

**CITY OF WEST ALLIS  
ORDINANCE O-2022-0081**

**ORDINANCE TO CONSOLIDATE TEMPORARY OCCUPANCY PERMITS AND  
PRIVILEGES FOR OBSTRUCTIONS AND EXCAVATIONS IN THE RIGHT-OF-WAY**

**AMENDING CH. 11**

**WHEREAS**, Wis. Stat. 66.0425(10) states that a privilege may be granted only as provided under that section; and

**WHEREAS**, the code can be simplified by simply requiring a privilege or permit for any obstruction or excavation in the public way rather than specific types of permits;

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

**SECTION 1:**        **ADOPTION** “11.031 Excavations And Obstructions In Public Ways” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

11.031 Excavations And Obstructions In Public Ways(*Added*)

1. Prohibition. Any obstruction or excavation placed beyond a lot line or within a highway without legal authority to place the obstruction or excavation may be summarily removed or filled without notice. No person may place an obstruction or excavation beyond a lot line or within a highway unless:
  - a. The obstruction or excavation is allowed by permit or privilege under this section, or
  - b. The obstruction or excavation is specifically allowed by state law or another section of this code.
2. Regulations. Unless the common council or city engineer allows otherwise, any person who places an obstruction or excavation beyond a lot line or within a highway shall do all of the following to the satisfaction of the city engineer:
  - a. Not excavate more than two-thirds of the width of a roadway or not more than one-third of the width of any alley
  - b. At all times keep roadways, alleys, and sidewalks open to traffic.
  - c. Place excavated and surplus materials directly on a vehicle from the excavation for immediate removal from the site, and may not place those materials on the street, sidewalk, or alley.
  - d. Upon completion of work, restore of the street, sidewalk, or alley to its original condition or pay for the restoration of the street, sidewalk, or alley if the city or a city contractor performs the restoration.
  - e. Perform all work in a good workmanlike manner.

- f. Maintain any excavation in a safe and passable condition for all traffic until the street, alley or sidewalk is restored.
  - g. Give at least 24 hours' advanced notice to the city engineer of the time when an excavation will be backfilled.
  - h. Erect, place, and maintain suitable and proper barriers about and around excavations and building material.
  - i. Erect, place, and maintain sufficient lights at each excavation, pile of material, fence or other obstruction in whenever those items are not sufficiently illuminated by natural light. In addition, during hours of darkness, warning lights shall be used on all drums, barrels, barricades, vertical panels and portable barriers. These lights shall be operated in the FLASHING mode when the aforementioned devices are used singly, and in the STEADY BURN mode when the devices are used in a series for traffic channelization.
- 3. Temporary Occupancy Permit. For any obstruction or excavation in place for less than 90 days, the city engineer may grant a temporary occupancy permit pursuant to Wis. Stat. 66.0425(7).
  - a. The person responsible for the obstruction or excavation shall submit to the city engineer an application for the permit and pay a fee according to the Fee Schedule.
  - b. The city engineer may grant the permit if the applicant:
    - i. Assumes primary liability for damages to person or property by reason of the granting of the permit;
    - ii. Agrees to remove the obstruction or excavation upon 5 days' notice by the state or City;
    - iii. Waives the right to contest in any manner the amount of compensation charged;
    - iv. Files a bond in the amount specified in the Fee Schedule that runs to the City and to 3rd parties that may be injured and that secures the performance of the conditions specified in the permit; and
    - v. Complies with any other conditions placed upon the permit by the city engineer.
  - c. Third parties whose rights are interfered with by the granting of a permit have a right of action against the holder of the permit only.
  - d. Pursuant to Wis. Stat. 66.0425(6), telecommunications carriers, telecommunications utilities, alternative telecommunications utilities, public service corporations, cooperatives organized under Wis. Stat. ch. 185 to render or furnish gas, light, heat, or power, and cooperatives organized under Wis. Stat. ch. 185 or 193 to render or furnish telecommunications service shall secure a permit under this subsection for temporary obstructions or excavations in a highway and are liable for all injuries to person or property caused by the obstructions or excavations.
- 4. Privilege. For any obstruction or excavation in place for 90 days or more, the common council may grant a privilege pursuant to Wis. Stat. 66.0425(2).
  - a. The person responsible for the obstruction or excavation shall submit to the city engineer an application for the privilege and pay a fee according to the

Fee Schedule.

