



City of West Allis

Meeting Agenda

License and Health Committee

Aldersperson Vincent Vitale, Chair
Aldersperson Suzette Grisham, Vice-Chair
Alderspersons: Rosalie L. Reinke, Daniel J. Roadt, and Tracy Stefanski

Wednesday, April 7, 2021

8:20 PM

City Hall, Room 128
7525 W. Greenfield Ave.

RECESS MEETING - APPEARANCE

A. CALL TO ORDER

B. ROLL CALL

C. NEW AND PREVIOUS MATTERS

35. [O-2021-0030](#) Ordinance to Require Face Coverings in Public Places
Sponsors: Tenorio
36. [O-2021-0192](#) Ordinance to remove Special Event Permit exemption for Class B licensees
Sponsors: Aldersperson Lajsic
37. [R-2021-0198](#) Resolution to waive late fees for alcohol beverage license renewal applications expiring on June 30, 2021
Sponsors: Aldersperson Vitale
38. [2021-0175](#) Class B Tavern License, for the July 1, 2020 to June 30, 2021 Licensing Period. The Candle Company LLC, d/b/a The Candle Company, 8100 W. National Ave., West Allis, WI 53214; Agent Tedrick Timmons (new-nonexisting location)
39. [2021-0222](#) Class "B" Temporary Extension application for Paulie's Pub and Eatery, LLC, Kristine Budiak, Agent, d/b/a Paulie's Pub and Eatery, 8031 W. Greenfield Ave., for premises extension due to COVID, June 1 thru November 30, 2021, (all of Paulie's Pub and Eatery parking lot, with tent, food, and outdoor music) Second (2nd) permit application for 2020-2021 & 2021-2022 license years
40. [2021-0216](#) 2020-2022 Operator's License (Bartender/Class D Operator) application of Thomas E. Brokmeier
41. [O-2021-0031](#) Ordinance to create seasonal extension of licensed premises to replace temporary expedited extension of premises
Recommendation: Place on File
Sponsors: Aldersperson Kuehn

42. [O-2021-0024](#) Ordinance to combine various entertainment-related licenses into single public entertainment license creating Section 9.037, repealing and recreating section 9.08, and repealing sections 9.032, 9.033, 9.034, 9.05, 9.06, 9.10, and 9.105

Sponsors: Alderperson Lajsic and Alderperson Haass

D. ADJOURNMENT



All meetings of the License and Health Committee are public meetings. In order for the general public to make comments at the committee meetings, the individual(s) must be scheduled (as an appearance) with the chair of the committee or the appropriate staff contact; otherwise, the meeting of the committee is a working session for the committee itself, and discussion by those in attendance is limited to committee members, the mayor, other alderpersons, staff and others that may be a party to the matter being discussed.

NOTICE OF POSSIBLE QUORUM

It is possible that members of, and possibly a quorum of, members of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information. No action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice.

NON-DISCRIMINATION STATEMENT

The City of West Allis does not discriminate against individuals on the basis of race, color, religion, age, marital or veterans' status, sex, national origin, disability or any other legally protected status in the admission or access to, or treatment or employment in, its services, programs or activities.

AMERICANS WITH DISABILITIES ACT NOTICE

Upon reasonable notice the City will furnish appropriate auxiliary aids and services when necessary to afford individuals with disabilities an equal opportunity to participate in and to enjoy the benefits of a service, program or activity provided by the City.

LIMITED ENGLISH PROFICIENCY STATEMENT

It is the policy of the City of West Allis to provide language access services to populations of persons with Limited English Proficiency (LEP) who are eligible to be served or likely to be directly affected by our programs. Such services will be focused on providing meaningful access to our programs, services and/or benefits.

**CITY OF WEST ALLIS
ORDINANCE O-2021-0030**

ORDINANCE TO REQUIRE FACE COVERINGS IN PUBLIC PLACES

CREATING SECTION 7.20

WHEREAS, on March 17, 2020, the City of West Allis declared a state of emergency exists due to the COVID-19 pandemic; and

WHEREAS, the COVID-19 pandemic continues to spread among the citizens of Wisconsin and the City of West Allis, sustaining the health emergency that underlay the City's March 17, 2020 declaration of emergency; and

WHEREAS, as of March 31, 2021, the Wisconsin Department of Health Services indicated that 577,195 people in Wisconsin have tested positive for COVID-19, including 100,722 people in Milwaukee County; and

WHEREAS, experience to date has demonstrated that social distancing, personal protective equipment, limiting time of exposure, and sanitation are the most effective tools for mitigating the spread of COVID-19 among the population; and

WHEREAS, many individuals with COVID-19 may be asymptomatic or may experience a delayed onset of symptoms, during which time such individuals may transfer the virus to others; and

WHEREAS, wearing a cloth face covering over both the nose and mouth greatly reduces the risk of continued community spread of COVID-19; and

WHEREAS, as of June 28, 2020, the Centers for Disease Control and Prevention's (CDC) information on the use of cloth face coverings to prevent the spread of COVID-19 includes 1) the CDC recommends that all people 2 years of age and older wear a cloth face covering in public settings and when around people who do not live in their household, especially when other social distancing measures are difficult to maintain, 2) studies have shown that wearing a cloth face covering can prevent the spread of COVID-19, 3) cloth face coverings are most likely to reduce the spread of COVID-19 when they are widely used by most people in public settings, and 4) cloth face coverings should not be worn by children under the age of 2 years old or by anyone who has trouble breathing, or is unconscious, incapacitated, or otherwise unable to remove their own face covering without assistance

WHEREAS, the City of West Allis has an interest in protecting the public health, safety, and welfare of the citizens of West Allis from the continued spread of COVID-19 throughout the community; and

WHEREAS, an ordinance requiring face coverings to be worn by any person in a public place within the city of West Allis directly serves that interest by avoiding and/or reducing the further spread of COVID-19 and minimizing the strain on health care resources, while enabling the continuation of essential services, businesses, and social and commercial life during the state of emergency; and

WHEREAS, the City of West Allis intends to gain voluntary compliance from all individuals with the recommendations from the CDC and local healthcare providers concerning the wearing of face coverings, but recognizes that penalties are necessary to ensure such compliance; and

WHEREAS, on October 6, 2020, the common council adopted R-2020-0602 in support of the use of face coverings to prevent and slow the spread of COVID-19; and

WHEREAS, the state face covering mandate is no longer applicable because the Wisconsin Supreme Court invalidated Executive Order #105 on March 31, 2021, and precluded any future orders; and

WHEREAS, Wisconsin state law provides broad authority and power for local governments to provide for health, safety, and welfare pursuant to sections 323.11 and 323.14 (4) of the Wisconsin Statutes, including the general authority to order, by ordinance or resolution, whatever is necessary and expedient for the health, safety, protection, and welfare of persons and property within the local unit of government in the emergency;

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

SECTION 1: **ADOPTION** “7.20 Face Covering Required” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

7.20 Face Covering Required(*Added*)

(a) Definitions. In this section:

1. "Face covering" means a piece of cloth or other material that is worn to cover the nose and mouth completely. A “face covering” includes but is not limited to a bandana, a cloth face mask, a disposable or paper mask, a neck gaiter, or a religious face covering. A “face covering” does not include face shields, mesh masks, masks with holes or openings, or masks with vents.
2. “Physical distancing” means maintaining at least 6 feet of distance from individuals who are not members of the same household or living unit.

(b) Face Covering Requirements. Every individual age 5 and older shall wear a face covering and practice physical distancing if both of the following apply:

1. The individual is indoors or in an enclosed space, other than at a private residence; and
 2. Another person or persons who are not members of individual's household or living unit are present in the same room or enclosed space.
- (c) Exceptions. Individuals who are otherwise required to comply with this section are not required to comply in the following situations:
1. While eating or drinking.
 2. When communicating with an individual who is deaf or hard of hearing and communication cannot be achieved through other means.
 3. While obtaining a service that requires the temporary removal of the face covering, such as dental services.
 4. While sleeping.
 5. While swimming or on duty as a lifeguard.
 6. While a single individual is giving a religious, political, media, educational, artistic, cultural, musical, or theatrical presentation for an audience, the single speaker may remove the face covering when actively speaking. While the face covering is removed, the speaker must practice physical distancing.
 7. When engaging in work where wearing a face covering would create a risk to the individual, as determined by government safety guidelines.
 8. When necessary to confirm the individual's identity, including when entering a bank, credit union, or other financial institution.
 9. When federal or state law or regulations prohibit wearing a face covering.
- (d) Exemptions. The following individuals are exempt from compliance with this section:
1. Individuals who have trouble breathing.
 2. Individuals who are unconscious, incapacitated, or otherwise unable to remove the face covering without assistance.
 3. Individuals with medical conditions, intellectual or developmental disabilities, mental health conditions, or other sensory sensitivities that prevent the individual from wearing a face covering.
 4. Incarcerated individuals.
- (e) Penalty. Any person who violates this section shall upon conviction forfeit not less than \$50 and not more than \$500.

SECTION 2: SEVERABILITY CLAUSE Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 3: EFFECTIVE DATE This ordinance shall be in full force and effect on and after the required approval and publication according to law.

SECTION 4: SUNSET CLAUSE This ordinance shall be repealed upon the expiration of the emergency originally declared on March 17, 2020 in R-2020-0196 and extended by R-2020-0268, R-2020-0404, R-2020-0748, and any future extensions.

