.
4. Withdrawal. An applicant may withdraw an application at any time before it is granted or denied.
5. Special Meetings. A license applicant may request a special meeting of the common council to hear the application. If the common council holds a special meeting at the license applicant's request, the city clerk shall collect from the applicant the special meeting fee listed in the Fee Schedule.

SECTION 16: **ADOPTION** “9.51 Discipline Process” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.51 Discipline Process(*Added*)

This process only applies to a license that adopts this section.

1. Disciplinary Events. A license may be suspended for up to 60 days, revoked, or non-renewed if any of the following disciplinary events applies to the licensee or the licensee's members, shareholders, or owners:
 - a. The person is disqualified under WAMC 9.49.
 - b. The person failed to maintain order on the premises.
 - c. The person has not exercised the activities authorized by the license for 30 consecutive days.
 - d. The activities on the premises have caused a public nuisance.
 - e. The licensee has not complied with the conditions under which it was granted.
2. Complaint. Based on allegations against a licensee submitted to the license and health committee by any person, an alderperson who finds the allegations are sufficient to justify a hearing may approve the issuance and service of a summons and complaint against the identified licensee. The complaint shall contain the allegations that, if proven, would constitute at least one disciplinary event. The summons shall state the date on which and location where the licensee must appear for a preliminary hearing on the complaint. The preliminary hearing may be held before the license and health committee or the common council. The summons shall be signed by the chair of the body conducting the hearing, and the complaint shall be signed by an attorney for the City who shall prosecute the complaint and be the complainant. Service shall be in the manner provided under Wis. Stat. Ch. 801 for service in civil actions in circuit court and accomplished at least 3 days prior to the preliminary hearing date.
3. Preliminary Hearing
 - a. If the licensee either does not appear as required by the summons or appears as required by the summons and admits to the allegations in the complaint, the allegations in the complaint shall be taken as true and, if the body holding the preliminary hearing finds the allegations constitute at least one disciplinary event, the license shall be suspended for up to 60 days, revoked, or non-renewed. The parties who are present shall have an opportunity to make argument prior to the body's decision. No decision by a committee is effective unless approved by the common council.
 - b. If the licensee appears as required by the summons and denies any part of the complaint, the complainant and licensee shall appear at a quasi-judicial hearing on the parts of the complaint that were denied. Any part of the complaint admitted as true shall be taken as true during the quasi-judicial hearing.
4. Quasi-Judicial Hearing
 - a. Procedure and Burden. The complainant shall enter evidence first. The licensee may enter evidence after the close of the complainant's evidence. The complainant and licensee may produce witnesses, cross-examine witnesses, submit evidence, and be represented by counsel. The complainant must prove

- by a preponderance of the evidence that a disciplinary event has occurred before the common council may suspend, revoke, or non-renew a license.
- b. Committee Hearing. If the quasi-judicial hearing is held before a committee of the common council, the committee and common council shall follow the process below:
- i. The committee shall determine if a disciplinary event has occurred and submit a report to the common council with findings of fact and conclusions of law. The report shall recommend dismissal of the complaint or suspension for up to 60 days, revocation, or nonrenewal of the license. The committee shall provide the complainant and the licensee with a copy of the report. The complainant or licensee may file with the clerk a written objection to the report, which shall identify any dispute with the report and legal argument in support of the objector's position. The complainant or licensee may file a response to any objection filed by the other. If any objection is filed, the common council may hear oral argument from the complainant and licensee or make a decision based on the written objection and any response.
 - ii. After considering the committee's report and any arguments presented by the complainant and the licensee, the common council shall either:
 - (1) Suspend for up to 60 days, revoke, or non-renew the license if a disciplinary event has occurred, or
 - (2) Dismiss the complaint.
- c. Common Council Hearing. If the quasi-judicial hearing is held before the common council, the common council shall follow the process below:
- i. The council shall determine if a disciplinary event has occurred.
 - ii. After conducting the hearing, the common council shall either:
 - (1) Suspend for up to 60 days, revoke, or non-renew the license if a disciplinary event has occurred, or
 - (2) Dismiss the complaint
- d. Transcript. After the quasi-judicial hearing and upon request, the City shall provide a written transcript of the hearing to the licensee at the licensee's expense.
5. Surrender. A licensee may surrender a license at any time prior to the suspension, revocation, or nonrenewal of the license.
6. Stipulation. The complainant and licensee may adjust or amend any procedural requirement by mutual agreement other than final resolution of a complaint. The complainant and licensee may, at any time, present the common council or a committee with a stipulate final resolution of the matter. The common council or committee may approve or reject the terms of that stipulation.
7. Notice of Adverse Decision. The municipal clerk shall give notice of each suspension, revocation, or non-renewal to the person whose license is suspended, revoked, or non-renewed.
8. Judicial Review. The suspension, revocation, or non-renewal of any license may be reviewed by writ of certiorari to the Milwaukee County Circuit Court.

SECTION 17: **ADOPTION** “9.52 Regulations” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.52 Regulations(*Added*)

1. -Information Update. The licensee shall file an updated application with the city clerk within 10 days after any information submitted during that license year has changed
2. Premises Limitation. All licensed activity must take place on the premises, if any.
3. No Transfer or Assignment. No license may be transferred or assigned to another person without approval from the common council and payment of any transfer fee listed in the Fee Schedule.
4. Display or Presentation of License. No licensee may operate under that license without displaying the license on the premises in a conspicuous location or, if display is not practicable, carrying the license and presenting that license to a City official upon request
5. Consent to Entry. No licensee may refuse to allow a City official to enter and remain upon a premises when any person is located on the premises.
6. Approved Operations. No licensee may operate a premises in manner that is inconsistent with any approved floor plan, operations plan, or other condition under which the license was granted and issued.
7. False Application Information. No person may knowingly provide materially false information in an application for a license or permit under this chapter.

SECTION 18: **ADOPTION** “9.53 Penalties” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.53 Penalties(*Added*)

1. Any person who violates a provision of this chapter that adopts a state law shall forfeit an amount equal to the forfeiture or fine for a violation of the adopted state law.
2. Any person who violates a provision of this chapter that is not an adopted state law shall forfeit up to \$1,000.
3. Each day in which an ongoing violation continues shall constitute a separate offense.
4. In addition to any penalty imposed by this section, the City may discipline any license and may seek other lawful remedies.

SECTION 19: **ADOPTION** “9.59 Adult-Oriented Entertainment” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.59 Adult-Oriented Entertainment(*Added*)

1. License Required. No person may conduct a business that provides adult-oriented entertainment without first obtaining an adult-oriented entertainment license.
2. Exceptions. No license is required under this section if any of the following applies:
 - a. The person is a public or private school instructing pupils as part of its curriculum.
 - b. The person is operating a licensed medical care facility engaged in the providing of medical care or education.
 - c. The adult-oriented entertainment is an incidental and insignificant part of the business.
3. Application Process. The application process in WAMC 9.50 is adopted, except as modified below:
 - a. No premises may be located within 500 feet of any of the following:
 - i. Another premises licensed for adult-oriented entertainment.
 - ii. Any residential zoning district.
 - iii. Any pre-existing school, church or child care center.
4. Regulations
 - a. Restricted Entertainment. The common council may approve certain forms of adult-oriented entertainment and deny other forms. No licensee may provide any form of adult-oriented entertainment unless specifically authorized at the time the license is granted.
 - b. Employee and Entertainer Registration. No employees or persons performing adult-oriented entertainment on a premises may work without first registering in the city clerk's office and paying the fee in the Fee Schedule. The registrant shall provide their name (including all aliases), date of birth, and mailing address. No licensee may employ a person or allow a person to perform adult-oriented entertainment on a premises without verifying that person has first registered in the city clerk's office.
 - c. Hours of Operation. A premises shall remain closed during the same time that a Class "B" premises is required to close under Wis. Stat. 125.32(3)(a).
 - d. Semi-Public Areas. No premises may be arranged in a manner that a person may occupy a booth, room, or cubicle unless that area is freely accessible and viewable from public areas on the premises. No more than one individual may occupy a booth, room, or cubicle at any time.
 - e. Sexual Activity. No person may engage in sexual activities on the premises.
 - f. Physical Contact. While on the premises, no person may make physical contact with an employee or person performing adult-oriented entertainment.
5. Discipline Process. The discipline process in WAMC 9.51 is adopted.

SECTION 20: ADOPTION “9.60 Alcohol Beverage” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.60 Alcohol Beverage(*Added*)

1. License Required. Wis. Stat. 125.04(1) is adopted.
2. Exceptions. Wis. Stat. 125.06 is adopted.
3. Application Process. The application process under Wis. Stat. Ch. 125 is adopted, except as modified below:
 - a. License Fee. An applicant shall pay the applicable license fee listed in the Fee Schedule prior to date on which the license is to be issued. If a license is not granted, any paid license fee shall be refunded.
 - b. New License Applications. At the time of filing a new application for a Class "A" license under Wis. Stat. 125.25(1), a "Class A" license under Wis. Stat. 125.51(2), a Class "B" license under 125.26(1), a "Class B" license under Wis. Stat. 125.51(3), or a "Class C" license under Wis. Stat. 125.51(3m), the applicant shall submit:
 - i. A nonrefundable inspection fee in the amount stated on the Fee Schedule
 - ii. A detailed floor plan for each floor of the premises, which shall include the following as applicable:
 - (1) Area in square feet and dimensions of the premises
 - (2) All entrances and exits to the premises together with a description of how patrons will enter the premises, the proposed location of the waiting line, and the location where security searches or identification verification will occur
 - (3) Locations of all seating areas, bars, and food preparation areas
 - (4) Locations and dimensions of any alcohol beverage storage and display areas
 - (5) Locations and dimensions of any outdoor areas available at the premises for the sale, service, or consumption of alcohol beverages
 - (6) Location and dimensions of any outside area that where customers, employees, or persons associated with the premises may smoke
 - (7) The location of exterior and interior trash receptacles
 - (8) Any other reasonable and pertinent information the License and Health Committee may require either for all applicants or in a particular case
 - iii. A completed plan of operation for the business, which shall include as applicable:

- (1) The hours of operation for the premises
 - (2) The legal capacity of the premises
 - (3) Methods for maintaining the appearance and operation of the premises with respect to noise and litter
 - (4) Any other business that will be conducted in connection with the premises.
 - (5) Any other licenses and permits sought for the premises.
 - (6) The number of security personnel expected to be on the premises, their responsibilities, and the equipment they will use in carrying out their duties.
 - (7) Any other reasonable information the License and Health Committee may require either for all applicants or in a particular case.
- c. Time of Filing and Issuance. Pursuant to Wis. Stat. 125.04(3)(f)2., an application for a license to sell alcohol beverages shall be filed with the city clerk at least 15 days prior to the granting of the license, except an application for a license issued under Wis. Stat. 125.26(6) or 125.51(10) shall be filed at least 5 business days prior to the granting of the license.
- Liquor Sales at Fuel Stations. No "Class A" license may be granted for any
- d. premises where gasoline or diesel fuel is sold at retail in connection with the premises, except that this restriction does not apply if any of the following applies:
- i. The "Class A" license contains the condition that retail sales of intoxicating liquor are limited to cider
 - ii. The premises for which the "Class A" license is issued is connected to premises where gasoline or diesel fuel is sold at retail by a secondary doorway that serves as a safety exit and is not the primary entrance to the "Class A" premises.
- e. Extension of Premises Application
- i. Temporary Extension
 - (1) A licensee may apply for a temporary extension of premises by submitting a request to the city clerk in a form approved by the clerk and paying the fee listed on the Fee Schedule.
 - (2) Each licensee shall provide a description of the temporary premises and any other information required by the city clerk. The request shall list specific dates for which the licensee requests an extension of premises or list a range of dates not to exceed 6 months for which the licensee requests an extension of premises.
 - (3) The common council shall determine whether to grant a request for temporary extension of premises under the same standards as a new license application. A temporary extension of premises creates a property interest only for the dates and times approved by the common council. Upon expiration of a temporary extension of premises, the temporary premises ceases to exist. Approval of a temporary extension of premises does not create a right to future approval.
 - ii. Permanent Extension. A licensee requesting a permanent extension shall pay the fee listed in the Fee Schedule at the time of the request. The council shall determine whether to grant the request for

permanent extension of premises under the same standards as a new license application.