- b. The common council may require the applicant to file a bond that does not exceed \$10,000 that runs to the city and to 3rd parties that may be injured and that secures the performance of the conditions of the privilege.
  - c. The common council grants a privilege with no application, fee, or bond to the following obstructions:
    - i. A United States Post Office mailbox or newspaper consumer receptacle installed in a manner consistent with the guidelines and requirements set forth by the postmaster general.
    - ii. Any obstruction that minimally extends beyond a lot line, does not present any hazard to the public, and will not interfere with the normal public use of the right-of-way, as solely determined by the city engineer.
    - iii. Any limbs, branches or other part of any tree, shrub or bush extending over a roadway, sidewalk, or alley at least 13 feet above the surface of the roadway, sidewalk, or alley.
5. Bond Refund. The city engineer may hold any bond deposited for up to 1 year after closure of a permit or privilege if any street, sidewalk, or alley was demolished and had to be restored to its original condition. Except as stated, the city engineer shall return any bond as soon as practicable less any expenses owed or billed.
6. Expenses Billed
- a. Any damages to the city or a 3rd party caused as a result of issuing a permit or privilege shall be paid by the permit or privilege holder.
  - b. A person responsible for any obstruction or excavation is not entitled to damages for removal of an obstruction or excavation.
  - c. If the person responsible for an obstruction or excavation does not remove the obstruction or excavation upon due notice, the City may cause it to be removed at the person's expense. which shall be paid out of any bond deposited.
7. Penalty. Any person who violates this section may be required to forfeit not less than \$25 nor more than \$500.

**SECTION 2:**        **REPEAL** “11.135 Underground Lawn Sprinkling Systems” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~11.135 Underground Lawn Sprinkling Systems~~ (*Repealed*)

- 1. No person, firm or corporation shall install or maintain an underground lawn sprinkling system in a public way without obtaining a permit from the City Engineer.

2. The applicant for a permit shall furnish such drawings or descriptions as will show the location of pipes, sprinkler heads and other appurtenances.
3. Such systems shall be so installed as not to interfere with any public works or improvements and shall be installed and operated in such a manner as not to create a nuisance or hazard to pedestrians and vehicles.
4. As a condition to the granting of a permit, the applicant agrees that no liability shall accrue to the City as a result of damages from construction, reconstruction, repair, snow plowing or related activities by the City or its agents within the public way.
5. The City Engineer may direct the removal of a sprinkling system from the public way. Such removal shall be at the expense of the owner. If the order to remove a sprinkling system is not complied with within thirty (30) days, the Board of Public Works is authorized to effect the removal and the cost thereof shall be assessed against the abutting property and entered on the tax roll as a special charge.
6. The permit required by this section shall be issued without charge. Fees for any permits required by the Plumbing Code shall be in accordance with Chapter XVI of the Revised Municipal Code. **[Ord. 6504, (delete S. 11.14), 3/7/2000]**

**SECTION 3:            REPEAL “11.03 Excavations And Obstructions In Streets, Alleys And Sidewalks”** of the City Of West Allis Municipal Code is hereby *repealed* as follows:

**REPEAL**

~~11.03 Excavations And Obstructions In Streets, Alleys And Sidewalks~~ (*Repealed*)

1. Permit and Fees. **[Ord. 6204, 12/5/1995]**
  - a. Permit Required. No person, firm or corporation shall make any excavation in any public street, alley or sidewalk, between front lot lines, for any purpose whatsoever, unless a permit shall first be secured from the City Engineer, and the holder of the permit shall not be allowed to excavate in more than two-thirds (2/3) of the public street between the curb lines or not more than one-third (1/3) of the width of any alley, and shall at all times kept the street, alley or sidewalk open to traffic. Erosion control regulations, as approved by the Common Council, shall apply to all permits.
  - b. Contractors and Fees.
    - i. The provisions of Section 11.07, including, but not limited to, license, bonding and insurance requirements, are hereby adopted by reference and shall be complied with in work performed under this section, insofar as applicable.
    - ii. The fee provided in Section 11.18 shall accompany each application for a permit, except as otherwise provided in this Section. The fee is non-refundable.
2. Fees and Deposits. A deposit shall be made for any excavation, in an amount to be determined by the City Engineer, which shall be commensurate with the cost of

restoring the street, sidewalk or alley to its original condition.

The deposit, or any portion thereof, shall not be refunded until after a period of six (6) months following the restoration of the street, sidewalk or alley to its original condition on any semi-improved street, sidewalk or alley; and, shall not be refunded until after a period of one year following the restoration of the street, sidewalk or alley to its original condition on any permanently improved street, sidewalk or alley; and, then and thereafter, only that portion of the deposit exceeding the expenses incurred by the City of West Allis for said restoration shall be refunded.