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 Allis

Dan Devine, Mayor City Of West
Allis

**CITY OF WEST ALLIS
ORDINANCE O-2021-0192**

**ORDINANCE TO REMOVE SPECIAL EVENT PERMIT EXEMPTION FOR CLASS
B LICENSEES**

AMENDING SECTION 6.032

WHEREAS, the common council finds that a special event permit is a proper and necessary requirement for any events in public space held by Class B licensees;

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

SECTION 1: **AMENDMENT** “6.032 Special Events” of the City Of West Allis Municipal Code is hereby *amended* as follows:

A M E N D M E N T

6.032 Special Events

(a) Definitions. In this section:

1. “Class 1 special event” means a special event that includes at least one of the following features: alcohol is available for consumption, electronically amplified outdoor sound is utilized, or more than 400 square feet of ground is covered by a tent or other temporary structure that provides shelter from the elements.
2. “Class 2 special event” means any special event that is not a Class 1 special event.
3. “Coordinator” means the sponsor or individual(s) identified by the sponsor that will be on-site at all times during a special event and are authorized to ensure compliance with this section.
4. “Direct costs” means those costs incurred by a department to provide staffing and equipment for a special event, including:
 - a. Wages and fringe benefits of city employees or contractors performing work for the special event
 - b. A reasonable rental rate for any city equipment provided for the special event
 - c. An administrative charge equal to 10% of staffing and equipment expenses
5. “Organize” means set up for, hold, arrange for, or maintain.
6. “Person” means any individual, firm, organization, association, or corporation.
7. “Public property” means any right-of-way or land owned or controlled by a federal, state, or local government.
8. “Special event” means any organized gathering of at least 21 people that

impedes the normal use of public property by persons not attending the event.

9. "Sponsor" means the person who holds a permit to organize a special event.

(b) Permit Required. No person may organize a special event without a valid special event permit, unless:

1. The person is an entity that has taxing authority;
2. The special event is a funeral or funeral procession;
3. ~~The premises is an extension of an existing Class "B" license under Wis. Stat. § 125.26(1)(Reserved);~~
4. The person has been issued a park use permit under West Allis Policy and Procedure #2107 Park Regulations and Permits; or
5. The special event is authorized by the West Allis Police Department Crime Prevention Bureau.

(c) **Application**

1. Type and Fee

- a. Regular. Any person seeking a special event permit shall complete an official application, submit it to the city clerk at least 45 days prior to the commencement of the special event, and pay a nonrefundable \$50 special event application processing fee.
- b. Expedited. Any person seeking a special event permit shall complete an official application, submit it to the city clerk 15 to 45 days prior to the commencement of the special event, and pay a \$200 expedited special event application processing fee.

2. Information Required. An application is not complete until the all of the following is filed with the city clerk:

- a. The name, mobile phone number, and email address of the sponsor or, if the sponsor is not an individual, the individual submitting the application on behalf of the sponsor.
- b. The name and mobile phone numbers of all coordinators.
- c. The location and description of the special event premises. The application shall list an address or block number and include a map or diagram of the special event premises.
- d. The dates and times during which the special event is scheduled to take place, and any alternative dates in case a special event is postponed.
- e. A description of the characteristics of the special event, including:
 - i. Maximum capacity of people on the premises and expected peak attendance.
 - ii. Whether alcohol will be available for consumption and the type of alcohol license that will cover the premises.
 - iii. Whether electronically amplified outdoor sound will be utilized.
 - iv. Whether more than 400 square feet of ground will be covered by a tent or other temporary structure that provides shelter from the elements.
- f. For a class 1 special event, a certificate of insurance for the duration of

the special event indicating endorsements and liability coverage amounts consistent with city policy.

- g. For a special event that closes a street, a street closure consent form signed by occupants of at least 50 percent of the residential and commercial units on the closed portion of the street
- 3. Indemnification. The sponsor shall indemnify and hold harmless the City against any and all liability and loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of rights-of-way by the sponsor or its employees, agents, or contractors arising out of the rights and privileges granted by a special event permit.
- 4. Transferability. A sponsor may not transfer a special event permit to another person.

(d) Application Processing

- 1. Upon receiving a completed application, the clerk shall forward the application to the police department, fire department, department of public works, health department, and city engineer.
 - a. Each department shall review the application received from the city clerk and estimate the department's charges associated with the special event.
 - b. Each department's estimated charges shall be the projected direct costs for providing the staffing and equipment for the special event as requested by the sponsor and/or deemed necessary by the department to protect the public health, safety, and welfare.
 - c. In determining staffing and equipment needs, the departments shall consider all the following:
 - i. The anticipated peak attendance.
 - ii. Whether alcohol is available for consumption.
 - iii. Whether outdoor amplified sound is utilized.
 - iv. Particular characteristics of the special event including layout, sight lines, nearby population density, parking availability, and other relevant factors.
 - d. In determining staffing and equipment needs, the departments may not consider the content of any message at the special event.
- 2. The clerk shall determine if the sponsor, coordinator, or any person who has an ownership interest in the sponsor owes any delinquent fees, charges, or other debts to the City.
- 3. Within 15 days after receiving the a regular special event permit application, or as soon as practicable after receiving an expedited special event permit application, all City departments shall supply the city clerk with the amount of the estimated charges.
- 4. If a City department does not timely respond to the city clerk, the city clerk may proceed with processing the application without collecting an advance deposit.

(e) Payment for Estimated Charges, Permit Issuance, and Appeal

- 1. Estimated Charges Payment. The payment for the estimated charges shall be made at least 7 days prior to the event or the application will be considered

withdrawn.

2. Issuance. The city clerk shall issue a special event permit to the sponsor or its agent unless the applicant is disqualified.

3. Disqualifiers. A person is not eligible for a special event permit if any of the following applies:

- a. In the 3 years prior to the date of application, the sponsor or coordinator failed to comply with the requirements of this section.
- b. The special event permit application contains false information.
- c. The estimated charges computed by any City department remain unpaid.
- d. Any delinquent fees, charges, or other debts to the City owed by the sponsor, coordinator, or any person who has an ownership interest in the sponsor remain unpaid.
- e. The clerk is processing or has issued a different special event permit for the same premise during overlapping times and dates.

4. Due Process upon Denial

- a. Regular application. If the clerk has not issued a special event permit upon a regular application at least 30 days after receipt of the application, the person whose application was not approved may apply for a writ of mandamus.
- b. Expedited application. If the clerk has not issued a special event permit upon an expedited application at least 7 days prior to the scheduled commencement of the special event, the person whose application was not approved may apply for a writ of mandamus.

(f) Conditions upon Permit. Upon issuance of a special event permit, each sponsor agrees to the following conditions:

1. The sponsor or at least one coordinator shall be on the special event premises at all times that the special event is open for attendees.
2. The police department, fire department, or department of public works may increase or decrease the staffing or equipment on the premises during the special event based on the actual number of attendees in order to protect the public health, safety, and welfare, and the City may charge the sponsor up to the direct costs of an increase in staffing or equipment under this paragraph.
3. The coordinator shall keep a copy of the special event permit and any other applicable permit or license on the premises for the duration of the special event.
4. The coordinator shall answer at all times that the special event is open for attendees any calls to the mobile phone for the number listed on the application from a city official or employee.
5. The sponsor and coordinator shall comply with all local, state, and federal laws.

(g) Service Charge Settlement. Within 30 days after the final date indicated on the special event permit or the date on which a special event was closed under sub. (8), each department that incurred staffing and equipment costs for the special event may file with the city clerk an invoice showing the actual direct costs for staffing and equipment

provided on premises during the special event.

1. If the total actual direct costs from all departments did not exceed the deposit for estimated charges, the city clerk shall apply the deposit to the due amount and refund any excess to the sponsor.
2. If the total actual direct costs from all departments exceeded the deposit for estimated charges, the city clerk shall apply the deposit to the due amount and invoice the sponsor for the difference. The sponsor shall pay the invoiced amount within 30 days after the invoice date and simple interest shall accrue at 1% per month on the balance due for each month the invoice is delinquent.

(h) Penalty

1. Forfeiture. Any person convicted of violating any of the provisions of this section shall forfeit not less than \$50 nor more than \$500 for each violation, together with the costs of prosecution.
2. Event Closure. A law enforcement officer may summarily invalidate a special event permit and close the special event:
 - a. If the event causes such a disturbance of public order that it is reasonable to believe that the assembly will cause injury to persons or damage to property unless it is immediately dispersed;
 - b. If there is no sponsor or coordinator on the premises; or
 - c. If the sponsor or coordinator fails to correct noncompliance with a condition of a special event permit after advanced warning to the sponsor or coordinator and reasonable opportunity to comply with that condition.
3. Other Remedies. This section does not restrict the City from seeking any other remedies allowed by law.

Note: A special event permit is appropriate for any block party, church festival, concert, parade, carnival, or other large gathering.