4. Regulations. The regulations in Wis. Stat. Ch. 125 are adopted, except as modified below:

- a. "Class B" Authorizations. Pursuant to Wis. Stat. 125.51(3)(b), a retail "Class B" license authorizes the sale of intoxicating liquor to be consumed by the glass on the premises where sold or off the premises if the licensee seals the container of intoxicating liquor with a tamper-evident seal before the intoxicating liquor is removed from the premises. The "Class B" license also authorizes the sale of intoxicating liquor in the original package or container, in any quantity, to be consumed off the premises where sold.
- b. Outdoor Premises
 - i. Containers. No licensee may allow glass beverage containers in an outdoor premises.
 - ii. Noise Limit. No outdoor premises may be the source of sound that measures over 100 decibels (A-weighted) within 100 feet from the outdoor premises. The common council may set different noise limits for a particular outdoor premises if the licensee agrees to those alternate noise limits.
 - iii. Bordering. The border of any outdoor premises shall be physically marked with fencing, vegetation, barriers, or other objects or markings accurately indicating the limits of the outdoor premises.
 - iv. Lighting. Any lighting for an outdoor premises may not project directly to an area beyond the indoor and outdoor premises.
 - v. Closing Hours. No outdoor premises may remain open between the hours of 10 p.m. and 10 a.m. The common council may set different closing hours for a particular outdoor premises if the licensee agrees to those alternate closing hours.
- c. Conditions Specific to Licensee. The common council may impose the following conditions upon a particular new retail alcohol license at the time the license is granted or impose the following conditions upon a particular existing retail alcohol licensee only with the licensee's consent. No licensee may violate any condition specifically imposed upon that retail alcohol license.
 - i. The licensee shall conduct a principal business on the premises particularly described by the common council. Examples include those types of businesses described in Wis. Stat. 125.32(3m).
 - ii. The licensee shall maintain the property and premises so it is consistent with the landscaping and architectural design plans approved by the common council.
 - iii. The licensee shall video record all activities taking place on the premises, except within bathrooms and areas inaccessible to customers, and retain a copy of that video for at least 7 days. The video resolution must have at least 640 pixels horizontally and 480 pixels vertically. The licensee shall provide a copy of any video recording in the licensee's possession within 48 hours after receiving a request for video from a law enforcement officer.
 - iv. The licensee shall maintain certain security measures particularly described by the common council. Examples include lighting requirements, staffing minimums, and photographic identification

- scanners.
 - v. The licensee may not promote or conduct certain activities particularly described by the common council. Examples include live music and drink specials.
 - d. Hours of Sale Limited. Between 9:00 p.m. and 8:00 a.m., no person may do any of the following:
 - i. Sell alcohol beverages on a Class "A" or "Class A" premises.
 - ii. Sell alcohol beverages on a Class "B" or "Class B" premises in an original unopened package, container, or bottle.
 - iii. Sell alcohol beverages on a Class "B" or "Class B" premises for consumption off the premises.
 - e. Presence After Hours. No licensee may allow any person to enter or remain on a premises licensed for retail alcohol sales during hours when the premises are not open for business, unless that person is the licensee, employees of the licensee, salespersons for the licensee, or service personnel for the licensee if those persons are performing job-related activities.
 - f. Underage Persons on Premises
 - i. No licensee may allow underage person to enter or remain on Class "B" or "Class B" premises under Wis. Stat. 125.07(3)(a)10, unless the licensee has notified the police chief at least 7 days in advance of the times underage persons will be allowed on the premises.
 - ii. A licensee may allow an underage person to enter or remain on a temporary Class "B" premises under Wis. Stat. 125.26(6).
 - iii. A licensee may allow an underage person to enter or remain on a temporary "Class B" premises under Wis. Stat. 125.51(10) only for the purpose of acting as a designated driver and only if the licensee requires the underage person to display a means of identification, such as a wrist band, to identify underage persons as designated drivers.
5. Discipline Process. Wis. Stat. 125.12 is adopted.

SECTION 21: **ADOPTION** “9.61 Animal Sales And Services” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.61 Animal Sales And Services(*Added*)

1. License Required. No person may conduct a business that sells, boards, breeds, bathes, or grooms animals without first obtaining an animal sales and services license.
2. Exceptions. No license is required under this section if the only animals sold or serviced are fish, crustaceans, or other permanent aquatic animals.
3. Application Process. The application process in WAMC 9.50 is adopted.
4. Regulations
 - a. Enclosures. No licensee may maintain an unclean, undersized, inadequate, infested, or unreasonably odorous animal enclosure.
 - b. Proximity. No licensee may maintain a premises within 50 feet of a location where food products are stored, served or prepared unless the health commissioner determines that sufficient barriers are in place.
 - c. Quantity. No licensee may maintain on the premises more than the maximum number of animals allowed by the health commissioner.
5. Discipline Process. The discipline process in WAMC 9.51 is adopted.

SECTION 22: **ADOPTION** “9.62 Bed And Breakfast Establishment” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.62 Bed And Breakfast Establishment(*Added*)

1. License Required. Wis. Stat. 97.605(1)(b) is adopted.
2. Exceptions. (Reserved)
3. Application Process. The application processes in Wis. Stat. Ch. 97, Subch. III, and Wis. Adm. Code ATCP 73.04 are adopted.
4. Regulations. The regulations in Wis. Stat. Ch. 97, Subch. III and Wis. Adm. Code Ch. ATCP 73 are adopted.
5. Discipline Process. The discipline processes in Wis. Stat. 97.65 and Wis. Adm. Code ATCP 73.07 are adopted.

SECTION 23: **ADOPTION** “9.63 Body Piercing” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.63 Body Piercing(*Added*)

1. License Required. Wis. Stat. 463.12(3) is adopted.
2. Exceptions. Wis. Stat. 463.12(5) is adopted.
3. Application Process. The application process in Wis. Adm. Code SPS 221.04(3) is adopted.
4. Regulations. The regulations in Wis. Adm. Code Ch. SPS 221 are adopted.

5. Discipline Process. The discipline process in Wis. Adm. Code SPS 221.07 is adopted.

SECTION 24: **ADOPTION** “9.64 Campground And Camping Resort” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.64 Campground And Camping Resort(*Added*)

1. License Required. Wis. Stat. 97.67(1) is adopted.
2. Exceptions. Wis. Stat. 97.67(1g) is adopted.
3. Application Process. The application process in Wis. Adm. Code ATCP 79.05 is adopted.
4. Regulations. The regulations in Wis. Adm. Code Ch. ATCP 79 are adopted.
5. Discipline Process. The discipline processes in Wis. Stat. 97.71 and Wis. Adm. Code ATCP 79.08 are adopted.

SECTION 25: **ADOPTION** “9.65 Cigarette And Tobacco Products Retailer” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.65 Cigarette And Tobacco Products Retailer(*Added*)

1. License Required. Wis. Stat. 134.65(1) is adopted.
2. Exceptions. (Reserved)
3. Application Process. The application process in Wis. Stat. 134.65(2)(a) is adopted.
4. Regulations. The regulations in Wis. Stat. 134.65 are adopted.
5. Discipline Process. The discipline process in Wis. Stat. 134.65(5) is adopted.

SECTION 26: **ADOPTION** “9.66 Concrete Contractor” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.66 Concrete Contractor(*Added*)

1. License Required. No person may conduct a business that constructs, alters or repairs sidewalks made of concrete or other like materials without first obtaining a concrete contractor license.
2. Exceptions. (Reserved)
3. Application Process. The application process in WAMC 9.50 is adopted, except as modified below:
 - a. The applicant shall file a surety bond in the sum of \$3,000 in a form approved by the City Engineer, conditioned that for a period of 1 year from the date of completion of any work during the licensed year that the licensee shall replace

and restore to the specifications of the City Engineer the sidewalk, driveway and/or street or other public ground, and shall replace and restore any imperfect work which may be discovered by the City Engineer within 1 year after completing any work.

b. The applicant shall file a certificate of liability insurance in an amount of not less than \$300,000 per claim occurrence for any injury, loss, damage or liability which may result in any manner from the issuance of the license. The City of West Allis shall be named as an Additional Insured.

c. No premises description is required for this license.

4. Regulations. (Reserved)

5. Discipline Process. The discipline process in WAMC 9.51 is adopted.

SECTION 27: **ADOPTION** “9.67 Entertainment Device Distributor” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.67 Entertainment Device Distributor(*Added*)

1. License Required. No person may lease or place an entertainment device upon another person's public place, or receive profits from such a lease, without first having obtained a license under this section.

2. Exceptions. None.

3. Application Process. The application process in WAMC 9.50 is adopted, except as modified below:

a. No premises description is required for this license.

b. The applicant shall provide a list of all addresses within the City at which the applicant has placed entertainment devices within the past year or will place amusement devices within the next year under the terms of a contract. The list shall include the number of machines placed or to be placed at the premises, and the legal names of the entities contracting for each entertainment device.

4. Regulations. (Reserved)

5. Discipline Process. The discipline process in WAMC 9.51 is adopted.

SECTION 28: **ADOPTION** “9.68 Escort Service” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.68 Escort Service(*Added*)

1. License Required. No person may conduct a business that provides the service of person who accompanies another to social affairs, places of entertainment or places of amusement without first obtaining an escort license.
2. Exceptions. No license is required under this section if any of the following applies:
 - a. The person holds a license by the State of Wisconsin or the City that authorizes the activity.
 - b. The act of accompanying another is, in good faith, incidental to the primary function of a different profession, employment, or business.
3. Application Process. The application process in WAMC 9.50 is adopted, except as modified below:
 - a. No premises description is required for this license.
4. Regulations.
 - a. Registration of Employees, Agents, or Contractors. No employees, agents, or contractors may perform the activity licensed in this section without first registering in the city clerk's office and paying the fee in the Fee Schedule. The registrant shall provide his or her name (including all aliases), date of birth, and mailing address. No licensee may employ a person or allow a person to perform the activity licensed in this section without verifying that person has first registered in the city clerk's office.
5. Discipline Process. The discipline process in WAMC 9.51 is adopted.

SECTION 29: **ADOPTION** “9.69 Fitness Center” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.69 Fitness Center(*Added*)

1. License Required. No person may conduct a business that provides services or facilities that are purported to assist patrons in physical exercise, in weight control, or in figure development without first obtaining a fitness center license.
2. Exceptions. No license is required under this section if any of the following applies:
 - a. The facility solely offers training in or facilities for an individual sport or activity.
 - b. The facility provides instruction, supervision, or counseling for diet or weight loss or maintenance, but no physical exercise services are provided on the premises.
3. Application Process. The application process in WAMC 9.50 is adopted.
4. Regulations.
 - a. CPR Training. Wis. Stat. 100.178 is adopted.
 - b. Sanitary Conditions. Equipment, furniture, linens, or other materials that are subject to bodily contact by users shall be disposed of after a single use, manufactured in a manner that deters bacterial growth, or washed in a manner

to insure adequate hygiene between users.

c. Locker Room Requirements. Separate locker room facilities shall be present and accessible for men and women. All locker room patrons shall have available for their optional use a clothes locker constructed of substantial material, provided with an interior hook for hanging items of clothing and with a means for locking to provide security for patrons' items and property. Lockers shall be arranged, designed, and located so that they are not subject to spray or other water damage.