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 and deposits, 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 person or property for acts on the part of any such company, its agents, employees or subcontractors arising from the construction for which the permit was issued.

3. Work to be Done Promptly. When it is necessary to open any street, sidewalk or alley for the purpose of laying gas, water, sewer or other pipes, or for the installation of conduit for carrying electric light, telegraph, telephone or other wires or pipes, or for making water, gas, sewer, steam or other service connections, the holder of such permit shall perform the work promptly without unnecessary delay in a workmanlike manner. **[Ord. 6204, 12/5/1995]**

Excavated and surplus materials may not be placed on the surface of any street, sidewalk or alley, but must be loaded directly on a vehicle from the excavation for immediate removal from the site.

Upon completion of said work, the restoration of the street, sidewalk or alley to its original condition shall be done under the direction of the City Engineer directly by the City, or he may, in his judgment, permit the holder of the permit to make said restoration.

All work shall be done in a good workmanlike manner to the satisfaction of the City Engineer.

The holder of said permit shall be responsible for the excavation and replacement and restoration of the street, alley or sidewalk to its original condition. The excavation shall be maintained in a safe and passable condition for all traffic until the street, alley or sidewalk is restored.

4. Excavations.
  - a. Generally. In making excavations for trenches in streets or alleys paved with a pavement laid on a concrete foundation, the opening in the pavement and foundation must be at least sixteen (16) inches larger in all directions than the size of the trench to be excavated, so that there may be a shoulder of solid earth eight (8) inches in width on all sides of the opening to support the new concrete foundation. Should the sides of the trench cave in during the progress of the work, an additional amount of pavement must be broken out so that the eight (8) inch shoulder may be maintained. Cuts in unimproved streets need only be made the same size as the proposed trench.
  - b. Exposing Existing Pipes. During the making of the excavation where foreign pipes are encountered, the work shall be conducted so as not to disturb the

same and where support is needed they must be supported securely in place by vertical props from the bottom of the ditch, one for every four (4) feet undermined, or such additional supports as may be required by the City Engineer. These props must not be less than two (2) inches by three (3) inches in cross section and have their lower ends on blocking solidly bedded on the undisturbed bottom of the trench or on any concrete or other permanent structure in the trench. In backfilling the trench, the props shall be undisturbed and left in place after back filling has been completed.

5. Backfilling.

- a. The trench must be backfilled with sand, gravel or other material approved by the City Engineer and all backfill material must be free of hard lumps of clay or other material which must be considered as stones and will be rejected when over five (5) inches in diameter. Material under the pipe may be settled by tamping or by flushing with water. Materials must be carefully puddled during the process of flushing.
- b. After the backfilling under and around the pipe has been completed, the remainder of the trench must then be backfilled, to a point eighteen (18) inches below the level of the finished surface of the street. The backfilling shall be thoroughly flushed and carefully puddled as it is being filled. When the filling is flushed and puddled, it shall remain for a period of at least three (3) days and until it is thoroughly dried out, or as much longer as may be required by the City Engineer to have a solid fill.
- c. After the backfilling has thoroughly settled and dried out, the top eighteen (18) inches shall be filled with dry material and thoroughly tamped up to the bottom of the pavement or to the surface of the road on unimproved streets. This dry material shall consist of gravel containing not less than forty percent (40%) of crushed stone screenings. This material shall be thoroughly tamped in layers not exceeding six (6) inches in thickness. If it is possible to do so, the tamping will be omitted and in lieu thereof the eighteen (18) inches of dry filling shall be consolidated with a heavy roller giving a compression of not less than three hundred fifty (350) pounds per lineal inch width of the heaviest roll.

6. Replacing Concrete Foundation. The minimum thickness of the new concrete over the backfilled trench shall be eight (8) inches for trenches up to twenty-four (24) inches in net width of earth excavation. For all trenches of greater width, concrete shall be replaced to a depth of twelve (12) inches over full width of trench, including the eight (8) inch extensions required herein. The new concrete foundation shall be properly mixed in the proportion of one part of cement, two (2) parts of sand, and four (4) parts of stone, said sand and stone to be screened and washed and free from dirt and other impurities.

7. Replacing Surface. The surface pavement shall be replaced using new materials as necessary to restore the surface as nearly as possible to its original condition. Asphalt shall be removed carefully in large slabs and temporary repairs may be made by cementing the slabs back in place until permanent repairs are made by the City, in accordance with City specifications for such work. All refuse and excess dirt and materials shall be removed from the street surface as the work progresses or

immediately upon its completion.