SECTION 2: **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 Allis

Dan Devine, Mayor City Of West
Allis

**CITY OF WEST ALLIS
ORDINANCE O-2021-0192**

**ORDINANCE TO REMOVE SPECIAL EVENT PERMIT EXEMPTION FOR CLASS B
LICENSEES**

AMENDING SECTION 6.032

WHEREAS, the common council finds that a special event permit is a proper and necessary requirement for any events in public space held by Class B licensees;

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

SECTION 1: **AMENDMENT** “6.032 Special Events” of the City Of West Allis Municipal Code is hereby *amended* as follows:

A M E N D M E N T

6.032 Special Events

(a) Definitions. In this section:

1. “Class 1 special event” means a special event that includes at least one of the following features: alcohol is available for consumption, electronically amplified outdoor sound is utilized, or more than 400 square feet of ground is covered by a tent or other temporary structure that provides shelter from the elements.
2. “Class 2 special event” means any special event that is not a Class 1 special event.
3. “Coordinator” means the sponsor or individual(s) identified by the sponsor that will be on-site at all times during a special event and are authorized to ensure compliance with this section.
4. “Direct costs” means those costs incurred by a department to provide staffing and equipment for a special event, including:
 - a. Wages and fringe benefits of city employees or contractors performing work for the special event
 - b. A reasonable rental rate for any city equipment provided for the special event
 - c. An administrative charge equal to 10% of staffing and equipment expenses
5. “Organize” means set up for, hold, arrange for, or maintain.
6. “Person” means any individual, firm, organization, association, or corporation.
7. “Public property” means any right-of-way or land owned or controlled by a federal, state, or local government.
8. “Special event” means any organized gathering of at least 21 people that impedes the normal use of public property by persons not attending the event.
9. “Sponsor” means the person who holds a permit to organize a special event.

(b) Permit Required. No person may organize a special event without a valid special event permit, unless:

1. The person is an entity that has taxing authority;
2. The special event is a funeral or funeral procession;
3. ~~The premises is an extension of an existing Class "B" license under Wis. Stat. § 125.26(1)(Reserved);~~
4. The person has been issued a park use permit under West Allis Policy and Procedure #2107 Park Regulations and Permits; or
5. The special event is authorized by the West Allis Police Department Crime Prevention Bureau.

(c) Application

1. Type and Fee

- a. Regular. Any person seeking a special event permit shall complete an official application, submit it to the city clerk at least 45 days prior to the commencement of the special event, and pay a nonrefundable \$50 special event application processing fee.
- b. Expedited. Any person seeking a special event permit shall complete an official application, submit it to the city clerk 15 to 45 days prior to the commencement of the special event, and pay a \$200 expedited special event application processing fee.

2. Information Required. An application is not complete until the all of the following is filed with the city clerk:

- a. The name, mobile phone number, and email address of the sponsor or, if the sponsor is not an individual, the individual submitting the application on behalf of the sponsor.
- b. The name and mobile phone numbers of all coordinators.
- c. The location and description of the special event premises. The application shall list an address or block number and include a map or diagram of the special event premises.
- d. The dates and times during which the special event is scheduled to take place, and any alternative dates in case a special event is postponed.
- e. A description of the characteristics of the special event, including:
 - i. Maximum capacity of people on the premises and expected peak attendance.
 - ii. Whether alcohol will be available for consumption and the type of alcohol license that will cover the premises.
 - iii. Whether electronically amplified outdoor sound will be utilized.
 - iv. Whether more than 400 square feet of ground will be covered by a tent or other temporary structure that provides shelter from the elements.
- f. For a class 1 special event, a certificate of insurance for the duration of the special event indicating endorsements and liability coverage amounts consistent with city policy.
- g. For a special event that closes a street, a street closure consent form signed by occupants of at least 50 percent of the residential and commercial units on the closed portion of the street

3. Indemnification. The sponsor shall indemnify and hold harmless the City against any and all liability and loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of rights-of-way by the sponsor or its employees, agents, or contractors arising out of the rights and privileges granted by a special event permit.
4. Transferability. A sponsor may not transfer a special event permit to another person.

(d) Application Processing

1. Upon receiving a completed application, the clerk shall forward the application to the police department, fire department, department of public works, health department, and city engineer.
 - a. Each department shall review the application received from the city clerk and estimate the department's charges associated with the special event.
 - b. Each department's estimated charges shall be the projected direct costs for providing the staffing and equipment for the special event as requested by the sponsor and/or deemed necessary by the department to protect the public health, safety, and welfare.
 - c. In determining staffing and equipment needs, the departments shall consider all the following:
 - i. The anticipated peak attendance.
 - ii. Whether alcohol is available for consumption.
 - iii. Whether outdoor amplified sound is utilized.
 - iv. Particular characteristics of the special event including layout, sight lines, nearby population density, parking availability, and other relevant factors.
 - d. In determining staffing and equipment needs, the departments may not consider the content of any message at the special event.
2. The clerk shall determine if the sponsor, coordinator, or any person who has an ownership interest in the sponsor owes any delinquent fees, charges, or other debts to the City.
3. Within 15 days after receiving the a regular special event permit application, or as soon as practicable after receiving an expedited special event permit application, all City departments shall supply the city clerk with the amount of the estimated charges.
4. If a City department does not timely respond to the city clerk, the city clerk may proceed with processing the application without collecting an advance deposit.

(e) Payment for Estimated Charges, Permit Issuance, and Appeal

1. Estimated Charges Payment. The payment for the estimated charges shall be made at least 7 days prior to the event or the application will be considered withdrawn.
2. Issuance. The city clerk shall issue a special event permit to the sponsor or its agent unless the applicant is disqualified.
3. Disqualifiers. A person is not eligible for a special event permit if any of the following applies:
 - a. In the 3 years prior to the date of application, the sponsor or coordinator failed to comply with the requirements of this section.

- b. The special event permit application contains false information.
 - c. The estimated charges computed by any City department remain unpaid.
 - d. Any delinquent fees, charges, or other debts to the City owed by the sponsor, coordinator, or any person who has an ownership interest in the sponsor remain unpaid.
 - e. The clerk is processing or has issued a different special event permit for the same premise during overlapping times and dates.
4. Due Process upon Denial
- a. Regular application. If the clerk has not issued a special event permit upon a regular application at least 30 days after receipt of the application, the person whose application was not approved may apply for a writ of mandamus.
 - b. Expedited application. If the clerk has not issued a special event permit upon an expedited application at least 7 days prior to the scheduled commencement of the special event, the person whose application was not approved may apply for a writ of mandamus.
- (f) Conditions upon Permit. Upon issuance of a special event permit, each sponsor agrees to the following conditions:
- 1. The sponsor or at least one coordinator shall be on the special event premises at all times that the special event is open for attendees.
 - 2. The police department, fire department, or department of public works may increase or decrease the staffing or equipment on the premises during the special event based on the actual number of attendees in order to protect the public health, safety, and welfare, and the City may charge the sponsor up to the direct costs of an increase in staffing or equipment under this paragraph.
 - 3. The coordinator shall keep a copy of the special event permit and any other applicable permit or license on the premises for the duration of the special event.
 - 4. The coordinator shall answer at all times that the special event is open for attendees any calls to the mobile phone for the number listed on the application from a city official or employee.
 - 5. The sponsor and coordinator shall comply with all local, state, and federal laws.
- (g) Service Charge Settlement. Within 30 days after the final date indicated on the special event permit or the date on which a special event was closed under sub. (8), each department that incurred staffing and equipment costs for the special event may file with the city clerk an invoice showing the actual direct costs for staffing and equipment provided on premises during the special event.
- 1. If the total actual direct costs from all departments did not exceed the deposit for estimated charges, the city clerk shall apply the deposit to the due amount and refund any excess to the sponsor.
 - 2. If the total actual direct costs from all departments exceeded the deposit for estimated charges, the city clerk shall apply the deposit to the due amount and invoice the sponsor for the difference. The sponsor shall pay the invoiced amount within 30 days after the invoice date and simple interest shall accrue at 1% per month on the balance due for each month the invoice is delinquent.
- (h) Penalty

1. Forfeiture. Any person convicted of violating any of the provisions of this section shall forfeit not less than \$50 nor more than \$500 for each violation, together with the costs of prosecution.
2. Event Closure. A law enforcement officer may summarily invalidate a special event permit and close the special event:
 - a. If the event causes such a disturbance of public order that it is reasonable to believe that the assembly will cause injury to persons or damage to property unless it is immediately dispersed;
 - b. If there is no sponsor or coordinator on the premises; or
 - c. If the sponsor or coordinator fails to correct noncompliance with a condition of a special event permit after advanced warning to the sponsor or coordinator and reasonable opportunity to comply with that condition.
3. Other Remedies. This section does not restrict the City from seeking any other remedies allowed by law.

Note: A special event permit is appropriate for any block party, church festival, concert, parade, carnival, or other large gathering.

SECTION 2: **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 APRIL 07, 2021.

	AYE	NAY	ABSENT	ABSTAIN
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> </u>	<u> </u>	<u> X </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 Hill, City Clerk, City Of West Allis



Dan Devine, Mayor City Of West Allis



**CITY OF WEST ALLIS
RESOLUTION R-2021-0198**

**RESOLUTION TO WAIVE LATE FEES FOR ALCOHOL BEVERAGE LICENSE
RENEWAL APPLICATIONS EXPIRING ON JUNE 30, 2021**

WHEREAS, the City of West Allis is migrating the application and processing of licenses and permits to a new software provider, My Government Online (MGO), and;

WHEREAS, the vendor and City staff have had to adjust the timeline for development and testing of alcohol beverage license applications, and;

WHEREAS, due to the adjusted timeline, the ability for licensees to apply for renewals will not be until the end of April, and this will not allow for adequate time for licensees to submit their renewal applications.

NOW THEREFORE, BE IT RESOLVED, that 2021 alcohol beverage renewal applications submitted on or before May 21, 2021 will not be accessed a late.

BE IT FURTHER RESOLVED, that the Office of the City Clerk is authorized to take appropriate action to implement said actions.

SECTION 1: **ADOPTION** “R-2021-0198” of the City Of West Allis Municipal Resolutions is hereby *added* as follows:

ADOPTION

R-2021-0198(*Added*)

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 Allis

Dan Devine, Mayor City Of West
Allis

**CITY OF WEST ALLIS
RESOLUTION R-2021-0198**

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PASSED AND ADOPTED BY THE CITY OF WEST ALLIS COUNCIL APRIL 07, 2021.