5. Discipline Process. The discipline process in WAMC 9.51 is adopted.

SECTION 30: **ADOPTION** “9.70 Hotel Or Motel” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.70 Hotel Or Motel(*Added*)

1. License Required. Wis. Stat. 97.605(1)(a) is adopted.
2. Exceptions. (Reserved)
3. Application Process. The application processes in Wis. Stat. Ch. 97, Subch. III, and Wis. Adm. Code ATCP 72.04 are adopted.
4. Regulations. The regulations in Wis. Stat. Ch. 97, Subch. III, and Wis. Adm. Code CH. ATCP 72 are adopted.
5. Discipline Process. The discipline processes in Wis. Stat. 97.65 and Wis. Adm. Code ATCP 72.07 are adopted.

SECTION 31: **ADOPTION** “9.71 Junk Picker” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.71 Junk Picker(*Added*)

1. License Required. No person may conduct a business that picks up, gathers, assorts, carries away or in any manner handles or causes to be handled any material of any kind on a public or City dump for salvage, junking or scavenging without first obtaining a junk picker license.
2. Exceptions. (Reserved)
3. Application Process. The application process in WAMC 9.50 is adopted, except as modified below:
 - a. No premises description is required for this license
4. Regulations
 - a. Rules by Director of Public Works. No licensee may violate any rule established by the Director of Public Works regarding any conduct at a public or City dump.
5. Discipline Process. The discipline process in WAMC 9.51 is adopted.

SECTION 32: **ADOPTION** “9.72 Lodging House” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.72 Lodging House(*Added*)

1. License Required. No person may conduct a business that rents 3 or more separately leased sleeping rooms located in the same dwelling unit without first obtaining a lodging house license.
2. Exceptions. No license is required under this section if the premises is licensed as a hotel or motel.
3. Application Process. The application process in WAMC 9.50 is adopted.
4. Regulations
 - a. Sleeping Rooms. Each sleeping room shall be at least 70 square feet in size with a window of at least 12 square feet and a screened opening not less than 6 square feet in that window.
 - b. Lavatories. At least one flush toilet, lavatory basin and bathtub or shower shall be supplied for each 6 persons occupying the lodging house, and those facilities shall be accessible from a common hall or passageway to all persons sharing those facilities
 - c. Sanitary Conditions. The licensee shall maintain the sleeping rooms and shared facilities in a manner that is clean, free from odor, and in good repair.
5. Discipline Process. The discipline process in WAMC 9.51 is adopted.

SECTION 33: **ADOPTION** “9.73 Manufactured And Mobile Home Community” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.73 Manufactured And Mobile Home Community(*Added*)

1. License Required. Wis. Stat. 66.0435(2)(a) is adopted.
2. Exceptions. (Reserved)
3. Application Process. The application process in Wis. Stat. 66.0435(4) is adopted, except as modified below:
 - a. Each applicant shall also submit the following with each initial or renewal application, unless the information is the same as stated in a previous application:
 - i. For an individual applicant, that person's phone number, date of birth, and email address. For an entity applicant, the person's federal employer identification number and names and addresses of the

- person's officers, members, or partners.
- ii. The name, address, phone number, and email address of a person who manages the manufactured and mobile home community.
 - iii. A scale drawing of the manufactured and mobile home community prepared and certified by a registered professional engineer, surveyor, or architect. The drawing shall contain:
 - (1) Accurate dimensions of the community;
 - (2) Location and width of all roads and approaches,
 - (3) The method of ingress and egress from, and dimensions and locations of public highways;
 - (4) The complete electric service installation and the location of poles, wire service outlets, and lighting facilities;
 - (5) All snow storage areas and utility easements;
 - (6) A complete layout of unit spaces and number of square feet therein, together with the dimensions thereof. Each unit space shall bear a number in accordance with a numbering system approved by the Director of the Department of Building Inspection and Neighborhood Services
 - (7) The location of the electric power distribution systems, water mains, or wells for water supply outlets for domestic water users;
 - (8) Location of sanitary facilities, bathrooms, garbage disposal units, incinerators, sanitary sewers, sewer drain lines, and any other building or structure;
 - (9) The location of required vehicle and supplementary parking spaces for vehicles, boats, and other towed vehicles.

4. Regulations

- a. Fair Trade Practices. Wis. Adm. Code Ch. ATCP 125 is adopted.
- b. Licensee to Collect Monthly Permit Fee. The manufactured and mobile home community operator shall collect the monthly municipal permit fee from each unit owner.
- c. Responsibilities of Licensee. Every person licensed to operate and manage a manufactured and mobile home community shall be responsible for:
 - i. Maintaining all records pertaining to the management, operation, and supervision of the manufactured and mobile home community for the current licensing year and previous 2 licensing years.
 - ii. The maintenance of an orderly and clean manufactured and mobile home community and the maintenance of all streets, roadways, or thoroughfares necessary as fire lanes of a manufactured and mobile home community free and clear of all refuse, rubbish, snow, ice, or other materials or objects.
 - iii. The numbering of all units, which numbers shall correspond to the number shown in the registry signed by each new arrival, permitting such person to occupy a given site.
 - iv. The proper illumination on the premises of all streets, roadways, private driveways, and entrances and exits to and from the premises from 30 minutes after sunset to 30 minutes before sunrise on the succeeding day.
 - v. The prompt reporting to the Police Department of any violation of an ordinance, statute, or other law committed on the premises that the licensee knew or should have known about.

- vi. The observation of fire prevention rules and laws; the keeping of all buildings, fences, illumination, streets, roadways, water systems, sewer systems, and electric streetlighting systems in good serviceable condition, clean, sanitary, and in good repair; and the keeping of the entire premises clean and sanitary so as to minimize obnoxious odors, rodent harborage, flies, mosquitoes, vermin, or other insects. Page 58
 - vii. The maintenance of a register of all owners and occupants of manufactured and mobile homes located in the manufactured and mobile home community.
 - viii. The licensee's registered contact person shall, during reasonable hours, be available in the community, in close proximity to the community, or via electronic or telephonic means.
5. Discipline Process. The discipline process in Wis. Stat. 66.0435(2)(d) is adopted.

SECTION 34: **ADOPTION** “9.74 Nicotine Products Retailer” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.74 Nicotine Products Retailer(*Added*)

- 1. License Required. No person may in any manner, or upon any pretense, or by any device, directly or indirectly sell, expose for sale, possess with intent to sell, exchange, barter, dispose of or give away to any person any nicotine products, as defined in Wis. Stat. 134.66(1)(f), or any item designed or used for the inhalation of nicotine products without first obtaining a nicotine products retailer license.
- 2. Exceptions. (Reserved)
- 3. Application Process. The application process in WAMC 9.50 is adopted.
- 4. Regulations
 - a. Vending Machines and Self-Service Displays. No licensee shall sell, give, furnish, or cause to be sold, given, or furnished any nicotine products or any item designed or used for the inhalation of nicotine products by use of a vending machine or self-service display unless minors are not allowed to enter the premises at any time.
- 5. Discipline Process. The discipline process in WAMC 9.51 is adopted.

SECTION 35: **ADOPTION** “9.75 Pawnbroker” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.75 Pawnbroker(*Added*)

1. License Required. Wis. Stat. 134.71(2) is adopted.
2. Exceptions. (Reserved)
3. Application Process. The application process in Wis. Stat. 134.71 is adopted.
4. Regulations. The regulations in Wis. Stat. 134.71 are adopted.
5. Discipline Process. The discipline process in Wis. Stat. 134.71(10) is adopted.

SECTION 36: ADOPTION “9.76 Public Entertainment” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.76 Public Entertainment(*Added*)

1. License Required. No person may conduct a business that provides public entertainment without first obtaining a regular or temporary public entertainment license.
2. Exceptions. No license is required under this section if any of the following applies:
 - a. Public entertainment is provided by a charitable, nonprofit, or educational institution, religious organization, or governmental entity upon land owned and exclusively occupied by that entity.
 - b. Public entertainment is provided by an organization formed for the purpose of ballet performance and instruction and which has received tax exempt status from the United States Internal Revenue Service.
 - c. Billiard tables are provided on the premises of bona fide clubs or social organizations not operating for private profit which provide other membership privileges and activities, even though there is a charge for playing billiards.
 - d. Dancing instruction is provided for compensation without any performance for the general public.
 - e. Television or music is intended to entertain only employees and not customers.
 - f. Public entertainment is provided on the grounds of and during a special event permitted under WAMC 6.032.
3. Application Process. The application process in WAMC 9.50 is adopted, except as modified below:
 - a. The clerk may not grant this license.
 - b. The application shall include this additional information:
 - i. A plan of operation
 - ii. A floor plan of the premises
4. Regulations
 - a. Hours of Operation. No licensee may allow the premises to remain open between the hours of 11:00 p.m. and 9:00 a.m. of any day, unless the common council expands the open hours for the premises. No premises may remain open outside of the hours set forth by the common council.
 - b. Minors Restricted. No licensee may allow any person under the age of 18 on the premises where amusement devices are offered to the public before the hour of 3:00 P.M. on any day that the West Allis-West Milwaukee public schools are in session, unless accompanied by their legal parent or guardian.
 - c. Layout. No licensee may arrange amusement device on a premises in a manner that the device and any users of that device obstruct a path at least 3

- feet wide on the side of the user opposite of the amusement device.
5. Discipline Process. The discipline process in WAMC 9.51 is adopted.

SECTION 37: **ADOPTION** “9.77 Public Swimming Pool” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.77 Public Swimming Pool(*Added*)

1. License Required. Wis. Stat. 97.67(1) is adopted.
2. Exceptions. (Reserved)
3. Application Process. The application process in Wis. Adm. Code ATCP 76.05 is adopted.
4. Regulations. The regulations in Wis. Adm. Code Ch. ATCP 76 are adopted.
5. Discipline Process. The discipline processes in Wis. Stat. 97.71 and Wis. Adm. Code ATCP 76.08 are adopted.

SECTION 38: **ADOPTION** “9.78 Recreational And Educational Camp” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.78 Recreational And Educational Camp(*Added*)

1. License Required. Wis. Stat. 97.67(1) is adopted.
2. Exceptions. (Reserved)
3. Application Process. The application process in Wis. Adm. Code ATCP 78.05 is adopted.
4. Regulations. The regulations in Wis. Adm. Code Ch. ATCP 78 are adopted.
5. Discipline Process. The discipline processes in Wis. Stat. 97.71 and Wis. Adm. Code ATCP 78.08 are adopted.

SECTION 39: **ADOPTION** “9.79 Retail Food Establishment” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.79 Retail Food Establishment(*Added*)

1. License Required. Wis. Stat. 97.30(2)(a) is adopted.

2. Exceptions. Wis. Stat. 97.30(2)(b) is adopted.
3. Application Process. The application process in Wis. Stat. 97.30 is adopted.
4. Regulations. The regulations in Subch. II of Wis. Stat. Ch. 97, Wis. Adm. Code Ch. ATPC 55, and Wis. Adm. Code Ch. ATPC 75 are adopted.
5. Discipline Process. The discipline process in Wis. Adm. Code ATPC 75.12 is adopted.