8. Notice to City Engineer. Every person making application for a permit to excavate in any street, sidewalk or alley shall give the City Engineer twenty-four (24) hours notice, in writing, of the time when he is to backfill the excavation in any street, sidewalk or alley and the location thereof. **[Ord. 6204, 12/5/1995]**

The holder of said permit shall be responsible for the maintenance of said excavation and shall further maintain same in a safe and passable condition for all traffic until the street, sidewalk or alley is restored to its original condition.

When the holder of said permit fails to safely maintain said excavation in any street, sidewalk or alley, then the same shall be maintained and made safe and passable by the City Engineer and the expense thereof charged to the holder of said permit. When excavations and cuts in streets, sidewalks or alley are restored by the City Engineer, the expense thereof shall be charged to the holder of said permit.

9. Liability of Contractor; Barriers. The person or persons to whom a street permit is issued shall assume all liability and responsibility for any and all damages in any manner resulting from such use of said street, alley or sidewalk, and shall, at all times, erect, place and maintain, to the satisfaction of the City Engineer, suitable and proper barriers about and around such excavation of building material, and sufficient lights shall be displayed and maintained during the whole of every night at each excavation, pile of material, fence or other obstruction on any public street, alley or sidewalk, so that the same will be in full view of the public, and placed in such a manner as will effectually safeguard the same against accidents happening or resulting in any manner therefrom. Such person or persons shall indemnify and keep the City of West Allis free and harmless from any claim or damages of any nature whatsoever by reason of the negligence or carelessness of such person or persons, their agent or employee.
10. Duty of Contractor; Warning Lights. It shall be the duty of every person who may receive a contract for the grading, filling, paving and laying of sidewalk, sewer, water mains or doing any repairing or improvement of any street, alley or sidewalk and of every person who shall be engaged in the above named work to remove all dirt or other obstacles deposited by them on any sidewalk, street or alley each day before discontinuing their work and to keep such sidewalk, street or alley during the progress of such work at all times reasonably passable and safe, and that proper guards and barriers are at all times maintained on and about the said work, and that proper warnings and signals are at all times displayed, and that from one-half (1/2) hour after sundown to one-half (1/2) hour before sunrise proper and sufficient lights be placed in and about the said work to give proper warning of its condition to all persons entitled to use the said street, alley or sidewalk.
11. Preventing Use of Streets, Alleys and Sidewalks. Subject to the provisions of Section 7.10(3) of this Code, no person, firm or corporation shall obstruct or impede the free use of or travel upon any part of any street, alley, sidewalk or crosswalk in the City with any carriage, wagon, automobile, truck, sand, gravel, dirt, debris or other article or material whatsoever, and any person who shall violate the provisions of this section shall assume all liability and responsibility for any and all damages which may be sustained by any person or persons by reason of such violation of this section. The Director of Public Works is authorized to order the immediate removal of such article



or obstruction and, upon any refusal or neglect so to do, to cause the same to be removed, and the expense of such removal shall be paid by the person or persons responsible for each obstruction.

12. Destroying and Disobeying Barrier Signs. It shall be unlawful for any person, without proper authority, to remove, throw down or cause to be removed or thrown down, any barrier or barricade or any part thereof, or to remove, put out or destroy, or turn out or tamper with, or cause to be removed, put out or destroyed, or turned out or tampered with, any lamp or light, or in any other manner whatsoever, tamper with or molest any lamp or light, barrier or barricade erected or put up in or upon any public ground or public street, and it shall be unlawful for any person to drive by any barrier or barricade erected in any public place or highway by the Director of Public Works, or his authorized agents, or by any other person duly authorized to erect such barrier or barricade, or in any other manner whatsoever, to enter upon any barricaded public place or street, unless he shall first secure a written permit therefor from the Director of Public Works, and, in such case, the barricade shall immediately be replaced.
13. Injuring Trees and Shrubs. No person shall place or maintain upon the ground in a public street, stone, cement, lumber or other substance or material which shall impede the free passage of water and air to any tree or shrub in such street without leaving an open space of ground outside the trunk of said tree or the base of said shrub of an area not less than sixteen (16) square feet. Before depositing any such materials in any street of the City near to trees or shrubs therein, the person so depositing said materials shall place such guards around the trees and shrubs as shall effectually prevent injury to them.
14. Obstructions of Street and Alleys; 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 street or alley in the City, unless any such branch or bush so projecting be higher than thirteen (13) feet from the surface of the street or alley. **[Ord. 6154, 4/4/1995]**
15. Street Decorations Regulated.
  - a. Permit Required. No person, firm or corporation shall erect, install or maintain any pennant, light, wreath, figure, advertising display or similar street decoration of the type commonly used in commercial shopping areas during the Christmas season and other similar periods without having first obtained a permit therefor, as herein provided, and in accordance with the terms of this subsection.
  - b. Duration of Permit. A permit shall be effective for a period of thirty (30) days; provided, however, that the Director of Public Works may extend the period an additional thirty (30) days for cause.
  - c. Safety Requirements. All street decorations must be securely fastened and otherwise safely erected or installed so as not to constitute a danger to person or property. They shall be placed at such height, at such locations and in accordance with other safeguards and requirements, as are provided in the permit.
  - d. Bond. Each permittee shall file a bond with the Director of Public Works in the amount of one thousand dollars (\$1,000), conditioned to indemnify the



