

**CITY OF WEST ALLIS
ORDINANCE O-2023-0019**

**ORDINANCE TO AMEND REGULATIONS RELATED TO TEMPORARY
EXTENSIONS OF PREMISES FOR ALCOHOL AND PUBLIC ENTERTAINMENT**

AMENDING SECTIONS 9.60 AND 9.76

WHEREAS, the common council seeks to update the municipal code to reflect appropriate regulations that balance the interests of the public with the interests of businesses;

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

SECTION 1: **AMENDMENT** “9.60 Alcohol Beverage” of the City Of West Allis Municipal Code is hereby *amended* as follows:

A M E N D M E N T

9.60 Alcohol Beverage

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 [Wis. Stat. 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 Public Safety 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 Public Safety 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.

d. Liquor Sales at Fuel Stations. 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 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 seasonal term shall commence on the Friday preceding Memorial Day and expire on the Tuesday after Labor Day. The common council shall establish the term for any non-seasonal extension of premises. ~~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~~8 p.m. and 10 a.m. from Sunday through Thursday. No outdoor premises may remain open between the hours of 10 p.m. and 10 a.m. on Fridays and Saturdays. 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 2: **AMENDMENT** “9.76 Public Entertainment” of the City Of West Allis Municipal Code is hereby *amended* as follows:

A M E N D M E N T

9.76 Public Entertainment

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 a~~ indoor premises ~~to~~ 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 outdoor premises may remain open between the hours of 8 p.m. and 10 a.m. from Sunday through Thursday. No outdoor premises may remain open between the hours of 10 p.m. and 10 a.m. on Fridays and Saturdays. The common council may set different closing hours for a particularly premises, and if such custom hours are set. ~~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 3: **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 MARCH 21, 2023.

	AYE	NAY	ABSENT	ABSTAIN
Ald. Vince Vitale	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Ald. Ray Turner	<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> </u>	<u> </u>	<u>X</u>	<u> </u>
Ald. Suzzette Grisham	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Ald. Danna Kuehn	<u> </u>	<u> </u>	<u>X</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