	AYE	NAY	ABSENT	ABSTAIN
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> </u>	<u> </u>	<u>X</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 Hill

Rebecca Grill, City Clerk, City Of West Allis

Dan Devine

Dan Devine, Mayor City Of West Allis





Clerk's Office
 7525 W. Greenfield Avenue, West Allis, WI 53214
 (414) 302-8220 www.westalliswi.gov

Liquor License Packet

Included in this portfolio are the necessary documents needed to apply a new Alcohol Beverage license with the City of West Allis. Please print and then sign each of the documents before submitting to the Clerk's Office. For additional copies of a form (i.e. Auxiliary Questionnaire AT-103) print off required copies you need or go to the Quick Link – WI Dept. of Revenue Forms below.

Liquor License fees are prorated as follows. Minimum payment due upon receipt of your application is \$200.00 plus the additional fees (including the Instrumental Music License application of \$140.00, if applicable)
 Cash or Check (payable to the City of West Allis):

	Combination B Tavern	Combination Class A	Class A Beer	Class B Beer	Class C Wine
August	\$300* *COVID reduced fee	\$600	\$150	\$100	\$100
September		\$550			
October		\$500			
November		\$450			
December – June		\$400			

Additional fees include:

- o Publication Fee of \$15.00
- o Record Check Fee of \$15.00 for every member listed on the Liquor Application (AT-106)

The checklist of the necessary requirements is provided below. The first three (3) items (Detailed Floor Plan, Plan of Operation, and Public Entertainment Form) are required when submitting the Application.

- Plan of Operation – To be submitted with application
- Public Entertainment Form – To be submitted with application (except for Class A applicants)
- Article of Incorporation
- Federal Identification Numbers
- State Seller Permit or WI Business Tax Registration Certificate with expiration date included
- Proof of Liquor or Bartending License/Class
- Surrender of Active License with Statement
- Fees paid \$ _____
- Fees due \$ 330⁰⁰

Quick Links:

- o WI Dept. of Revenue - Forms
- o Operators' Licenses - Alcohol Beverage Laws
- o Alcohol Beverage Laws for Retailers Licenses
- o Wisconsin Alcohol Beverage and Tobacco Laws for Retailers
- o City of West Allis, WI Code Chapter 9: Business And Occupations

FYI - click mouse in 'For the license period beginning' field to begin and tab throughout. Use mouse to check appropriate boxes, spacebar or enter.

Save **Print** **Clear**

Original Alcohol Beverage Retail License Application

(Submit to municipal clerk.)

For the license period beginning: 04/01/2021 ending: 03/31/2022
(mm dd yyyy) (mm dd yyyy)

To the Governing Body of the: Town of } West Allis
 Village of }
 City of }

County of Milwaukee Aldermanic Dist. No. _____
(if required by ordinance)

Check one: Individual Limited Liability Company
 Partnership Corporation/Nonprofit Organization

Applicant's Wisconsin Seller's Permit Number ██████████	
FEIN Number ██████████	
TYPE OF LICENSE REQUESTED	FEE
<input type="checkbox"/> Class A beer	\$
<input type="checkbox"/> Class B beer	\$
<input type="checkbox"/> Class C wine	\$
<input type="checkbox"/> Class A liquor	\$
<input type="checkbox"/> Class A liquor (cider only)	\$ N/A
<input type="checkbox"/> Class B liquor	\$
<input type="checkbox"/> Reserve Class B liquor	\$
<input type="checkbox"/> Class B (wine only) winery	\$
Publication fee	\$
TOTAL FEE	\$

Name (individual / partners give last name, first, middle; corporations / limited liability companies give registered name)
The Candle Company LLC

An "Auxiliary Questionnaire," Form AT-103, must be completed and attached to this application by each individual applicant, by each member of a partnership, and by each officer, director and agent of a corporation or nonprofit organization, and by each member/manager and agent of a limited liability company. List the full name and place of residence of each person.

President / Member Last Name Timmons	(First) Tedrick	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code) 3450 South Stonegate Cir 204 New Berlin, WI
Vice President / Member Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)
Secretary / Member Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)
Treasurer / Member Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)
Agent Last Name Timmons	(First) Tedrick	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code) 3450 S. Stonegate Cir 204 New Berli
Directors / Managers Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)

1. Trade Name The Candle Company LLC Business Phone Number 2022530215

2. Address of Premises 8100 West National Avenue Post Office & Zip Code 53214

3. Premises description: Describe building or buildings where alcohol beverages are to be sold and stored. The applicant must include all rooms including living quarters, if used, for the sales, service, consumption, and/or storage of alcohol beverages and records. (Alcohol beverages may be sold and stored only on the premises described.)

Commerical retail building located on 81st and National Avenue. The facility will house candle making stations and retail space to purchase candle fragrance products. While patrons are creating candles at the different stations or bar, they can also enjoy a glass of wine for a calm, relaxing and stress relief activity.

4. Legal description (omit if street address is given above): _____

5. (a) Was this premises licensed for the sale of liquor or beer during the past license year? Yes No

(b) If yes, under what name was license issued? _____

6. Is individual, partners or agent of corporation/limited liability company subject to completion of the responsible beverage server training course for this license period? **If yes, explain** Yes No
Wisconsin approved training course has been completed to satisfy this requirement/

7. Is the applicant an employe or agent of, or acting on behalf of anyone except the named applicant? Yes No
If yes, explain.

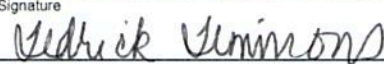
8. Does any other alcohol beverage retail licensee or wholesale permittee have any interest in or control of this business? **If yes, explain** Yes No

9. (a) **Corporate/limited liability company applicants only:** Insert state Wisconsin and date 07/04/20 of registration.
- (b) Is applicant corporation/limited liability company a subsidiary of any other corporation or limited liability company? **If yes, explain** Yes No

- (c) Does the corporation, or any officer, director, stockholder or agent or limited liability company, or any member/manager or agent hold any interest in any other alcohol beverage license or permit in Wisconsin? **If yes, explain.** Yes No

10. Does the applicant understand they must register as a Retail Beverage Alcohol Dealer with the federal government, Alcohol and Tobacco Tax and Trade Bureau (TTB) by filing (TTB form 5630.5d) before beginning business? [phone 1-877-882-3277] Yes No
11. Does the applicant understand they must hold a Wisconsin Seller's Permit? [phone (608) 266-2776] Yes No
12. Does the applicant understand that they must purchase alcohol beverages only from Wisconsin wholesalers, breweries and brewpubs? Yes No

READ CAREFULLY BEFORE SIGNING: Under penalty provided by law, the applicant states that each of the above questions has been truthfully answered to the best of the knowledge of the signer. Any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000. Signer agrees to operate this business according to law and that the rights and responsibilities conferred by the license(s), if granted, will not be assigned to another. (Individual applicants, or one member of a partnership applicant must sign; one corporate officer, one member/manager of Limited Liability Companies must sign.) Any lack of access to any portion of a licensed premises during inspection will be deemed a refusal to permit inspection. Such refusal is a misdemeanor and grounds for revocation of this license.

Contact Person's Name (Last, First, M.I.) Timmons, Tedrick	Title/Member President	Date 02/11/20
Signature 	Phone Number 2022530215	Email Address tedricktimmons@thecanc

TO BE COMPLETED BY CLERK

Date received and filed with municipal clerk	Date reported to council / board	Date provisional license issued	Signature of Clerk / Deputy Clerk
Date license granted	Date license issued	License number issued	

Auxiliary Questionnaire Alcohol Beverage License Application

Submit to municipal clerk.

Individual's Full Name (please print) (last name)		(first name)		(middle name)	
Timmons		Tedrick			
Home Address (street/route)		Post Office	City	State	Zip Code
3450 S. Stonegate Cir		204	New Berlin	WI	53151
Home Phone Number		Age	Date of Birth	Place of Birth	
(202) 253-0215		█	█	North Dakota	

The above named individual provides the following information as a person who is (check one):

- Applying for an alcohol beverage license as an **individual**.
- A member of a **partnership** which is making application for an alcohol beverage license.
- Member** of The Candle Company LLC
(Officer / Director / Member / Manager / Agent) (Name of Corporation, Limited Liability Company or Nonprofit Organization)

which is making application for an alcohol beverage license.

The above named individual provides the following information to the licensing authority:

- How long have you continuously resided in Wisconsin prior to this date? 2 years
- Have you ever been convicted of any offenses (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of any other states or ordinances of any county or municipality? Yes No
 If yes, give law or ordinance violated, trial court, trial date and penalty imposed, and/or date, description and status of charges pending. *(If more room is needed, continue on reverse side of this form.)*
- Are charges for any offenses presently pending against you (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of other states or ordinances of any county or municipality? Yes No
 If yes, describe status of charges pending.
- Do you hold, are you making application for or are you an officer, director or agent of a corporation/nonprofit organization or member/manager/agent of a limited liability company holding or applying for any other alcohol beverage license or permit? Yes No
 If yes, identify. (Name, Location and Type of License/Permit)
- Do you hold and/or are you an officer, director, stockholder, agent or employe of any person or corporation or member/manager/agent of a limited liability company holding or applying for a wholesale beer permit, brewery/winery permit or wholesale liquor, manufacturer or rectifier permit in the State of Wisconsin? Yes No
 If yes, identify. (Name of Wholesale Licensee or Permittee) (Address By City and County)
- Named individual must list in chronological order last two employers.