- City for the cost of removing the street decorations, as hereinafter provided.
- e. Liability Insurance. Each permittee shall file proof of liability coverage with the Director of Public Works in the amounts of \$50,000-\$100,000-\$10,000, written by an insurance company licensed to do business in Wisconsin. The policy shall provide for contractual liability coverage for the following indemnity agreement:  
"The permittee agrees to indemnify and hold harmless the City from any loss or damage or liability which may result from the issuance of this permit, or from the erection, installation or maintenance of the said street decorations, arising from any cause whatsoever."
  - f. Revocation. The permit herein provided is for a privilege and is subject to revocation at will by the Director of Public Works.
  - g. Removal. The Director of Public Works may remove the street decorations upon revocation of a permit or seventy-two (72) hours after the expiration of a permit, and may charge the complete expense of such removal to the permit holder and his bonding company. The amount of the expense, as certified by the Director of Public Works, shall be conclusive.
16. Dumping or Depositing Snow. See Section 11.12 of this Code.
17. (Reserved). **[Ord. O-2004-0016 (repealed), 5/4/2004]**

**SECTION 4: REPEAL** "11.035 Regulation Of Newspaper Distribution Boxes" of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~11.035 Regulation Of Newspaper Distribution Boxes~~ (*Repealed*)

- 1. Purpose. The purpose of the following is to promote the public health, safety and welfare through the regulation of placement, appearance, servicing and insuring of newspaper distribution boxes on public rights-of-way so as to:
  - a. Provide for pedestrian and driving safety and convenience;
  - b. Restrict unreasonable interference with the flow of pedestrian or vehicular traffic, including ingress or egress from any residence or place of business, or from the street to the sidewalk by persons entering or exiting parked or standing vehicles;
  - c. Provide reasonable access for the use and maintenance of sidewalks, poles, posts, traffic signs or signals, benches, hydrants, mailboxes and access to locations used for public transportation purposes;
  - d. Relocate and/or replace newspaper distribution boxes which result in a visual blight and/or excessive space allocation on the public rights-of-way or which unreasonably detract from the aesthetics of store window displays, adjacent landscaping and other improvements, as well as to have abandoned newspaper distribution boxes removed;
  - e. Maintain and protect the values of surrounding properties;

- f. Reduce unnecessary exposure to the public to personal injury or property damage;
- g. Treat all newspapers equally regardless of their size, content, circulation or frequency of publication;
- h. Maintain and preserve freedom of the press.

2. Definitions.

- a. "Newspaper Distribution Box" shall mean any type of unmanned device for the vending or free distribution of newspapers, news periodicals or written materials, including circulars, pamphlets, papers, booklets and any other printed or otherwise reproduced written material which advertises for sale any merchandise, product, commodity or thing or which attracts attention to any business, commercial establishment or other activity for the purpose of directly promoting the interest thereof by sales, private gain or profit.
- b. "Public Right-of-Way" means all of the area dedicated to public use existing between property lines adjacent thereto and is intended to include, but not limited to, roadways, streets, parkways, alleys and sidewalks.
- c. "Block" means both sides of any street in a public right-of-way which exists between two consecutive intersecting streets and is intended to include, but not limited to, the roadways, streets, parkways, alleys and sidewalks within that right-of-way.