SECTION 40: **ADOPTION** “9.80 Secondhand Article Dealer” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.80 Secondhand Article Dealer(*Added*)

1. License Required. Wis. Stat. 134.71(3)(a) is adopted.
2. Exceptions. Wis. Stat. 134.71(3)(b) is adopted.
3. Application Process. The application process in Wis. Stat. 134.71 is adopted.
4. Regulations. The regulations in Wis. Stat. 134.71 are adopted.
5. Discipline Process. The discipline process in Wis. Stat. 134.71(10) is adopted.

SECTION 41: **ADOPTION** “9.81 Secondhand Jewelry Dealer” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.81 Secondhand Jewelry Dealer(*Added*)

1. License Required. Wis. Stat. 134.71(4) is adopted.
2. Exceptions. (Reserved)
3. Application Process. The application process in Wis. Stat. 134.71 is adopted.
4. Regulations. The regulations in Wis. Stat. 134.71 are adopted.
5. Discipline Process. The discipline process in Wis. Stat. 134.71(10) is adopted.

SECTION 42: **ADOPTION** “9.82 Tattoo” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.82 Tattoo(*Added*)

1. License Required. Wis. Stat. 463.10(3) is adopted.
2. Exceptions. Wis. Stat. 463.10(5) is adopted.

3. Application Process. The application process in Wis. Adm. Code SPS 221.04(3) is adopted.
4. Regulations. The regulations in Wis. Adm. Code Ch. SPS 221 are adopted.
5. Discipline Process. The discipline process in Wis. Adm. Code SPS 221.07 is adopted.

SECTION 43: **ADOPTION** “9.83 Tourist Rooming House” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.83 Tourist Rooming House(*Added*)

1. License Required. Wis. Stat. 97.605(1)(a) is adopted.
2. Exceptions. (Reserved)
3. Application Process. The application processes in Wis. Stat. Ch. 97, Subch. III, and Wis. Adm. Code ATCP 72.04 are adopted.
4. Regulations. The regulations in Wis. Stat. Ch. 97, Subch. III, and Wis. Adm. Code CH. ATCP 72 are adopted.
5. Discipline Process. The discipline processes in Wis. Stat. 97.65 and Wis. Adm. Code ATCP 72.07 are adopted.

SECTION 44: **ADOPTION** “9.84 Transient Merchant” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.84 Transient Merchant(*Added*)

1. License Required. No person may conduct a business that engages in the sale of personal services or merchandise from a temporary location without first obtaining a transient merchant license.
2. Exceptions. No license is required under this section if any of the following applies:
 - a. The person is a permanent merchant who has continuously operated an established place of business in the City for at least 6 months.
 - b. The person is an auctioneer registered under Wis. Stat. Ch. 480 and conducting an auction sale.
 - c. The person is a resident of this state selling produce or other perishable products at retail or wholesale.
 - d. The person is a minor operating a stand in compliance with Wis. Stat. 66.0416.
 - e. The person is renting space at the Farmers Market.
 - f. The person is selling goods at wholesale to dealers in such goods.
 - g. The person is selling agricultural products which the person has grown.
 - h. The person is delivering newspapers, fuel, dairy products, bakery goods or

- similar goods to regular customers on established routes.
 - i. The person is engaging in a transaction initiated by the buyer specifically requesting a home visit.
 - j. The person is holding a sale required by law.
 - k. The person is any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of that organization.
 - l. The person is operating under a special statewide peddler's license under Wis. Stat. 440.51.
3. Application Process. The application process in WAMC 9.50 is adopted, except as modified below:
- a. The application shall include all the following:
 - i. Nature of the business to be conducted and a brief description of the goods and services offered.
 - ii. Make, model, and license plate number of any vehicle to be used by the applicant in the conduct of the business.
 - iii. Names of the last 3 municipalities in which the applicant conducted similar business.
 - iv. Proof of a retail sales tax permit if required by Wis. Stat. 77.52.
 - b. No premises description is required for this license, but the applicant shall disclose the location(s) from which the business will be conducted and the proposed dates and times instead of a premises description.
4. Regulations. Any person who engages in the sale of personal services or merchandise from a temporary location, with or without a license, shall:
- a. Specifically disclose, upon request, what portion of the sale price of goods or services being offered will actually be used for a charitable purpose, expressed as a percentage of the sale price of the goods.
 - b. Not produce sound that is audible from 100 feet away.
 - c. Maintain the area around the person free from rubbish or litter, regardless of whether the person was the source of that rubbish or litter.
 - d. Conduct business only from property upon which the person has a legal right to occupy and that has been disclosed in the license application.
 - e. Maintain open ingress and egress to adjacent properties
 - f. Refrain from approaching any person occupying a vehicle.
 - g. Engage in displaying or selling goods or services only from the location set forth in the license, if applicable.
 - h. Conduct business only between the hours of 9 a.m. and 9 p.m., except by appointment.
 - i. Upon initially making contact with another person on that person's private property, state the licensee's name and the purpose of the solicitation.
 - j. Accurately represent the purpose of any solicitation.
 - k. Remain 300 feet away from the Farmers Market during the hours that the market is open for business, unless the person is otherwise authorized by the Farmers Market.
 - l. During the dates established for the Wisconsin State Fair, remain outside an area bounded by the north City limits, the east half of South 84th Street, the north half of West Greenfield Avenue and the west half of South 77th Street.
 - m. Remain 500 feet away from the Wisconsin State Fair grounds on the days in which the Wisconsin State Fair is occurring if the person is selling admission tickets
 - n. When using a vehicle:
 - i. Not remain on the same block in an area zoned residential for more

- than 1 hour per day, unless specifically authorized through a special event or community event.
 - ii. Display the person's transient merchant license, if any, on the person's vehicle.
 - iii. Display the person's name and telephone number on the person's vehicle in lettering not less than 4 inches high.
 - iv. Remain at least 300 feet from any school grounds.
 - v. Remain at least 100 feet from any licensed restaurant, unless such restaurant is owned by the person or the person has written permission from the restaurant license's owner or agent.
5. Discipline Process. The discipline process in WAMC 9.51 is adopted.

SECTION 45: **ADOPTION** “4.25 Towing Contracts” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

4.25 Towing Contracts(*Added*)

1. Declaration of Policy. The public interest requires that there be available to the City and all Departments thereof the services of a qualified and responsible towing contractor on a twenty-four (24) hour a day basis to remove from public ways and places any wrecked, disabled or abandoned vehicles or any vehicle which constitutes an obstruction or hazard to vehicular or pedestrian traffic.
 - a. Danger to the public shall be eliminated as quickly as possible.
 - b. Impediments to traffic shall be removed and normal traffic flow restored as soon as possible.
 - c. Towed vehicles shall be placed where directed by an authorized agent of the City or where they are safe and secure until the owner, his agent or representative, can determine further disposition thereof.
2. Definitions.
 - a. A vehicle is deemed to be wrecked or disabled within the meaning of this section when it cannot safely be moved under its own power.
 - b. A vehicle is deemed to be abandoned within the meaning of this section whenever it has remained standing on any highway, public place or in any building in the City more than twenty-four (24) hours.
 - c. A vehicle is deemed to constitute an obstruction or hazard to vehicular or pedestrian traffic whenever it shall, while stationary and unable to proceed, block the lane of traffic which would otherwise be open for travel by motor vehicles or pedestrians. A vehicle shall also be deemed to constitute an obstruction or hazard to vehicular traffic when it is parked in violation of the snow emergency regulations and the winter parking regulations of Section 10.11 of this Code.
3. Removal of Vehicles. Any wrecked, disabled or abandoned vehicle or any vehicle which constitutes an obstruction or hazard to vehicular or pedestrian traffic is hereby declared to be a public nuisance and may be abated or removed as provided in Section 6.015 of this Code.
4. Towing Contract Let by Bid. The Board of Public Works shall take bids for the West Allis towing contract and submit same to the Common Council for approval. An

advertisement for bids shall be published in the official City newspaper by the Board of Public Works for two (2) successive weeks before the date established for taking of bids. Bids shall be upon forms provided by the Board. The towing contract shall be awarded to that responsible bidder whose bid shall result in the lowest overall cost for the service provided and who, in the judgment of the Common Council, shall render the most satisfactory and dependable service to the City.

5. Minimum Qualifications for Bidders.

- a. Bidders shall have their business locations in the City or within three (3) miles of the City's boundaries at a place properly zoned for such purpose. No business activities pursuant to the towing contract shall be conducted from or in connection with residential property in the City or from any place not properly zoned for such purpose.
- b. Bidders may qualify for contract only by presenting evidence that they meet the following requirements:
 - i. Experience in the towing and winching of vehicles.
 - ii. Financial responsibility.
 - iii. Adequate towing equipment and storage facilities; that the bidder shall have in service at least four (4) towing vehicles, plus one (1) flatbed vehicle, and have inside storage for five (5) vehicles and outside storage for ten (10) vehicles on the same premises and shall have trained personnel available twenty-four (24) hours a day, seven (7) days a week.
 - iv. Certificate for law enforcement wrecked or disabled towing.
- c. Bidders shall post a surety bond in the amount of five thousand dollars (\$5,000) as a guaranty of satisfactory performance of the contract; such bond to be approved by the City Attorney as to form and execution.
- d. Bidders shall file, with the executed contract, proof of worker's compensation insurance and liability insurance in minimum amounts of \$500,000/\$1,000,000/\$500,000 covering all operations, premises, storage of vehicles and the contents thereof, and vehicles used in carrying out the work required under the contract. The liability policy shall be endorsed to name the City of West Allis as an additional insured. The insurance policies shall provide for a thirty (30) day notice to the City in the event of cancellation.

6. Contract; Terms to be Included.

- a. The contract shall be subject to approval by the Common Council and shall be executed by the Mayor and City Clerk/Treasurer on behalf of the City and shall be approved as to form by the City Attorney.
- b. The term of the contract shall be for a period of three (3) years, except that the contract shall be terminable at will by the Common Council for such cause as shall seem sufficient to the Council.
- c. The contractor shall bind himself as follows: within thirty (30) minutes of notification by a commanding officer of the Police Department, the Director of Public Works or other duly authorized officer or employee of the City to be on site and prepared to remove the vehicle as directed by such officer or employee of the City. Such thirty (30) minute response time shall not be applicable if the Chief of Police or Director of Public Works is satisfied that a bona fide emergency prevented the towing contractor from responding.
- d. The bidder agrees to have at least two (2) vehicles available to respond to calls from authorized City of West Allis representatives during declared snow emergencies.

- e. The contractor's compensation for the rendition of services shall be paid by the owner of the vehicle or by his agent or representative or, where applicable, by the City according to the fee schedule submitted with the contractor's bid. In the case of abandoned or unclaimed vehicles sold by the City under secs. 68.28 or 342.40 of the Wisconsin Statutes, the City shall pay only the portion of the compensation which is in excess of the value of the vehicles obtained by the contractor or upon disposal by him. It shall be unlawful for the towing contractor to charge in excess of the fee schedule submitted with the contractor's bid, where an authorized agent of the City has called for the contractor's services.
- f. Contractor shall notify the Chief of Police of all vehicles which have remained unclaimed in his custody for a period of thirty (30) days or, in case of abandoned vehicles, for a period of ten (10) days, including make, model, year and date of possession. If it is determined by the Chief of Police or any member of his Department designated by him that the cost of towing and storing charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked or sold prior to the expiration of the impoundment period upon determination that the vehicle is not stolen or otherwise wanted for evidence or other reason.