Employer's Name	Employer's Address	Employed From	To
Transamerica Insurance	570 Carrillon Parkway St. P Florida	04/01/2005	12/31/2014
Employer's Name	Employer's Address	Employed From	To
Zurich North America	900 S Pine Island Plantation FL 335	01/01/2015	01/01/2021

READ CAREFULLY BEFORE SIGNING: Under penalty provided by law, the undersigned states that each of the above questions has been truthfully answered to the best of the knowledge of the signer. The signer agrees that he/she is the person named in the foregoing application; that the applicant has read and made a complete answer to each question, and that the answers in each instance are true and correct. The undersigned further understands that any license issued contrary to Chapter 125 of the Wisconsin Statutes shall be void, and under penalty of state law, the applicant may be prosecuted for submitting false statements and affidavits in connection with this application. Any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000.

Tedrick Timmons
(Signature of Named Individual)

SCHEDULE FOR APPOINTMENT OF AGENT BY CORPORATION/NONPROFIT ORGANIZATION OR LIMITED LIABILITY COMPANY

Submit to municipal clerk.

All corporations/organizations or limited liability companies applying for a license to sell fermented malt beverages and/or intoxicating liquor must appoint an agent. The following questions must be answered by the agent. The appointment must be signed by the officer(s) of the corporation/organization or members/managers of a limited liability company and the recommendation made by the proper local official.

To the governing body of: Town
 Village of West Allis County of Milwaukee
 City

The undersigned duly authorized officer(s)/members/managers of The Candle Company LLC
(registered name of corporation/organization or limited liability company)

a corporation/organization or limited liability company making application for an alcohol beverage license for a premises known as
The Candle Company LLC
(trade name)

located at 8100 West National Avenue

appoints Tedrick Timmons
(name of appointed agent)
3450 S. Stonegate Cir 204 New Berlin WI 53151
(home address of appointed agent)

to act for the corporation/organization/limited liability company with full authority and control of the premises and of all business relative to alcohol beverages conducted therein. Is applicant agent presently acting in that capacity or requesting approval for any corporation/organization/limited liability company having or applying for a beer and/or liquor license for any other location in Wisconsin?

Yes No If so, indicate the corporate name(s)/limited liability company(ies) and municipality(ies).

Is applicant agent subject to completion of the responsible beverage server training course? Yes No

How long immediately prior to making this application has the applicant agent resided continuously in Wisconsin? 2 years

Place of residence last year Wisconsin

For: The Candle Company LLC
(name of corporation/organization/limited liability company)

By: Tedrick Timmons
(signature of Officer/Member/Manager)

And: _____
(signature of Officer/Member/Manager)

ACCEPTANCE BY AGENT

I, Tedrick Timmons, hereby accept this appointment as agent for the
(print/type agent's name)

corporation/organization/limited liability company and assume full responsibility for the conduct of all business relative to alcohol beverages conducted on the premises for the corporation/organization/limited liability company.

Tedrick Timmons 2/11/2021 Agent's age
(signature of agent) (date)
3450 S. Stonegate Cir 204 New Berlin WI 53151 Date of birth
(home address of agent)

APPROVAL OF AGENT BY MUNICIPAL AUTHORITY (Clerk cannot sign on behalf of Municipal Official)

I hereby certify that I have checked municipal and state criminal records. To the best of my knowledge, with the available information, the character, record and reputation are satisfactory and I have no objection to the agent appointed.

Approved on _____ by _____ Title _____
(date) (signature of proper local official) (town chair, village president, police chief)



FLOOR PLAN

-NEW APPLICANTS ONLY-

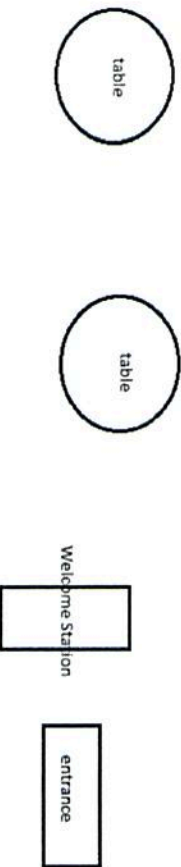
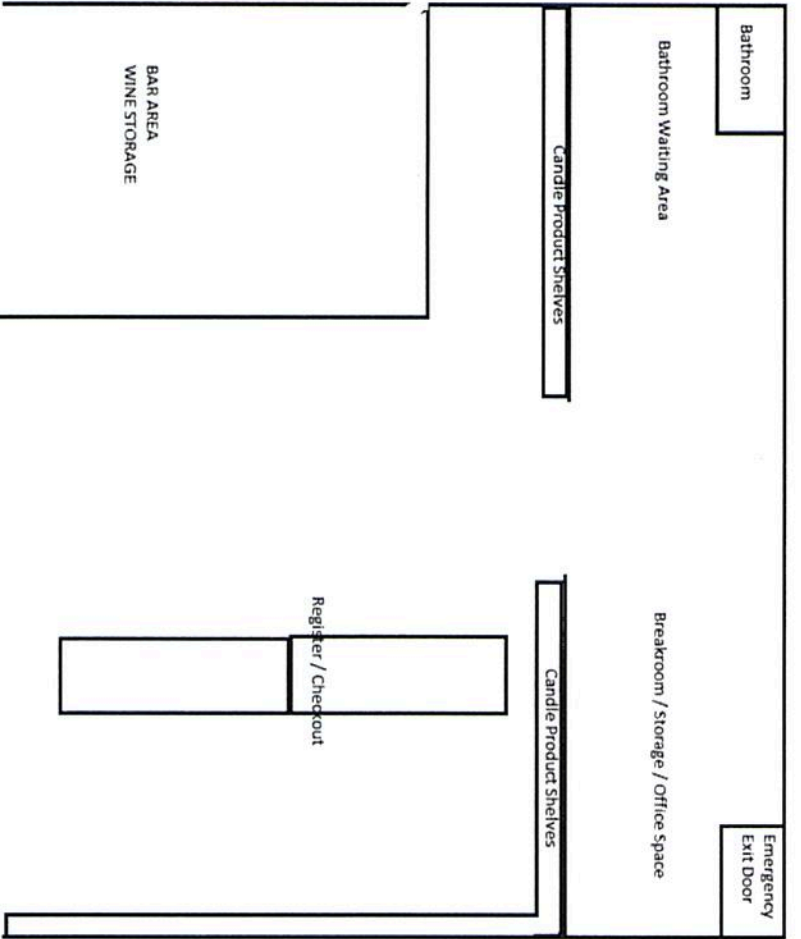
Name of Business The Candle Company LLC
(Name of Individual, Partners, Corporation or LLC)

Address of Licensed Premises 8100 West National Avenue

Trade Name The Candle Company LLC

Instructions: 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 ½ inch by 11 inch sized sheet of paper for each floor of the licensed premises. The floor plan shall include:

1. Provide a written detailed description indicating the portion of the building or buildings where alcohol beverages are to be sold and stored. The applicant must include all rooms including living quarters, if used, for the sales, service, consumption, and/or storage of alcohol beverages and records. (Alcohol beverages may be sold and stored only on the premises described).
2. Area in square feet and dimensions of the licensed premises.
3. Locations of 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.
4. Locations of all seating areas, bars, and, if applicable, food preparation areas.
5. Locations and dimensions of any alcohol beverage storage and display areas.
6. Locations and dimensions of any outdoor areas available at the premises for the sale, service or consumption of alcohol beverages.
7. North point
8. Date
9. Any other reasonable and pertinent information the License and Health Committee may require either for all applicants or in a particular case.



Reservations & ID check
 Welcome Station
 West National Avenue

Address:
 The Candle Company LLC
 8100 West National Avenue
 West Allis, Wisconsin 53214

Approximate Square Footage: 1700sqft

This establishment makes a petition to be able to serve wine to patrons who are taking our candle making class onsite. We do not anticipate selling packaged or bottled wine but rather will serve glasses of wine throughout the class or while visiting the store.

All wine will be store in the bar area which will have storage space that consists of secured cabinets and shelving to accommodate safety measurements.

Patrons will utilize the same entrance door as an exit door. For emergency purposes and for any need to evacuate the building, the emergency exit door will be used at that time. Entrance/Exit Doors have been identified in the diagram.

This facility does not have an area for food preparation. We will not serve food as food can only be catered in for private events.

Seating areas have been identified in the diagram



WISCONSIN DEPARTMENT OF REVENUE
 PO BOX 8902
 MADISON, WI 53708-8902

Contact Information:

2135 RIMROCK RD PO BOX 8902
 MADISON, WI 53708-8902
 ph: 608-266-2776 fax: 608-224-5761
 email: DORBusinessTax@wisconsin.gov
 website: revenue.wi.gov

Letter ID L0394864720

TEDRICK TIMMONS
 THE CANDLE COMPANY
 8100 W NATIONAL AVE
 WEST ALLIS WI 53214-4447

Wisconsin Department of Revenue Seller's Permit

Legal/real name: THE CANDLE COMPANY
Business name: THE CANDLE COMPANY
 8100 W NATIONAL AVE
 WEST ALLIS WI 53214-4447

- This certificate confirms you are registered with the Wisconsin Department of Revenue and authorized in the business of selling tangible personal property and taxable services.
- You may not transfer this permit.
- This permit must be displayed at the place of business and is not valid at any other location.
- If your business is not operated from a fixed location, you must carry or display this permit at all events.