3. Applications.

- a. No newspaper distribution box shall be maintained within any public right-of-way, except by privilege granted under this section.
- b. The applicant shall file with the City Engineer a written application for such privilege, which shall contain the following information:
  - i. The name, address and telephone number of the applicant who is the owner and/or principal in responsible charge of the newspaper distribution box.
  - ii. The name, address and telephone number of a responsible person whom the City may notify or contact at any time concerning the applicant's newspaper distribution box.
  - iii. The number of newspaper distribution boxes and names of newspapers or periodicals to be contained in each, including any existing newspaper distribution boxes.
  - iv. Site plan showing exact location of each newspaper distribution box and supporting or enclosing structure, including installation and maintenance, and sufficient information to determine that said location complies with the provisions of this article.
- c. A finding made by the City Engineer whether an applicant is in compliance with the provisions of this section will be made within five (5) working days of the City's receipt of the completed application.

4. (Reserved).

5. Fees.

- a. If such application is approved by the City Engineer, the privilege shall be issued upon payment of fees by the applicant in the amount of thirty dollars (\$30.00) per box per year for a new installation, and twenty-five dollars

(\$25.00) per box per year for a renewal. Additional locations may be added to such privilege upon approval of the City Engineer and payment of the required fees.

b. All such privileges shall expire on November 30.

c. The fee specified herein has been determined to be the equivalent to be the minimum of processing issuance of such privileges and necessary inspections.

6. Bond. No privilege shall be issued until the applicant files a bond in the amount of ten thousand dollars (\$10,000.00) running to the City and to such parties as may be injured because of installation or maintenance of such newspaper distribution boxes within the public right-of-way or upon City property. There shall be one bond per applicant.

7. Conditions of Privilege.

a. All such privileges shall be granted only upon the condition that by acceptance of such privilege, the applicant:

i. Shall become primarily liable for damages to person or property by reason of the granting of the privilege;

ii. Shall be obligated to remove any such newspaper distribution box within ten (10) days' notice by the State of Wisconsin or by the City;

iii. Shall waive its right to contest in any manner the validity of Sec. 66.0425 of the Wisconsin Statutes, or of this section.

b. It shall be a further condition of any such privilege that the City shall not be responsible for any damage to such box or boxes because of snowplowing or removal operations or any other municipal maintenance function.

c. The holder of any such privilege shall be entitled to no damages for the removal of any such newspaper distribution box and, if such holder shall not remove the same upon due notice, it shall be removed by the City at the holder's expense.

d. Third parties whose rights are interfered with by the granting of such privilege shall have a right of action against the holder of the privilege only.

e. Written notice by the City to the person designated in Subsection (3)(b)2 shall constitute proper notice.

8. Placement Generally.

a. In any one block, there shall be no more than twenty-four (24) newspaper distribution boxes of which no more than four (4) newspaper distribution boxes dispensing any one publication. There shall be no more than twelve (12) newspaper distribution boxes of which no more than two (2) newspaper distribution boxes dispensing any one publication on one side of any street between two intersecting streets.

b. Newspaper distribution boxes between intersecting streets may be placed together in groups consisting of one to eight (1 to 8) newspaper distribution boxes. Each group shall be separated by a distance not less than one hundred (100) feet. Each newspaper distribution box within a group shall be separated no more than two (2) feet from each other.

c. Newspaper distribution boxes shall be placed parallel to and not less than twelve (12) inches nor more than twenty-four (24) inches from the face of the curb. Newspaper distribution boxes placed near the wall of a building must be

placed parallel to and not more than six (6) inches from the wall.

9. Prohibitions. No newspaper distribution box shall be located:
  - a. Within ten (10) feet of any marked crosswalk or the curb return of any unmarked crosswalk;
  - b. Within ten (10) feet of any fire hydrant, fire call box, police call box or other emergency facility;
  - c. Within five (5) feet of any driveway or alley;
  - d. Within five (5) feet ahead of and fifteen (15) feet to the rear of any sign marking a designated bus stop measured along the curb of the street;
  - e. Within five (5) feet of any access ramp for disabled persons;
  - f. Within the sight triangles of street intersections;
  - g. Within six (6) feet of a display window or building entrance;
  - h. At any location where the clear space for the passage way of pedestrians would be reduced to less than five (5) feet by its placement.
10. Maintenance and Repair.
  - a. Newspaper distribution boxes shall be maintained in good working order at all time, freshly painted, with unbroken hoods.
  - b. The name, address and telephone number of a person responsible for the newspaper distribution box who may be contacted at any time concerning such box shall be displayed on the hood of the box in such a manner as to be readily visible and readable to a prospective customer thereof. Any newspaper distribution box stand without the necessary identifying information, shall be immediately removed.
  - c. Each newspaper distribution box shall be maintained in accordance with the terms of this article and the approved privilege.
11. Violations. Any person who violates this section may be required to forfeit not less than \$25 nor more than \$500.