The Chief of the Police may authorize the contractor to dispose of such vehicles and to advise the Department of Transportation of the disposition of any such vehicle according to the provisions of sec. 342.40(3)(e) of the Wisconsin Statutes. In addition, the contractor shall be responsible for complying with the provisions of sec. 342.40(3)(c) relating to notice to owners and lienholders.

- g. The contractor shall submit to the Chief of Police, on or before the tenth day of each month, a sworn statement covering all operations performed under the towing contract for the preceding month. The statement shall contain the following information:
 - i. Name and address of owner of vehicle.
 - ii. Date of removal of vehicle.
 - iii. Make and model of the vehicle.
 - iv. Location from which the vehicle was removed.
 - v. Location to which the vehicle was removed.
 - vi. The total charge made for such removal.
- h. The Chief of Police is hereby authorized to assign to the contractor any cause of action which may accrue to the benefit of the City, pursuant to sec. 342.40(3)(b) of the Wisconsin Statutes, for the costs of towing, impounding and disposing of an abandoned vehicle. Any vehicle not disposed of under Section (6)(e) of this contract shall be disposed of in accordance with the provisions of sec. 342.40(3)(c) of the Wisconsin Statutes.

The Chief of Police, or any member of his Department designated by him, shall dispose of any vehicle not disposed of under subsection (6)(e) of this ordinance by sealed bid or auction after the contractor has complied with the provisions of subsection (6)(e) of this ordinance. Notice of such sale shall be done by publishing it in the official City newspaper.

- i. The contractor shall agree to hold the City harmless for any and all claims and damages resulting from operations conducted under the towing contract, including damage or loss to vehicles and personal property contained in said

vehicles held in storage by the contractor. The contractor further agrees to defend any claim on behalf of the City and to pay all costs, damages and attorneys fees which may result from such claims. The insurance policies required in subsection (5)(d) shall reflect the terms of this paragraph.

The contractor shall agree to hold the City harmless from any and all claims and damages resulting from any and all operations conducted under the towing contract, and shall agree to defend any claims on behalf of the City, and to pay all costs, damages and attorneys fees which may result from such claims. The certificates of insurance required by section (5)(d) shall reflect the terms of this paragraph.

- j. The bidder agrees to post a list of prices in conformity with the bid. The list of prices shall be conspicuously posted and in a form designed to give reasonable notice to a person retrieving a towed vehicle.

7. Police Department Fees for Services.

- a. Storage of Vehicles. In addition to any other fees set forth herein, the West Allis Police Department is authorized to charge ten dollars (\$10) per day for the storage of vehicles outside the West Allis Police Department and fifteen dollars (\$15) per day for the indoor storage of vehicles at the West Allis Police Department. The same rates shall apply to the storage of vehicles on any other property owned by the City of West Allis and designated by the Chief of Police for such purpose.
- b. Administrative fee. The West Allis Police Department is authorized to charge a twenty-five dollar (\$25) administrative fee for West Allis Police Department services related to the towing of vehicles. Said fees shall be collected by the City's vehicle towing contractor along with that company's regular towing charges and paid to the City on a monthly basis.

SECTION 46: ADOPTION “6.11 Misuse Of 911” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

6.11 Misuse Of 911(*Added*)

1. Definition. "Emergency" means a situation in which immediate response by public safety personnel is essential and an existing or very probable situation exists of bodily harm or life-threatening illness or condition; property damage or loss; or escape of a suspect in a criminal offense or its municipal offense counterpart.
2. No person shall intentionally dial the emergency telephone number 911 to report an emergency knowing that the fact situation which he or she reports does not exist.
3. No person shall intentionally dial the emergency telephone number 911 for any other purpose other than to report an emergency.
4. Penalties. Any person violating Subsection (2) or (3) of this ordinance shall be required to forfeit not less than two hundred fifty dollars (\$250.) nor more than five hundred dollars (\$500.). The person shall be required to pay the costs of prosecution. In default of payment thereof, the person shall be imprisoned in the Milwaukee

County House of Correction until such forfeiture and costs are paid, but not more than the number of days set forth in sec. 800.095(4) of the Wisconsin Statutes, or by suspension of the defendant's operating privilege, pursuant to secs. 343.30 and 345.47 of the Wisconsin Statutes. Each and every day that an offense continues constitutes a separate offense.

SECTION 47: **ADOPTION** “6.12 Check Cashing Business Hours” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

6.12 Check Cashing Business Hours(*Added*)

1. Definition. "Check-cashing business" means any person licensed pursuant to Wis. Stat. § 218.05, or a person licensed pursuant to Wis. Stat. § 138.09, who accepts a check or title, holds the check or title for a period of time before negotiating or presenting the check or title for payment, and pays to the issuer an agreed-upon amount of cash, or who refinances or consolidates such a transaction. A check-cashing business may be known as a payday loan business, title for cash business, convenient-cash business or similar enterprise.
2. Hours of Operation. No check-cashing business shall be open for business between the hours of 9:00 p.m. and 9:00 a.m.
3. Penalty. Any person violating the provisions of this subsection shall forfeit:
 - a. The sum of two thousand five hundred dollars (\$2,500.) upon the first conviction under this ordinance within a one-year period.
 - b. The sum of five thousand dollars (\$5,000.) upon the second conviction under this ordinance within a one-year period.
 - c. The sum of seven thousand five hundred dollars (\$7,500.) upon the third and subsequent conviction under this ordinance within a one-year period.
4. For purposes of counting the one-year period, the date of violation shall be used.

SECTION 48: **ADOPTION** “6.13 Property Registration” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

6.13 Property Registration(*Added*)

1. Purpose.
 - a. Property owner registration of residential and commercial properties is essential for the proper enforcement of the City's Building, Zoning, Fire and Health Codes and to

safeguard persons, property and general welfare.

- b. The Common Council of the City of West Allis has determined that, in order to best safeguard the health, safety, and general welfare of the public, it is necessary to maintain a listing of current property owner contact information so that City agencies may expeditiously process property-related enforcement issues.
- c. The Common Council of the City of West Allis has further determined that in order to expeditiously process enforcement issues, the property owner shall provide owner contact information and designate a registered contact person and if the owner does not reside in the State of Wisconsin, designate a person or legal entity located within the State of Wisconsin for service of process.

2. Definitions. In this section:

- a. "Commercial" means use of property that is not classified by the City Assessor as residential and includes classifications of mixed use, multifamily, commercial, manufacturing, industrial and institutional property classifications.
- b. "Registered Contact Person" means a person designated by the property owner to be contacted regarding related enforcement issues for the subject property. The property owner may be listed as the registered contact person, except where the owner's residency is not within the State of Wisconsin. The property owner may designate more than one registered contact person. The owner shall authorize the City to serve any legal process on the contact person and service shall have the same effect as having served the owner.
- c. "Domicile" means the owner's true, fixed and permanent residence and to which, whenever absent, the individual intends to return, except that no individual may have more than one domicile at any time. The domicile address shall not be a post office box or similar depository.
- d. "Entity" means the legal owner of the property and includes the mortgagee in possession, a trustee, a trust, a life estate holder, a condominium association, a land-contract buyer, a general partnership, a limited partnership, a limited liability company, a cooperative, a corporation, or other property ownership type.
- e. "Owner" means each person who jointly or severally is vested with all or part of legal title to (or beneficial ownership of) the premises, and who has the right to use and enjoyment of the premises. The term includes, but is not limited to, a mortgagee in possession, a trustee, a trust, a life estate holder, a condominium association, a land-contract buyer, a general partnership, a limited partnership, a limited liability company, a cooperative, and a corporation or other property ownership type.
- f. "Owner-occupied" means the owner's residence and domicile is on the subject property.
- g. "Person" means an individual.
- h. "Physical address" means a unit-specific building or house number and street name and not a post office box or commercial alternative to a post office box.

3. Exceptions. The following are exempt from registering as required under this section.

- a. Land parcels of owner-occupied one-, two-, and three-family residential classified properties where the ownership is recorded with the Milwaukee County Register of Deeds.
- b. Land parcels classified by the Assessor's as a residential vacant lot and where the legal property owner's domicile is adjacent to the vacant lot.
- c. Owners of owner-occupied condominium units where the ownership is recorded with the Milwaukee County Register of Deeds and a Condominium Association declaration is established, and the association has an appointed condominium agent.
- d. Government-owned properties, including federal, state, county, City of West Allis and West Allis/West Milwaukee School District properties, Milwaukee Metropolitan

Sewerage District properties, Milwaukee Area Technical College properties, and property owned by public utilities where ownership is recorded with the Milwaukee County Register of Deeds Office.

- e. Owners of properties which are currently registered in accordance with RMC 18.10 or RMC 18.11. **[Ord. O-2016-0039, 8/2/2016]**

4. Registration Required.

- a. The following shall file with the City the required registration form provided by the City, for registering the property in compliance with this section:
 - i. Residential or Commercial Property Owner: one (1) registration for each tax-key-numbered parcel classified as residential or commercial, including properties classified as a vacant lot.
- b. Exceptions. See Subsection (3) for exceptions to registration.

5. Registration Information Required.

- a. The property owner is legally responsible for compliance with the registration requirements of this section and submittal of the required form with required information.
- b. The registration form shall be provided by the City to the property owner by first-class mail to the last known address of the property owner. The City may allow electronic filing of registration information.
- c. Information required to be submitted to the City shall be typed or printed legibly and shall include the following:
 - i. In the case of a person or persons owning the property: legal name; domicile residence address, with street address, city, state, zip code; email address; and phone number for emergency contact. The domicile address shall not be a post office box or similar depository.
 - ii. In the case of property ownership by corporation, limited partnership, limited liability partnership, or other similar ownership as registered with the State of Wisconsin: Wisconsin corporation identification number; legal name of entity; registered agent's legal name; domicile residence address of registered agent including city, state, zip code; email address; and phone number for emergency contact. The domicile address shall not be a post office or similar depository.
 - iii. In the case of a trust, trustee or life estate holder: Wisconsin Registration Identification Number; legal name of representative; domicile residence address of representative, including street address, city, state, zip code; email address; and phone number for emergency contact of the representative. The domicile address shall not include a post office box or similar depository.
 - iv. The property owner shall designate and state on the registration a registered contact person. The registered contact person may be the property owner. The listing of the contact person shall include his/her address, city, state, zip code; email address; and phone number.
 - v. The property address and tax key number of the property being registered.

6. Registration and Changes In Information.

- a. Initial Registration. Beginning in the calendar year 2010, each owner of a property required to be registered by this Section shall file the required registration form and pay the required fee. The registration form shall be sent by first-class mail. Any registration filed after December 1, 2010 or, in the case of change of ownership, later than stated in (b) through (e) below, shall result in the fee being increased to one hundred fifty dollars (\$150.). The increased fee may be waived by the City.
- b. Registration. Any change of ownership after the initial registration shall be filed within 30 days of conveyance. Any registration filed after 30 days of conveyance shall result in the fee being tripled. The increased fee may be waived or rescinded by the City.
- c. Recording After Death. In the event of death of the property owner required to be

registered under this section, the subsequent owner shall file a new registration form within 60 days after conveyance from the estate or other acquisition of interest.

- d. Registering After Conveyance, Change of Ownership. In the event of any conveyance of any property required to be recorded under this section, the new owner shall file a new registration within 30 days of the date of conveyance, or if the conveyance is by sale after foreclosure, then within 30 days of the date of court confirmation of the sale.
- e. Change of Contact Information. If any information listed on a properly filed registration changes, other than ownership events listed in Subparagraphs (a) through (d) above, a revised registration form shall be filed within 30 days of the change of information. There shall be no fee to change contact information for a registered owner or his designated registered contact person(s). The City may periodically require property owners to verify recorded contact information for changes.