Tax Type	Account Type	Account Number
Sales & Use Tax	Seller's Permit	[REDACTED]



For Office



State of Wisconsin
Department of Financial Institutions

Endorsement

ARTICLES OF ORGANIZATION - LIMITED LIABILITY COMPANY

THE CANDLE COMPANY, LLC

Received Date: 7/9/2020

Filed Date: 7/14/2020

Filing Fee: \$170.00

Entity ID#: T085788

Total Fee: \$170.00

STUDENT ENTREPRENEUR

Serving Alcohol

is proud to present this certificate to

Tedrick Timmons

for successful completion of the online course



Wisconsin Alcohol Seller/Server Course

PERSONS COMPLETING THIS COURSE HAVE AGREED TO EXECUTE THE FOLLOWING POLICIES TO THE BEST OF THEIR ABILITIES.

- CARD ANY PERSON 35 YEARS OF AGE OR YOUNGER
- OBSERVE AND REPORT ANY CUSTOMER SHOWING SIGNS OF POSSIBLE IMPAIRED BEHAVIOR TO MANAGEMENT
- RESPOND IMMEDIATELY TO ANY POSSIBLE PROBLEM SITUATION
- DETERMINE THE PEOPLE ENTERING THE PREMISES TO CONSUME ALCOHOL ARE OF LEGAL ALCOHOL DRINKING AGE AND RECORD THEM IF THERE IS ANY QUESTION ABOUT THEIR AGE
- ENSURE A PERSON MATCHES THEIR VALID LEGAL IDENTIFICATION

This is a Wisconsin Department of Revenue approved Responsible Beverage Server Training Course in compliance with Sec. 125.17 (6), 134.66 (2m), and 125.04 (5) (a) 5. Wis. Stats.

Verify online at
servingalcohol.com

Verification Code
Jn9OykiPgM

Date Issued
Jan 21st, 2021

VALID FOR 2 YEARS

This is not a Wisconsin operators/bartenders license.

This certificate will be requested to obtain a Wisconsin operators/bartenders license from the Wisconsin city clerk's office in the municipality where you are working.

Find your city clerk's office here: <https://elections.wi.gov/clerks/directory>

Wisconsin Alcohol Seller/Server Course

Name: Tedrick Timmons

Certification Date: Jan 21st, 2021

Certificate Code: Jn9OykiPgM

Verify Online: servingalcohol.com

125.17(6), 134.66 (2m), 125.04(5)(a)5 Wis. Stats.

SERVING ALCOHOL INC

VALID FOR 2 YEARS

Learn more about this wallet card at <http://servingalcohol.com/wallet-card>

From: [Ann Marie Neff](#)
To: [Tedrick Timmons](#)
Cc: [Rebecca Grill](#); [Janel Lemanske](#); [Nicholas Cerwin](#)
Subject: RE: West Allis Wine License application and occupancy
Date: Thursday, February 11, 2021 2:28:00 PM
Attachments: [Scanned-image02-11-2021-183354.pdf](#)

Yes, Thank you.

Pending a review by the City Attorney Office and the License & Health Committee, the application appears to be in order.

We accept cash, check or money order only for payments.

When we receive payment either in person or in the night drop box located on the parking lot side of City Hall, to the east of the glass doors, 7525 W. Greenfield Ave., we are required to hold the application for 15 days before the License & Health Committee and Council can act on it.

Here would be the time line for submittal to council introduction:

<u>If we receive payment by</u>	<u>It may go to Council</u>
February 15, 2021, 5:00 p.m.	March 2, 2021
March 1, 2021	March 16, 2021
March 22, 2021	April 7, 2021

You will receive an email regarding a virtual appearance with the License & Health Committee to explain discuss your experience, application and business plan.

Be sure to apply for the Occupancy Permit

Business Occupancy Permits link <https://www.westalliswi.gov/133/Business-Occupancy-Permit>

Before you may begin selling alcohol, wine or beer, you must have an approved Occupancy Permit and an alcohol license must be issued and posted,

You are required to have completed inspections from

Fire (414-302-8901),

Health (414-302-8600) (Health is also where you would apply for the food permit) and

Building Inspections (414-302-8400) (electrical and or plumbing inspections) and acquired an

Occupancy Permit from Building Inspections.

Ann Marie Neff

Administrative Support Specialist | Clerk's Office

City of West Allis

7525 W. Greenfield Ave. | West Allis, WI 53214

Office: 414-302-8202 | Dept: 414-302-8220

thatswhywestallis.com

From: Tedrick Timmons [mailto:tedricktimmons@thecandleco.com]

Sent: Thursday, February 11, 2021 2:10 PM

To: Ann Marie Neff

Subject: Re: West Allis Wine License application and occupancy

Here are the updates as you have requested. Please let me know if these corrections are appropriate.

Thanks,
Tedrick Timmons

On Feb 11, 2021, at 12:10 PM, Ann Marie Neff <ANeff@westalliswi.gov> wrote:

Correction on the license fee to \$300. See below.
My apologies.

Ann Marie Neff
Administrative Support Specialist | Clerk's Office
City of West Allis
7525 W. Greenfield Ave. | West Allis, WI 53214
Office: 414-302-8202 | Dept: 414-302-8220
thatswhywestallis.com

From: Ann Marie Neff
Sent: Thursday, February 11, 2021 11:01 AM
To: Tedrick Timmons
Cc: Rebecca Grill
Subject: RE: West Allis Wine License application and occupancy

Tedrick,

Thank you for your application and paperwork.
Just a couple things I noticed as I reviewed it.

And the fees due are:

\$15 Publication

\$15 Record Check Fee

\$300 License Fee (remember this license expires June 30, 2021. You will receive a renewal notice in April)

\$330 Total Due

On your auxiliary Questionnaire it asks for your last 2 employers. You left that blank.

Please complete.

On the Appointment of Agent form

“to act for the corporation/organization/limited liability company with full authority and control of the premises and of all business relative to alcohol beverages conducted therein. Is applicant agent presently acting in that capacity or requesting approval for any corporation/ organization/limited liability company having or applying for, a beer and/or liquor license for any other location in Wisconsin?”

the yes or no box needs to be checked
a signature of an officer or member needs to sign to appoint you agent.
Even if it is just you, we require your signature there

I noticed you checked The Candle Company is an LLC and the Articles of Incorporation paperwork reflect that name.
However, your Wisconsin Department of Revenue Seller's Permit does not say LLC. Is this just an oversight on the paperwork?
Please update your application in all places to reflect The Candle Company, LLC

The doing business name will be The Candle Company?
What part does (The Vibe Candle Bar) play for the name of the business or the entity?

Ann Marie Neff
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City of West Allis
7525 W. Greenfield Ave. | West Allis, WI 53214
Office: 414-302-8202 | Dept: 414-302-8220
thatswhywestallis.com

From: Tedrick Timmons [mailto:tedricktimmons@thecandleco.com]
Sent: Thursday, February 11, 2021 10:30 AM
To: Ann Marie Neff
Cc: Tedrick Timmons
Subject: Re: West Allis Wine License application and occupancy

Here is the completed application for the wine license for The Candle Company.

Thanks,
Tedrick Timmons

On Jan 14, 2021, at 4:51 PM, Ann Marie Neff <ANeff@westalliswi.gov> wrote:

Mr. Timmons:
Attached is the application packet (which was previous sent on October 30, 2020) to apply for your alcohol license for the premises at 8100 W. National Ave. Your business plan has a bit confused as to whether you are selling candle with wine for off premise consumption or if you are serving wine for on premise consumption during your classes and for entertainment and recreational purposes.
A Class A Liquor allows samples (free) and bottle purchases for off premise consumption.
A Class B Tavern allows for sales of wine for on premise consumption.

These are 2 different types of licenses. You are only allowed one license per address.

We are required by law to hold an application for 15 days before council can act on the application. Keep that in mind for your timeline.

Please let us know if you have any further questions.

Ann

Attached you will find the packet for a New alcohol license application. You had stated you were interested in packaging wine with candles. You would be applying for a Combination Class A Liquor License. This is the only type of license that would allow you to sell wine for off premise consumption and allow you to do wine sampling. The fee is prorated depending on the month you submit the application. (see the chart on the first page). You may call or email me for clarification if needed.

There is a publication fee (\$15)

A record check fee (\$15) is charged for each person listed on the application that lives in the state of WI.

Page 2-3 Is the state application

Page 4 Each member including the agent needs to have an auxiliary form filled out and signed.

Page 5 The agent also needs to complete the Schedule for appointment of agent and a member of the organization needs to sign it.

Page 6 We require a detailed floor plan per the instruction sheet

Page 7-8 The plan of Operation form needs to be submitted with the application

Page 9-10 Public Entertainment form not needed for a Class A license

We accept cash, check or money order for payment when the application is submitted. (license fee, record check fees, and publication fee).

Minimum payment at the time of applying would be \$200 plus, publication, plus record check fees.

We hold an application for fifteen (15) days before it is introduced to the License & Health Committee for recommendation to the Council for the final vote.

Before you may begin selling alcohol, wine or beer, a license must be issued and posted, you are required to have completed inspections from Fire (414-302-8901),

Health (414-302-8600) (Health is also where you would apply for the food permit) and

Building Inspections (414-302-8400) (electrical and or plumbing inspections) and acquired an Occupancy Permit from Building Inspections.

Business Occupancy Permits link

<https://www.westalliswi.gov/133/Business-Occupancy-Permit>

Please feel free to reach out if you have any further questions or concerns.