**SECTION 5:**        **REPEAL** “11.04 Storage Of Materials On Streets, Alleys And Sidewalks” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~11.04 Storage Of Materials On Streets, Alleys And Sidewalks~~ (*Repealed*)

1. Permit Required. No person, firm, corporation, their agent or employee, shall occupy any portion of any public street or alley, between front lot lines, in the City by depositing building or other material on a public street or alley, without first having obtained a street permit for the temporary occupancy of a part of the public street or alley, from the Director of Public Works.
2. Permit Fee. In addition to the fee herein required, a depository bond, in currency, in an amount to be determined by the Director of Public Works, which shall be

commensurate with the cost of restoring the street, alley or sidewalk to its original condition, must accompany each application. The amount of the bond to remain with the Director of Public Works until he is satisfied that the street, alley or sidewalk, has been placed in the condition to which it was prior to the granting of the permit. If within five (5) days after the permit expires, the street, alley or sidewalk is not restored to its proper condition, any or all of the depository bond may be used by the Director in putting the street, alley or sidewalk in condition, and the balance, if any, shall be returned to the holder of the permit upon application being made to the Director.

3. Limits of Street Use. Any temporary occupancy, when between the curb lines, shall not cover more than one-third (1/3) of the public street and in no case more than thirty (30) feet in width in total, or not more than one-third (1/3) of the width of any alley; and, in case there are any railway tracks on the street, no building material, fence or edge of a temporary walk shall be nearer than one-half (1/2) the distance between the curbing and the nearest rail of such track, but in no case nearer such rail than four (4) feet.

The permission granted herein to occupy a public street or alley is extended for use in connection with the actual erection, alteration, repair or removal of structures, construction of concrete sidewalks, etc., and shall permit the holder of a permit to use only that portion of the public street in front of the premises of the structure or concrete sidewalk, etc., in process of construction and not extending beyond the continuation of the lot lines.

4. Sidewalk to be Kept Open. The holder of any street permit shall not interrupt the sidewalk traffic but shall at all times keep open and unobstructed a sidewalk of not less than four (4) feet in width. The sidewalk may be crossed by a driveway to give access to the building site, but any damage that may be done to the sidewalk shall be repaired by the person to whom the permit is issued; and, the sidewalk shall be restored to as good a condition as it was before the permit was issued.

When a building is being constructed or reconstructed, and it shall be necessary to obstruct any sidewalk, or portion thereof, 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.

5. Disposal of Earth and Rubbish. Earth taken from excavations and rubbish from buildings shall not be stored upon the sidewalks or streets or alleys but must be loaded directly on a vehicle for immediate removal from the site. Where such materials are dry and apt to produce dust when handled, they shall be kept moist to prevent dust.

Building rubbish accumulation on upper floors shall be lowered by elevators or some similar device approved by the Building Inspector in closed receptacles or by closed chutes connected directly to vehicles.

6. Sheds, Fences, Guy Wires. On the portion of such public streets or alleys for which a permit has been granted, building material may be stored or used and temporary sheds or fences may be erected for use in connection with the building operations, in such manner as to protect the public. No guy lines shall be less than fifteen (15) feet above the road bed outside of the confines of the street permit. No materials, fence or shed shall be placed in any way that will obstruct free approach to any fire hydrant, street light or public utility poles, manhole, catch basin, fire or police alarm box or any

similar operation of the street or alley designated for a particular purpose and to which ready access at all times is necessary. No obstruction shall be placed so that there will be interference with the passage of water in the gutter.

7. Spilling Sand, Gravel, etc. It shall be unlawful for any person, firm or corporation to carry or transport sand, gravel or other material of any kind whatsoever within the City in a wagon or other vehicle of any kind, unless the same shall be securely closed to prevent the contents thereof from falling or being scattered on the street or alley during its transportation.
8. Barricades, Lights, Indemnity. The person or persons to whom a street permit is issued shall assume all liability and responsibility for any and all damage in any manner resulting from such use of said street, and shall, at all times erect, place and maintain, to the satisfaction of the Director of Public Works, suitable and proper barriers about and around such excavation or building material, and sufficient lights shall be displayed and maintained during the whole of every night at each excavation, pile of material, fence or other obstruction on any public street or alley so that the same will be in full view of the public, and in such a manner as will effectually safeguard the same against accidents happening or resulting in any manner therefrom. Such person or persons shall indemnify and keep the City of West Allis free and harmless from any claim or damages of any nature whatsoever by reason of the negligence or carelessness of such person or persons, their agents or employees.
9. Final Clean-Up of Area. Upon the termination of the building operations, the street permit shall cease to exist and all parts of the public street or alley occupied under the permit shall be vacated, cleaned of rubbish or any obstruction, and placed in a safe condition for public travel. All costs, charges and expenses through lawsuits, or cost of restoring the street, alley or sidewalk to its original condition shall be chargeable to the one receiving the permit.