7. Failure To Register.

- a. The property owner is responsible for compliance with the registration requirements of this section.
- b. Failure of the owner of the property to file the required registration form, failure to file a change of information form, or failure to file the required fee is a violation of this Code. Notice of violation shall be outlined in written form and served upon the owner of the property. The City shall serve such notice and order by first-class mail to the last known address of the property owner.
- c. Such notice and order shall include the following:
 - i. The address or tax key number of the property so affected.
 - ii. A statement of violation, including the corresponding reference to the Code requirement.
 - iii. An order for remedial action to correct such violation.
 - iv. Statement of time for compliance to the Code requirement.
 - v. Statement of fee due.
 - vi. Statement of penalty.
 - vii. Statement of appeals process.
- d. The time period for compliance may be extended at the discretion of the City. A request for time extension may be considered after receiving a written communication from the property owner, registered contact person, or legal representative stating reasonable cause.
- e. Failure of the property owner to comply with the notice and order may be cause for the City to file a court action for violation of this code and be subject to the penalties in Subsection (11).

8. Falsification of Registration Form.

- a. No person shall knowingly or intentionally submit information on the registration form that she/he knows to be false or misleading. Falsification shall be subject to penalties as stated in Subsection (11).

9. Registration Fee.

- a. The registration fee shall be listed in the Fee Schedule per new registration.

10. Appeals.

- a. A property owner or owner's agent may appeal any compliance order to the City of West Allis Administrative Review Board pursuant to Section 2.48, by filing a written request for a hearing with the City Clerk within twenty (20) days of the date of the issuance of the order.
- b. The appeal and hearing procedure shall conform to the standard rules and hearing procedures of the Administrative Review Board.
- c. If the Administrative Review Board upholds the Order of the City, the property owner may appeal the decision within thirty (30) days to the circuit court.
- d. If a property owner does not file a timely written request for a hearing with the

Administrative Review Board, he or she waives the right to assert that the property did not meet the criteria for registration under this section.

11. Penalties.

- a. Any property owner or entity violating the provisions of this ordinance shall be required to forfeit not less than one hundred dollars (\$100.) nor more than five hundred dollars (\$500.), along with the costs of prosecution. In default of payment thereof, the person shall be imprisoned in the Milwaukee County House of Correction until such forfeiture and costs are paid, but not more than the number of days set forth in Section 800.095(4) of the Wisconsin Statutes.

SECTION 49:AMENDMENT “7.121 Dogs And Dog Licenses” of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

7.121 Dogs And Dog Licenses

1. Licenses for Dogs.

- a. Any person owning, keeping or harboring a dog more than five (5) months of age on January 1 of any year, shall annually, or within thirty (30) days from date such dog becomes five (5) months of age, pay in a manner provided by the City Treasurer, a dog license fee in obtaining a license for such dog.
- b. The yearly license fee shall be listed in the Fee Schedule, with separate fee amounts for twelve dollars (\$12) for each neutered male dog, and each spayed female dog, and twenty-four dollars (\$24) for and each dogs not neutered and or spayed, except dogs kept in a kennel licensed under the provisions of Sec. 174.053, Wis. Stats., and dogs exempt under Sections 174.054 to 174.055, Wis. Stats. ~~If The Fee Schedule shall separately list fees for any the neutered or spayed dog that became five (5) months of age after July 1 of the license year, the sum of six dollars (\$6), or half of the sum of the twelve dollars (\$12), shall be paid. If the dog is not neutered or spayed, the sum of twelve dollars (\$12), or half of the sum of twenty-four dollars (\$24), shall be paid.~~ The provisions of this subsection notwithstanding, whenever the Milwaukee Area Domestic Animal Control Commission (MADACC) shall declare an amnesty period for late dog license fee charges, the fee, if any, set by MADACC shall apply for the period of the amnesty. ~~{Ord. 6524 (repeal & recreate) 7/5/2000; Ord. O-2008-0041, 9/18/2008; Ord. O-2014-0049, 8/5/2014}~~
- c. In the event that a license tag issued for a dog shall be lost, the owner may obtain a duplicate tag upon payment of the amount listed in the Fee Schedule of six dollars (\$6). ~~{Ord. 6524 (amend) 7/5/2000; Ord. O-2008-0041, 9/18/2008}~~
- d. Upon payment of the required dog license fee, the City Treasurer shall execute and issue to the owner a license and a durable tag with an identifying number, county in which issued and the license year. The license year shall commence on January 1 and end the following December 31.
- e. Dogs must wear identification tags at all times when off the premises of the owners, except when participants in an organized show or training situation. The fact that a dog is without a license attached to its collar shall be

- presumptive evidence that the dog is unlicensed.
- f. The City Treasurer shall assess and collect an additional fee ~~of six dollars (\$6) for each neutered male dog and spayed female dog, and twelve dollars (\$12) for dogs not neutered or spayed from every owner of a dog five (5) months of age listed in the Fee Schedule~~ where such owner has failed and neglected to obtain a license prior to April 1, or within thirty (30) days after the dog has reached licensable age, and all monies so received or collected by any collecting officer shall be paid to the City Treasurer as revenue to the City of West Allis. ~~{Ord. 6524 (repeal & recreate) 7/5/2000; Ord. O-2008-0041, 9/18/2008; Ord. O-2009-0026, 9/1/2009}~~
 - g. The City Treasurer shall not issue such dog licenses described above without proof of proper rabies shots. The City Treasurer shall not issue a new dog license for a neutered or spayed dog without proof of alteration.
2. Keeping of More Than Two Dogs Prohibited. **[Ord. O-2012-0039, 11/20/2012]**
- a. Except as provided in Section 7.123 of this Code, no person shall harbor, keep, raise or maintain at any time more than two (2) dogs per building or dwelling unit in the City; provided, however, that for the purposes of this ordinance, puppies shall not be considered dogs until after they have reached the age of five (5) months.
 - b. A service dog, as defined in Wisconsin Statute Section 951.01(5), shall not be counted for purposes of this section if such dog is kept at a building or dwelling unit to assist a person also living at such building or dwelling unit.
3. Leash Required. Any person who owns, harbors or keeps a dog shall lead the dog with a leash of suitable strength measuring not more than 6 feet in length when the dog is located on a street, sidewalk, or alley, school grounds, a public park, or other public grounds or on private property without the permission of the owner or person in lawful control of the property. This provision does not apply to property designated by the City as a dog park.

SECTION 50: AMENDMENT “7.122 Cats And Cat Licenses” of the City Of West Allis Municipal Code is hereby *amended* as follows:

A M E N D M E N T

7.122 Cats And Cat Licenses

1. Licenses for Cats.
 - a. Any person owning, keeping or harboring a cat more than five (5) months of age on January 1 of each year, shall annually or within thirty (30) days from the date such cat becomes five (5) months of age, pay, in a manner provided by the City Treasurer, a cat license fee and obtain a license for such cat.
 - b. The yearly license fee shall be listed in the Fee Schedule, with separate fee amounts for ~~twelve dollars (\$12) for each neutered male cat, and each~~ spayed female cat, and each ~~twenty-four dollars (\$24) for cats not neutered and or~~ spayed. ~~If the neutered or spayed~~ The Fee Schedule shall separately list fees for any cat that became five (5) months of age after July 1 of the license year; the sum of six dollars (\$6), or half of the sum of the twelve dollars (\$12), shall be paid. If the cat is not neutered or spayed, the sum of twelve dollars (\$12), or half of the sum of twenty-four dollars (\$24), shall be paid. The provisions

of this subsection notwithstanding, whenever the Milwaukee Area Domestic Animal Control Commission (MADACC) shall declare an amnesty period for late cat license fee charges, the fee, if any, set by MADACC shall apply for the period of the amnesty. ~~{Ord. 6524 (repeal & recreate) 7/5/2000; Ord. O-2008-0041, 9/18/2008; Ord. O-2014-0049, 8/5/2014}~~

- c. In the event that a license tag issued for a cat shall be lost, the owner may obtain a duplicate tag upon payment of the amount listed in the Fee Schedule ~~six dollars (\$6). {Ord. 6524 (amend) 7/5/2000; Ord. O-2008-0041, 9/18/2008}~~
 - d. Upon payment of the required cat license fee, the City Treasurer shall execute and issue to the owner a license and a durable tag with an identifying number, county in which issued and the license year. The license year shall commence on January 1 and end the following December 31.
 - e. Cats must wear identification tags at all times when off the premises of the owners, except when participating in any organized show or training situation. The fact that a cat is without a license attached to its collar shall be presumptive evidence that the cat is unlicensed.
 - f. The City Treasurer shall assess and collect an additional fee listed in the Fee Schedule ~~of six dollars (\$6) for each neutered male cat and spayed female cat, and twelve dollars (\$12) for cats not neutered or spayed from every owner of a cat five (5) months of age~~ where such owner has filed and neglected to obtain a license prior to April 1, or within thirty (30) days after the cat has reached licensable age, and all monies so received or collected by any collecting officer shall be paid to the City Treasurer as revenue to the City of West Allis. ~~{Ord. 6524 (repeal & recreate) 7/5/2000; Ord. O-2008-0041, 9/18/2008; Ord. O-2009-0026, 9/1/2009}~~
 - g. The City Treasurer shall not issue such cat licenses described above without proof of proper rabies shots. The City Treasurer shall not issue a new cat license for a neutered or spayed cat without proof of alteration.
2. Keeping of More than Four Cats Prohibited. Except as provided in Section 7.123 of this Code, no person shall harbor, keep, raise or maintain at any time more than four (4) cats per building or dwelling unit in the City; provided, however, that for the purposes of this order, kittens shall not be considered cats until after they have reached the age of five (5) months.
 3. Cats Running at Large.
 - a. Running at large prohibited; definition. No owner or keeper shall permit any cat to run at large on the public streets, alleys, public grounds or parks within the City. A cat shall not be deemed at large if accompanied by or under the control of any person. No person shall permit any such animal to escape or go upon any sidewalk, parkway or private lands or premises without the permission of the owner of such premises.
 - b. Police to apprehend and confine. The Chief of Police shall designate an officer to apprehend, with the cooperation of the Milwaukee Area Domestic Animal Control Commission, any cats running at large on the streets, alleys, public grounds or parks of the City and shall confine such cats when apprehended in such place as may be provided by the Milwaukee Area Domestic Animal Control Commission. **{Ord. 6524 (repeal & recreate) 7/5/2000; Ord. O-2008-0041, 9/18/2008}**
 - c. Disposition of unclaimed cats. The possession of any licensed cat so seized or impounded may be obtained by the owner upon payment of the sum of twenty-five (\$25.00) to the City of West Allis, plus the daily boarding fee to

the Milwaukee Area Domestic Animal Control Commission, for keeping the cat for each day or fraction thereof during which the cat was impounded. The possession of any unlicensed cat may be obtained by the owner after obtaining a license and paying the fee provided herein. If any cat has been impounded for seven (7) days and has not been reclaimed by its owner, the cat may be disposed of by the Milwaukee Area Domestic Animal Control Commission in the most humane manner. **[Ord. 6524 (repeal & recreate) 7/5/2000]**

SECTION 51:**AMENDMENT** “7.126 Dangerous Dogs” of the City Of West Allis Municipal Code is hereby *amended* as follows:

A M E N D M E N T

7.126 Dangerous Dogs

1. Purpose. The purpose of this section is to protect the public health, safety, and general welfare of the citizens and visitors of the City of West Allis by reasonable regulation of dangerous animals.
2. Definitions as used in this section:
 - a. "Apparent attitude of attack" means demonstrating an intent or desire to cause injury by one or more of the following actions:
 - i. An attempt to bite a person or another animal;
 - ii. An attempt to scratch a person or another animal;
 - iii. Growling or barking in a threatening manner while approaching or chasing a person or another animal;
 - iv. Growling or barking in a threatening manner while making physical contact with a person or another animal.
 - b. "At large" means an animal is off the premises of its owner and on any public street, sidewalks, or alley, school grounds, a public park, or other public grounds or on private property without the permission of the owner or person in lawful control of the property, and not on a leash of 6 feet or less in length that is being held or controlled by a person.
 - c. "Bodily harm" means physical pain or injury or any impairment of physical condition.
 - d. "Caretaker" means any person eighteen (18) years of age or older who, in the absence of the owner, temporarily harbors, shelters, keeps or is in charge of a dog.
 - e. "Dangerous dog" means any of the following:
 - i. Any dog which, when unprovoked, inflicts bodily harm on a person, domesticated animal on public or private property; or,
 - ii. Any dog which chases or approaches persons or other domesticated animals in a menacing fashion or with an apparent attitude of attack, without provocation, upon the streets, sidewalks or any public grounds or on private property of another without the permission of the owner or person in lawful control of the property; or,
 - iii. Any dog with a known propensity, tendency or disposition to attack, to cause injury to, or otherwise threaten the safety of humans or other domesticated animals; or,
 - iv. Any dog which has been trained to attack human intruders; or,

- v. Any dog that has acted in any manner that causes or should cause an owner to know that the dog is a threat to public health and safety.
 - f. "Dog" means a domesticated member of *canis familiaris* or *canis lupis familiaris*.
 - g. "Domesticated animal" means any bird or animal of any species, which usually lives in or about the habitation of humans as a pet or animal companion.
 - h. "Owner" means any person owning, harboring, sheltering or keeping a dog.
 - i. "Person" means any individual, firm, corporation or other legal entity.
 - j. "Public nuisance" means any dog which:
 - i. Molests passersby or passing vehicles; or,
 - ii. Is at large; or,
 - iii. Damages private or public property; or,
 - iv. Barks, whines or howls in an excessive or continuous fashion; or,
 - v. Is subject to more than one violation of this section in a twelve-month period.
 - k. "Prohibited dangerous dog" means any of the following:
 - i. Any dog that, while on private or public property, has killed a domesticated animal without provocation; or,
 - ii. Any dog that, without provocation, inflicts substantial bodily harm on a person on public or private property; or,
 - iii. Any dog brought from another city, village, town or county that has been declared dangerous or vicious by that jurisdiction; or,
 - iv. Any dog that is subject to being destroyed under Subsection 174.02(3), Wis. Stats.; or,
 - v. Any rabid dog; or,
 - vi. Any wild animal hybrid (including but not limited to wolf hybrids); or,
 - vii. Any dog trained, owned or harbored for the purpose of dog fighting.
 - l. "Substantial bodily harm" means bodily injury that causes a laceration that requires stitches, any fracture of a bone, a concussion, a loss or fracture of a tooth or any temporary or permanent loss of consciousness, sight or hearing.
3. Enforcement.
- a. The provisions of this chapter shall be enforced by employees of the Health Department, Police Department, Milwaukee Area Domestic Animal Control Commission (MADACC) or other persons authorized by the City Health Officer or Chief of Police. The City Health Officer may grant any exemptions or variances to the enforcement of this chapter for dogs specially trained to lead blind or deaf persons, to provide support for mobility-impaired persons or to assist with emergency search and rescue operations.
 - b. Police Department, Health Department and MADACC personnel are authorized to catch and impound animals at large, with such authorization to include the pursuit of animals upon the premises of the owner, caretaker or other private property.
4. Nuisance.
- a. All owners shall exercise proper care and control of their dogs to prevent them from becoming a public nuisance.
 - b. No owner of a dog shall allow his or her dog, when unprovoked, to inflict bodily harm on a person or domesticated animal on public or private property. A dog's conduct shall be considered provoked if it falls under the conditions of

Subsection (7) of this ordinance.

c. Impoundment.

- i. Unrestricted and nuisance dogs shall be taken by authorized employees of MADACC or any law enforcement agency and impounded in a temporary or permanent animal shelter and there confined in a humane manner.
- ii. When a dog is causing a public nuisance and its owner cannot be contacted at the time of the complaint, it may be impounded by authorized employees of MADACC or any law enforcement agency. After impoundment, reasonable attempts shall be made to contact the owner.
- iii. An owner reclaiming an impounded dog shall pay the accrued impoundment fee.
- iv. Any dog not reclaimed by its owner within seven (7) days becomes property of the local government authority, MADACC, or humane society and shall be place for adoption in a suitable home or humanely euthanized.

5. Procedure For Declaring A Dog Dangerous And/Or Prohibited.

- a. Any law enforcement officer or duly authorized MADACC employee may enter and inspect private property to enforce the provisions of this section.
- b. Upon conducting an investigation, the humane or law enforcement officer may issue an order declaring a dog to be a dangerous dog or prohibited dangerous dog pursuant to the definitions in Subsections 7.126(2)(e) and (k). Officers may take into consideration the dog's size, age, previous incidence of violence, damage caused, and failure of past security measures, among other facts of the investigation, when determining whether to issue an order. The officer shall mail the order to the owner's last-known address. Whenever an owner or caretaker wishes to contest an order, he or she shall, within thirty (30) days after receipt of the order, deliver to the City Clerk a written objection to the order stating specific reasons for contesting the order. Upon receipt of the written objection, the matter shall be placed on the agenda for the Administrative Review Board to be reviewed at the next regular meeting. The Administrative Review Board shall act as a quasi-judicial body allowing the dog's owner or caretaker an opportunity to present evidence as to why the dog should not be declared a dangerous dog or a prohibited dangerous dog. A nonrefundable fee ~~of fifty dollars (\$50)~~ in the amount listed on the Fee Schedule is required for an owner's or caretaker's contesting of any dangerous dog order. Said fee shall be submitted at the time of and with the written objection stating the reason for contesting the order. **[Ord. O-2012-0023, 7/3/2012; Ord. O-2014-0072, 10/21/2014; Ord. O-2017-0030, 8/1/2017]**
- c. After the hearing, the owner or caretaker shall be notified in writing of the Board's determination. If the Board upholds the determination that the dog is dangerous, the owner or caretaker shall comply with the requirements of Subsection 7.126(6) that the Board deems appropriate. If the owner or caretaker further contests the determination, he or she may within thirty (30) days of receiving the panel's decision seek review of the decision by the Circuit Court.
- d. The Police or Health Departments shall have the power to summarily and immediately impound a dog whenever they have reasonable grounds pursuant to Subsection 7.126(2) to believe that the dog is dangerous. The dog may remain impounded during the entire determination process.

- i. Upon a dog being declared dangerous, the owner or caretaker shall comply with Subsection 7.126(6) within thirty (30) days of the dangerous declaration or reaffirmation thereof, or within such time as established by the Administrative Review Board.
 - ii. If a determination is made that the dog is a prohibited dangerous dog, the owner or caretaker shall comply with Subsection 7.126(6) within thirty (30) days after the date of the determination.
- 6. Harboring Dangerous Dogs.
 - a. Dangerous Dogs Regulated.
 - i. Prohibited dangerous dogs not allowed in City. No person may bring into or keep in the City any dog that is a prohibited dangerous dog under this section.
 - ii. No person may harbor or keep a dangerous dog within the City unless all provisions of this section are complied with.
 - iii. No person shall obstruct, provide false information, or otherwise unreasonably interfere with officers of the department in the enforcement section or in the capture of any dog suspected of being dangerous.
 - iv. The issuance of a citation for a violation of this section need not be predicated on a determination that a dog is a dangerous dog.
 - b. Registration. The owner of any dog declared dangerous shall register it with the Police Department upon disposition, by providing a current color photograph of the dog and payment of a registration fee ~~of seventy-five dollars (\$75-)~~ in the amount listed on the Fee Schedule.
 - c. Leash and Muzzle.
 - i. No owner or caretaker, harboring or having the care of a dangerous dog may permit such a dog to go outside its dwelling, kennel or pen unless the dog is securely restrained with a leash no longer than ten (10) feet in length.
 - ii. No person may permit a dangerous dog to be kept on a chain, rope or other type of leash outside its dwelling, kennel, or pen unless a person who is sixteen (16) years of age or older, competent to govern the dog and capable of physically controlling and restraining the dog. is in physical control of the leash.
 - iii. A dangerous dog may be securely leashed or chained to an immovable object, with the owner or caretaker being in the physical presence of the dog at all times when it is so leashed or chained.
 - iv. A dangerous dog outside of the dog's dwelling, kennel or pen shall be muzzled in a humane way by a muzzling device sufficient to prevent the dog from biting persons or other animals.
 - d. Confinement.
 - i. Except when leashed and muzzled, all dangerous dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel that is located on the premises of the owner or caretaker and constructed in a manner that does not allow the dog to exit the pen or kennel on its own volition.
 - ii. When constructed in a yard, the pen or kennel shall, at a minimum, be constructed to conform to the requirements of this paragraph. The pen or kennel shall be childproof from the outside and animal-proof from the inside. A strong metal double fence with adequate space between fences [at least two (2) feet] shall be provided so that a child cannot

reach into the animal enclosure. The pen, kennel or structure shall have secure sides and a secure top attached to all sides. A structure used to confine a dangerous dog shall be locked with key or combination lock when the dog is within the structure. The structure shall either have a secure bottom or floor attached to the sides of the pen or the sides of the pen shall be embedded in the ground no less than two (2) feet. All structures erected to house dangerous dogs shall comply with all City zoning and building regulations. All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

- iii. Indoor confinement. No dangerous dog may be kept on a porch, patio or in any part of a house or structure on the premises of the owner or caretaker that would allow the dog to exit the building on its own volition. No dangerous dog may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the dog from exiting the structure.
- e. Signs. The owner or caretaker of a dangerous dog shall display, in prominent places on his or her premises near all entrances to the premises, signs in letters of not less than two (2) inches high warning that there is a dangerous dog on the property. A similar sign is required to be posted on the kennel or pen of the dog. In addition, the owner or caretaker shall conspicuously display a sign with a symbol warning children of the presence of a dangerous dog.
- f. Spay and Neuter Requirements. Within thirty (30) days after a dog has been designated dangerous, the owner or caretaker of the dog shall provide written proof from a licensed veterinarian that the dog has been spayed or neutered.
- g. Microchip Requirements. Within thirty (30) days after a dog has been designated dangerous, the owner must provide written proof from a licensed veterinarian that a numbered microchip has been placed in the dog so that the dog can be easily identified. The number on the microchip shall be provided with the written proof.
- h. Liability Insurance. The owner or caretaker of a dangerous dog shall present proof of a certificate of insurance that the owner has procured liability insurance in an amount not less than one million dollars (\$1,000,000) for any personal injuries inflicted by the dangerous dog. Whenever such policy is cancelled or not renewed, the insurer and dog's owner or caretaker shall notify the Police Department of such cancellation or nonrenewal in writing by certified mail.
- i. Waiver.
 - i. The Health Officer or Administrative Review Board may waive any requirement specified in Subsections (b) to (h) that is deemed to be inappropriate for a particular dangerous dog.
 - ii. The Health Officer may waive the provisions of Subsections (b) to (h) for a military dog, or circuses, zoos or other animal shows or exhibitions, which are properly licensed, upon presentation by the dog's owner or handler of satisfactory arrangement for safe keeping of the dog.
- j. Notification. The owner or caretaker shall notify the Police Department within twenty-four (24) hours if a dangerous dog is unconfined, has attacked another animal, has attacked a human being or has died. The owner or caretaker shall notify the Police Department immediately if a dangerous dog is at large. No

person may sell or transfer possession of a dangerous dog to another person without first notifying the person to whom the dangerous dog is being sold or transferred of the fact that such dog is a dangerous dog and of any requirement imposed upon the selling or transferring party by this division. No person may sell or transfer possession of a dangerous dog to another person, agency, organization or the like without first notifying the Police Department in writing, at least three (3) days in advance of the sale or transfer of possession with the name, address, and telephone number of the new owner of the dangerous dog. If the dangerous dog is sold or given away to a person residing outside the City, the owner or caretaker shall present evidence to the Police Department that he or she has notified the Police Department or other law enforcement agency of the dog's new residence, including the name, address and telephone number of the new owner of the dangerous dog.

k. Euthanasia.