Ann Marie Neff

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City of West Allis
7525 W. Greenfield Ave. | West Allis, WI 53214
Office: 414-302-8202 | Dept: 414-302-8220
thatswhywestallis.com

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The City of West Allis is subject to Wisconsin Statutes related to public records. Unless otherwise exempted from the public records law, senders and receivers of City of West Allis e-mail should presume that e-mail is subject to release upon request, and is subject to state records retention requirements. See City of West Allis full e-mail disclaimer at <http://www.westalliswi.gov/emaildisclaimer>

<New License application packet.pdf>

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<Scanned-image02-11-2021-131427.pdf>

Subject: RE: West Allis Wine License application and occupancy
Date: 2021-02-12 08:28:28
[Download](#)
From: Nicholas Cerwin
To/Cc: 'Tedrick Timmons' ±

Tedrick,

Alcohol Licensing is a messy process thanks to a lot of legislation on the State level. I advise on it regularly and still find new areas of the law that make things difficult.

I cannot give you legal advice on your application or how you intend to run the operation but what you propose does not sound unreasonable. Ultimately you'll have to decide how you'd fit into one of the statutory categories under Wis. Stat. 125.32(3m):

- Hotel
- Restaurant
- Sporting goods store and tavern
- Novelty and tavern
- Bowling center or rec premises
- Club
- Movie theatre
- Painting studio

The Novelty and Tavern category may be the best option here but that is up to you if that's the category you'd think you would fall under and the committee if they agree. I should point out that the Department of Revenue (State agency) could void the license if they feel that the issuance of the license is in violation of the statutes. I don't say that to scare you at all and I think that's a very remote issue, but just so you're prepared with identifying how you can comply with the statutes in the future IF the DOR comes knocking.

Regarding specific alcohol sales, if the Class B license were approved without conditions, it would grant you the ability to sell beer, wine, and liquor. As your application indicates, it sounds like you're only interested in wine. The Committee could put conditions on the license to limit to wine only so I only brought that up in case your plan and application were different.

Thanks for reaching out and for the unique ideas! Hopefully everything goes great through committee and the business is lucrative for you. Sounds like a fun idea.

Nick Cerwin

Assistant City Attorney

From: Tedrick Timmons [mailto:tedricktimmons@thecandleco.com]
Sent: Thursday, February 11, 2021 5:34 PM
To: Nicholas Cerwin
Cc: Ann Marie Neff; Rebecca Grill; Janel Lemanske; Shaun Mueller
Subject: Re: West Allis Wine License application and occupancy

Good Evening,

Thank you for sharing this information as it is super beneficial and helpful for me to know. I don't know if I have been explaining how we plan to utilize alcohol but it is in the same manner as a painting with a twist.

We don't want to sell wine as a product per se but our desire is to serve a glass of wine to individuals who have registers for our candle making class. Nothing more than that.

The Health inspector has come out to the property already and we passed the inspection from a health perspective. If the intent is to only serve wine in the capacity with creating candles and utilizing the same concept as pairing with a twist, what class would this fall under? And are there any restrictions or potential concerns around how this particular process would work.

I am completely new to this process so please forgive any of my of my ignorance, but I do seek to understand more.

Thanks,

Tedrick Timmons

On Feb 11, 2021, at 3:16 PM, Nicholas Cerwin <NCerwin@westalliswi.gov> wrote:

Good Afternoon All,

I believe today is the first I am seeing this as far as I recall. That's not problematic since I am not a gate keeper in this process but I want to point out potential issue with the plan of operation. I am leaving the applicant on the email as well so that these concerns may be addressed with the committee if/when they come up. When is this being scheduled for review by the License and Health Committee?

First, Wisconsin Statute section 125.32(3m) limits businesses that can obtain a class B license. Those establishments are limited to the following types of businesses (I am paraphrasing):

- Hotel
- Restaurant
- Sporting goods store and tavern
- Novelty and tavern
- Bowling center or rec premises
- Club
- Movie theatre
- Painting studio

The Development Department and applicants should be aware of these restrictions and should be able to address how they can comply with state law. This is not a requirement that West Allis created to be

clear. I cannot advise the applicant on how to argue they are valid under the law but there may be sufficient grey area for the committee to approve if presented correctly and if the committee wants to approve this. I do not believe I can advise the committee this would meet the painting studio classification so the applicant may need to sort out another option to explain how this could be in compliance with state regulations.

The second issue is that the licensee has listed that they want to sell wine only. A combination class B license allows for beer and/or liquor as well. Based on the proposed plan of operation, the License and Health Committee may have concerns about how to approve this or if the intent is to just proceed with wine only. The Committee may elect to impose conditions on the license, if granted, to limit to just wine so the applicant should be prepared to address whether their application is accurate or there is an intent to proceed with additional types of alcohol.

Let me know if there are any questions or concerns.

Nicholas Cerwin

Principal Assistant City Attorney | City Attorney's Office
City of West Allis
7525 W. Greenfield Ave. | West Allis, WI 53214
Dept: 414-302-8450
thatswhywestallis.com

From: Ann Marie Neff
Sent: Thursday, February 11, 2021 2:29 PM
To: Tedrick Timmons
Cc: Rebecca Grill; Janel Lemanske; Nicholas Cerwin
Subject: RE: West Allis Wine License application and occupancy

Yes, Thank you.

Pending a review by the City Attorney Office and the License & Health Committee, the application appears to be in order.

We accept cash, check or money order only for payments.

When we receive payment either in person or in the night drop box located on the parking lot side of City Hall, to the east of the glass doors, 7525 W. Greenfield Ave., we are required to hold the application for 15 days before the License & Health Committee and Council can act on it.

Here would be the time line for submittal to council introduction:

If we receive payment by	It may go to Council
February 15, 2021, 5:00 p.m.	March 2, 2021
March 1, 2021	March 16, 2021
March 22, 2021	April 7, 2021

You will receive an email regarding a virtual appearance with the License & Health Committee to explain discuss your experience, application and business plan.

Be sure to apply for the Occupancy Permit

Business Occupancy Permits link <https://www.westalliswi.gov/133/Business-Occupancy-Permit>

Before you may begin selling alcohol, wine or beer, you must have an approved Occupancy Permit and an alcohol license must be issued and posted,

You are required to have completed inspections from

Fire (414-302-8901),

Health (414-302-8600) (Health is also where you would apply for the food permit) and

Building Inspections (414-302-8400) (electrical and or plumbing inspections) and acquired an Occupancy Permit from Building Inspections.

Ann Marie Neff

Administrative Support Specialist | Clerk's Office

City of West Allis

7525 W. Greenfield Ave. | West Allis, WI 53214

Office: 414-302-8202 | Dept: 414-302-8220

thatswhywestallis.com

From: Tedrick Timmons [mailto:tedricktimmons@thecandleco.com]
Sent: Thursday, February 11, 2021 2:10 PM
To: Ann Marie Neff
Subject: Re: West Allis Wine License application and occupancy

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Thanks,

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Correction on the license fee to \$300. See below.

My apologies.

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Cc: Rebecca Grill
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Just a couple things I noticed as I reviewed it.

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However, your Wisconsin Department of Revenue Seller's Permit does not say LLC. Is this just an oversight on the paperwork?

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From: Tedrick Timmons [mailto:tedricktimmons@thecandleco.com]
Sent: Thursday, February 11, 2021 10:30 AM
To: Ann Marie Neff
Cc: Tedrick Timmons
Subject: Re: West Allis Wine License application and occupancy

Here is the completed application for the wine license for The Candle Company.

Thanks,

Tedrick Timmons

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Mr. Timmons:

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A Class A Liquor allows samples (free) and bottle purchases for off premise consumption.

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These are 2 different types of licenses. You are only allowed one license per address.

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Please let us know if you have any further questions.

Ann

Attached you will find the packet for a New alcohol license application.

You had stated you were interested in packaging wine with candles. You would be applying for a Combination Class A Liquor License. This is the only type of license that would allow you to sell wine for off premise consumption and allow you to do wine sampling. The fee is prorated depending on the month you submit the application. (see the chart on the first page). You may call or email me for clarification if needed.

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Please feel free to reach out if you have any further questions or concerns.

Ann Marie Neff

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City of West Allis

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<New License application packet.pdf>

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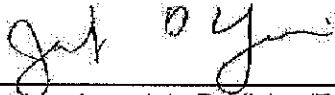
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PROOF OF PUBLICATION

STATE OF WISCONSIN }
MILWAUKEE COUNTY } S.S.

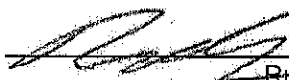
Joe Yovino, being the first duly sworn on oath, says that he or she is the Associate Publisher/Editor of THE DAILY REPORTER, which is a public newspaper of general circulation, printed and published daily in the English language in the City of Milwaukee, in said county, and fully complying with the laws of Wisconsin, relating to the publication of legal notices; that the notice of which the printed one attached is a true copy, which was clipped from the said newspaper, was inserted and published in said newspaper on

Apr. 2, 2021



Joe Yovino, Associate Publisher/Editor

Sworn to me this 2nd day of April 2021



Russell A. Klingaman
Notary Public, Milwaukee County, Wisconsin
My Commission Is Permanent



NOTICE OF ALCOHOL BEVERAGE LICENSE APPLICATIONS CITY OF WEST ALLIS

Please take notice that the following have applied for a Class B Fermented Malt Beverage (Beer) and/or Intoxicating Liquors (Wine and Liquor) for license period July 1, 2020 – June, 30, 2021. The application will be considered by the City of West Allis Common Council on April 7, 2021 at the West Allis City Hall, Common Council Chambers, 7525 W. Greenfield Avenue.