**SECTION 6:**        **AMENDMENT** “11.11 Right-Of-Way Management” of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

11.11 Facilities in Right-Of-Way ~~Management~~

**SECTION 7:**        **REPEAL** “11.165 Privileges In Streets” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~11.165 Privileges In Streets~~ (*Repealed*)

1. The City Engineer shall have authority to grant privileges for minor obstructions

beyond the lot line as provided in Sec. 66.0425, Wisconsin Statutes. "Minor" encroachments, by way of illustration, are such things as signs, canopies, fences, trees, bushes, flowers and landscaping. Where such minor encroachments, in the opinion of the City Engineer, do not project into or over the portion of the right-of-way commonly used by the traveling public or otherwise present a danger to those who use the right-of-way, the City Engineer may determine that no encroachment permit is required. The City Engineer shall not require an encroachment permit for structures erected by the City within the right-of-way. **[Ord. O-2013-0048, 11-5-2013]**

2. The Board of Public Works shall have authority to grant privileges for major obstructions beyond the lot line as provided in sec. 66.0425, Wisconsin Statutes. "Major" encroachments, by way of illustration, are such things as concrete paving or steps and brickwork.
3. The Common Council shall have the authority to grant privileges for structural obstructions beyond the lot line as provided in sec. 66.0425, Wisconsin Statutes. "Structural" encroachments, by way of illustration, are those which involve structural additions to or elevations of buildings.
4. Encroachments approved by the Common Council as a special use under Section 12.40(2)(o) of the Revised Municipal Code shall not be required to obtain approval under this section.
5. United States Postal mailboxes and/or newspaper boxes encroaching into the street right-of-way shall not require a grant of privilege under the following conditions: **[Ord. O-2004-0010, 3/16/2004]**
  - a. To avoid conflicts with snowplow equipment and other vehicular traffic, mail/news boxes and the associated support structures shall be located at least six (6) inches behind the face of the curb or, in the absence of a curb, six (6) inches behind the road shoulder.
  - b. Mailboxes shall be constructed from sheet metal, plastic or similar weight materials and shall not exceed eleven (11) pounds.
  - c. A single four inch by four inch (4"x4") square or four inch (4") diameter wooden post or a metal post with a strength no greater than a two inch (2") diameter standard steel pipe and embedded no more than twenty-four inches (24") into the ground will be acceptable as a mailbox support.
  - d. Mail/news boxes and their associated support structures shall, without compensation, be removed within five (5) days from the street right-of-way upon written notice from the City Engineer.
6. Prior to granting an encroachment privilege, the City Engineer shall ensure that the requirements of Policy 2822 have been met and continue to be met during the existence of the encroachment. The City Engineer and City Attorney are authorized to take all legal and/or equitable measures to ensure compliance with the requirements of this section or removal of the encroachment. **[Ord. O-2013-0017, 4/2/2013]**
7. The forfeiture amounts in Section 11.17 of the Revised Municipal Code notwithstanding, any person violating this section or failing to comply with the duties and requirements stated therein or with the requirements of Policy 2822 shall forfeit not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500) for each day of violation. **[Ord. O-2013-0017, 4/2/2013]**



~~{Ord. 6609, 3/5/2002; Ord. O-2003-0034, 5/6/2003}~~

**SECTION 8:**            **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 MAY 03, 2022.

	<b>AYE</b>	<b>NAY</b>	<b>ABSENT</b>	<b>ABSTAIN</b>
Ald. Angelito Tenorio	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Ald. Vince Vitale	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Ald. Tracy Stefanski	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Ald. Marty Weigel	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Ald. Suzzette Grisham	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Ald. Danna Kuehn	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Ald. Thomas Lajsic	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Ald. Dan Roadt	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Ald. Rosalie Reinke	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Ald. Kevin Haass	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>

Attest

Presiding Officer

  
\_\_\_\_\_  
Rebecca Grill, City Clerk, City Of  
West Allis

  
\_\_\_\_\_  
Dan Devine, Mayor City Of West Allis