- i. If the owner or caretaker of a dog that has been designated a dangerous dog is unwilling or unable to comply with the regulations for keeping the dog in accordance with this section, he or she may have the dog humanely euthanized by an animal shelter, the humane society or a licensed veterinarian.
- ii. Any dog that has caused bodily harm to a person, persons or a domestic animal on two (2) separate occasions off the owner's premises, without reasonable cause, may be destroyed as a result of judgment rendered by a court of competent jurisdiction, as specified under sec. 174.02(3), Wis. Stats. The City Attorney may petition an appropriate court to obtain a court order to destroy such a dog.

7. Certain Dogs Not to be Declared Dangerous.

a. No dog may be declared dangerous:

- i. If death, injury or damage is sustained by a person who, at the time such injury or damage was sustained, was committing a trespass on the land or criminal trespass on the dwelling upon premises occupied by the owner of the dog; was teasing, tormenting, abusing or assaulting the dog; or was committing or attempting to commit a crime or violating or attempting to violate an ordinance which protects persons or property; or
- ii. If death, injury or damage was sustained by a domestic animal which, at the time such was sustained, was teasing, tormenting, abusing or assaulting the dog; or
- iii. If the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault; or
- iv. For dogs being utilized by a law enforcement agency for law enforcement purposes while under the control and direction of a law enforcement officer.

8. Penalty. Any person who violates any part of this section shall forfeit for each violation an amount as indicated in Subsection 7.16(4), plus the costs of prosecution necessitated by enforcement of this subsection. Every day that any violation of this section continues shall be deemed a separate offense.

9. Severability. If any part of this section is found to be unconstitutional or otherwise invalid, the validity of the remaining parts shall not be affected.

[Ord. No. O-2008-0054, 5/5/2009; Ord. O-2010-0014, 6/1/2010; Ord. O-2011-0005,

SECTION 52: **AMENDMENT** "11.07 Sidewalks" of the City Of West Allis Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.07 Sidewalks

1. Construction and Repair. The provisions of the Wisconsin Statutes relating to the construction, improvement and repair of sidewalks, so far as applicable to the City, are hereby adopted by reference thereto.
2. Standard Sidewalks.
 - a. Uniform Specifications. Upon all streets which are improved by grading, paving, macadamizing and curbing, there shall be laid a standard sidewalk of stone or concrete in accordance with such specifications as may be formulated by the Board of Public Works.
All new concrete sidewalks laid shall be constructed in accordance with the standard specifications and regulations of the City of West Allis covering construction of concrete sidewalks.
 - b. Concrete. Concrete is hereby designated as the standard material for the construction of all new sidewalks on all streets in the City of West Allis, excepting that the City Engineer may, whenever it is impractical to lay a concrete walk on account of excessive cut or fill which may be necessary on an unimproved street, allow such other type of walk to be laid as he deems advisable.
 - c. Expansion Joints. No person, firm or corporation shall construct a sidewalk on any street without providing a one (1) inch expansion joint extending the full depth and width of adjacent concrete where the sidewalk abuts the curb, and at both sides of concrete driveways. Where long sidewalk pours are involved, the maximum distance between expansion joints shall not exceed seventy-five (75) feet. Expansion joint material shall also be furnished at all locations where the sidewalk abuts a building or other fixed construction.
Expansion joint material shall be a non-extruding type of material and shall conform to the requirements for "Bituminous Fiber Type" expansion joint material, American Association of State Highway Officials Designation M-59.
3. ~~Concrete Contractors~~ Sidewalk Construction Permit.
 - a. ~~Application for License. Any person, firm or corporation engaged in constructing, altering or repairing sidewalks made of concrete or other like materials, shall, prior to entering into or engaging in any such work, secure from the City Engineer, upon an application duly made, a license authorizing such person, firm or corporation to do such work. Such application shall state the name and place of business of the applicant and shall contain a statement agreeing to abide by the regulations and specifications adopted by the Board of Public Works, and to obey all ordinances of the City of West Allis in relation to work of sidewalk construction. Said application shall also contain a statement signed by two (2) reputable citizens, vouching for the character, integrity and business capacity of the applicant. Bond Required. Before receiving a license, the applicant shall file, in the office of the City Engineer, a~~

~~surety bond, to be approved by the City Engineer in the sum of three thousand dollars (\$3,000), conditioned that for a period of one (1) year from the date of completion of any work during the licensed year, said applicant or licensee shall replace and restore to the specifications of the City Engineer the sidewalk, driveway and/or street or other public ground, and shall replace and restore any imperfect work which may be discovered by the City Engineer within said one (1) year period. [Ord. 6204, 12/5/1995; Ord. 6205, 1/16/1996] License Fee, Term, Conditions. The term of a license shall be one (1) year. The license shall expire one (1) year from and after its date of issuance. The license fee set forth in Section 11.18 shall be payable with the application and is non-refundable. [Ord. 6204, 12/5/1995] Each licensee shall record in the office of the City Engineer the place of business and the name under which the business is transacted and shall immediately notify the City Engineer of any change in this information.~~

- b. ~~Construction~~ Permit Required; Exemptions. No work of constructing, altering or repairing sidewalks or any public street made of concrete, stone, bituminous, gravel or other like materials shall be done without a permit issued by the City Engineer. ~~[Ord. 6204, 12/5/1995]~~

Any public service corporation, regulated under Chapter 196 of the Wisconsin Statutes, shall be exempt from the provisions of this subsection requiring the payment of fees, bonding and insurance; but, as a condition of accepting a permit, shall save harmless the City and its officers and agents from all and any claims for injury to persons or property for acts on the part of any such company, its agents, employees or contractors arising from the construction for which the permit was issued.

- e.
- d. ~~Insurance Required. Before receiving a license, the applicant shall file in the office of the City Engineer a Certificate of Liability Insurance, to be approved by the City Engineer, in an amount of not less than three hundred thousand dollars (\$300,000) per claim occurrence for any injury, loss, damage or liability which may result in any manner from the issuance of the license. The City of West Allis shall be named as an Additional Insured, as its interest may appear. [Ord. 6204, 12/5/1995]~~
- e. Notifying Engineer. It shall be the duty of every person, firm, corporation, their agent or employee, who shall construct any concrete sidewalk in the City, to notify the City Engineer in writing, on blanks furnished by the City, at least twenty-four (24) hours prior to the commencement of said work, the purpose for which said sidewalk is to be constructed and the place where said sidewalk is to be constructed.
4. Inspection of Sidewalks Under Construction. It shall be the duty of the City Engineer to inspect all sidewalks in the course of construction either by the City or private owners, and it shall be his duty to oversee said work and see that the specifications provided by the City are complied with. The City Engineer shall have the power and authority to reject any and all material that does not come up to the standard provided by the City specifications.
5. Removing or Altering Sidewalk. See Section 11.02(2).
6. Driving over Sidewalks. See Section 11.08(4).
7. Obstruction of Sidewalks.
- a. Branches and Shrubbery. No owner or occupant of any land or real property

fronting or abutting on any of the streets or alleys of this City shall suffer or permit any limbs, branches or other part of any tree, shrub or bush to project over any sidewalk or sidewalks in the City, unless any such branch or bush so projecting be higher than seven and one-half (7-1/2) feet from the surface of the sidewalk.

- b. Construction Purposes. When a sidewalk is in the process of construction, reconstruction or has been condemned and it shall be necessary to obstruct any sidewalk, then a sidewalk shall be built temporarily around such obstructed sidewalk, said sidewalk to be not less than four (4) feet wide and to be perfectly on the level and its approach to be not on a greater slant than one (1) inch per foot and to be built of good substantial material. The person, firm or corporation constructing such temporary sidewalk must erect and maintain proper barricades, warnings and lights, as provided in Section 11.04.
 - c. Vehicles, Chutes, etc. Subject to the provisions of Section 7.10(3) of this Code, no person, firm or corporation, their agent or employee, shall obstruct or block any public sidewalk with a vehicle, chute, ramp or by any other means that prevents free travel on said sidewalk.
 - d. Notice to Non-Residents. In case any person violating any of the provisions of this subsection is a nonresident of the City and cannot be found, the City Engineer shall mail notice of the violation to the last known address of such person; and, if such violation is not corrected within twenty (20) days from mailing, the City Engineer shall cause such work required by the notice to be done and the cost shall be charged to the property on the next tax roll.
8. Filling, Grading or Landscaping Sidewalk Areas.
- a. No person shall fill, grade or landscape sidewalk or curb areas to a grade other than that established by a duly adopted street grade ordinance of the City.
"Sidewalk or curb area" is hereby defined to include all that part of the dedicated highway between the abutting property line and the main traveled portion of the highway.
 - b. Whenever any person shall violate the provisions of the preceding paragraph, the City Engineer shall give written notice to the owner of the property abutting the highway on which the provisions of the preceding paragraph have been violated, to immediately fill, grade or landscape the sidewalk or curb areas to the grade that has been established by the Common Council within fifteen (15) days of the date of notice. If the abutting property owner shall fail to comply with the notice within the fifteen (15) day period, the City Engineer shall fill, grade or landscape the sidewalk or curb areas to the grade established and shall charge the cost thereof to the owner of the abutting property. If the cost is not paid to the City Treasurer on or before the 1st day of November following completion of the work by the City, the City Engineer shall report such nonpayment to the City Clerk who shall enter the cost on the tax roll as a special tax against the abutting property, and the same shall be collected in all respects as other City taxes.

SECTION 53: **UPDATE OF CROSS-REFERENCES** The city clerk shall update any cross-references throughout the code to reflect the new numbering in this ordinance.

SECTION 54: **EFFECTIVE DATE** This Ordinance shall be in full force and effect on and after the required approval and publication according to law.

PASSED AND ADOPTED BY THE CITY OF WEST ALLIS COUNCIL

_____.

	AYE	NAY	ABSENT	ABSTAIN
Ald. Angelito Tenorio	_____	_____	_____	_____
Ald. Vince Vitale	_____	_____	_____	_____
Ald. Tracy Stefanski	_____	_____	_____	_____
Ald. Marty Weigel	_____	_____	_____	_____
Ald. Suzzette Grisham	_____	_____	_____	_____
Ald. Danna Kuehn	_____	_____	_____	_____
Ald. Thomas Lajsic	_____	_____	_____	_____
Ald. Dan Roadt	_____	_____	_____	_____
Ald. Rosalie Reinke	_____	_____	_____	_____
Ald. Kevin Haass	_____	_____	_____	_____

Attest

Presiding Officer

Rebecca Grill, City Clerk, City Of West

Dan Devine, Mayor City Of West Allis

Allis