Class B Tavern
The Candle Company LLC – 8100 W. National Ave., 53214
d/b/a The Candle Company LLC
Tedrick Timmons, 3450 S. Stonegate Cir, 204, New Berlin, 53151
Rebecca Grill, City Clerk
Published: 4-2-2021

11986659/4-2

PROOF OF PUBLICATION



City of West Allis City Clerk's Office
 7525 W. Greenfield Avenue, West Allis, WI 53214
 (414) 302-8220 www.westalliswi.gov

RECEIVED

MAR 25 2021

CITY OF WEST ALLIS
 CITY CLERK

Application for a
CLASS B TAVERN SPECIAL EVENT PERMIT

Non-refundable Fee: \$70.00*

*** Application must be filed at least thirty (30) days prior to the date of granting by the Common Council.**
 Any application submitted within thirty (30) days, and no later than forty-eight (48) business hours, prior to the date of granting by the Common Council must be accompanied by a late fee of fifty dollars (\$50.00) in addition to the license fee.

Section 9.02(5)(b) of the Revised Municipal Code of the City of West Allis.

NAME OF LICENSEE (Corporation, LLC, Partners or Individual): Paulie's Pub and Eatery LLC

AGENT'S NAME: Kristine M Budiac

ADDRESS OF LICENSED PREMISES: 8031 W. Greenfield Ave West Allis Wi 53214

D/B/A: Paulie's Pub and Eatery

BUSINESS PHONE: 414-257-2854 HOME PHONE: 414-405-7471

DATE OF EVENT: June 1st - Nov 30th TIME OF EVENT: Open til Specified Close Time

DESCRIBE EVENT TO BE HELD: Music/Food

HAS THIS EVENT BEEN HELD IN THE PAST? NO YES If Yes, when? _____

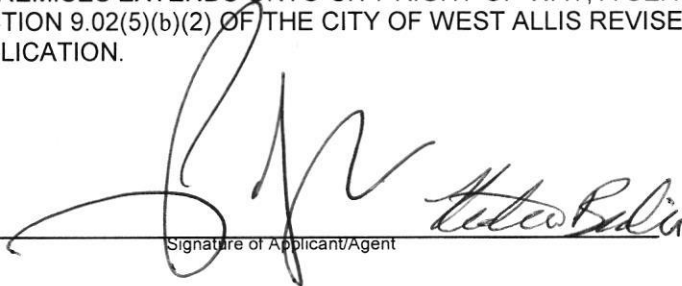
PLEASE CHECK, IF APPLICABLE, TO THIS EVENT AND EXPLAIN: FOOD TENT OUTDOOR MUSIC

IS THE TENT MORE THAN 400 SQ. FT.? NO YES *(If Yes, ask Clerk for a Fire Dept. Tent Permit Application.)*

SPECIFIC DESCRIPTION OF AREA AND PLANS FOR ENCLOSING EXTENDED PREMISES: (ATTACH SKETCH)
ENTIRE PARKING LOT ENCLOSED BY SNOW FENCE

DOES EVENT EXTEND ONTO CITY-RIGHT-WAY? NO YES

IF PREMISES EXTENDS ONTO CITY RIGHT-OF-WAY, A CERTIFICATE OF INSURANCE IS REQUIRED UNDER SECTION 9.02(5)(b)(2) OF THE CITY OF WEST ALLIS REVISED MUNICIPAL CODE, AND MUST BE ATTACHED TO THIS APPLICATION.


 Signature of Applicant/Agent

STATE OF WISCONSIN
 COUNTY OF MILWAUKEE
 Subscribed and sworn to before me
 this _____ day of _____, 20____.

 Notary Public
 My commission expires _____

*** Please read other side ***

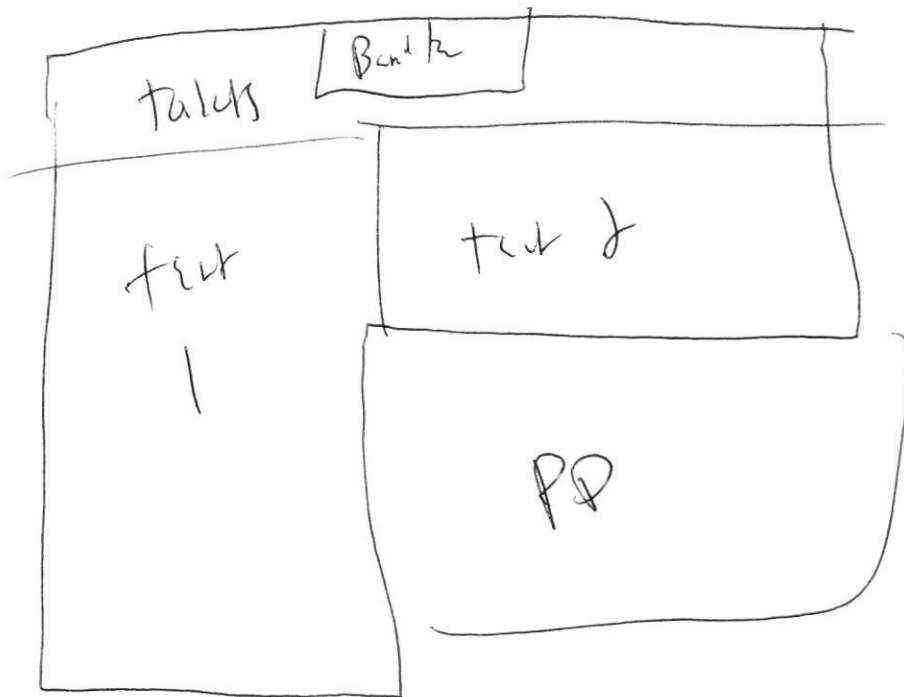
CLERK'S OFFICE USE:

LICENSE NO.	PAID	# OF APPROVED PERMITS	GRANTED	DENIED	PLACED ON FILE	INSPECTIONS
Class B Tavern Lic. #		Instrumental Music Lic. #	Dance Hall Lic. #	Tavern Entertainment Lic. #	ISSUED	<input type="checkbox"/> HEALTH (food) <input type="checkbox"/> FIRE (tent)

RECEIVED

MAR 25 2021

CITY OF WEST ALLIS
CITY CLERK



RECEIVED

MAR 25 2021

CITY OF WEST ALLIS
CITY CLERK

CLASS B TAVERN SPECIAL EVENT PERMIT REGULATIONS

This permit is granted subject to the following conditions:

1. The Licensee shall be responsible for cleaning up the area and providing containers and storage for refuse.
2. Usual restrictions shall apply as to sale and/or loitering by minors.
3. All outdoors festivities shall be terminated at 11:00 p.m. Monday through Saturday and Sundays 9:00 p.m. except where the following Monday is a legal holiday, the festivities shall terminate at 11:00 p.m.
4. Amplifiers and loud speaker shall not create a public nuisance.
5. Beer, wine coolers (under 6% alcohol) and soda ONLY are to be dispensed and only in individual paper/plastic containers. No pitchers allowed.
6. All sales and consumption of beer and wine coolers must occur in the approved licensed premises (tent).

SEP/kp
Rev. 10/18/01
L:\scott\ClassBTavernSpecialRegulations

Revised: 3-11-2019

**CITY OF WEST ALLIS
ORDINANCE O-2021-0031**

**ORDINANCE TO CREATE SEASONAL EXTENSION OF LICENSED PREMISES
TO REPLACE TEMPORARY EXPEDITED EXTENSION OF PREMISES**

AMENDING SECTION 9.02(5)(C)

WHEREAS, the common council desires to promote a positive recovery from the COVID-19 pandemic by providing an opportunity for Class B establishments to expand their licensed premises for a limited time of the year;

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

SECTION 1: **AMENDMENT** “9.02 Alcoholic Beverages” of the City Of West Allis Municipal Code is hereby *amended* as follows:

A M E N D M E N T

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 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. Whenever anything occurs to change any fact set out in the application of any licensee, including the written premises description, such licensee shall submit a written notice of such changes to the City Clerk within ten (10) days prior to any change in any fact set out in the application and prior to the next available meeting of the License and Health Committee. It is within the discretion of the License and Health Committee and Common Council to approve or disapprove the change in the written premises description. The licensee shall pay a fee as specified in the most recent Schedule of Fees resolution. **[Ord. O-2018-0037, 9/18/2018]**
 - 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. Licenses shall be granted only to applicants who have possessed a valid retail license for the sale of alcoholic beverages within the past year. The fee for such license shall be fifteen dollars (\$15) and shall be paid to the Clerk before issuance. **[Ord. O-2011-0022, 6/21/2011]**
- 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) No Class "C" license or permit may be issued for premises, the main entrance of which is less than three hundred (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.

(A) The prohibition in this subsection does not apply to any premises covered by a Class "C" license or permit on the date this ordinance is published or premises covered by a Class "C" license or permit prior to the occupation of real property within three hundred (300) feet thereof by any school, hospital or church building.

iv. Notice of Change. Whenever anything occurs to change any fact set out in the application of any licensee, including the written premises description, such licensee shall submit a written notice of such changes to the City Clerk within ten (10) days prior to the next available meeting of the License and Health Committee. All changes are subject to approval by the License and Health Committee prior to the granting of the license. It is within the discretion of the License and Health Committee and Common Council to approve or disapprove the change in the written premises description. The licensee shall pay a fee as specified in the most recent Schedule of Fees resolution. **[Ord. O-2018-0037, 9/18/2018]**

4. Right to Premises, Floor Plan, and Plan of Operation. **[Ord. O-2013-0014, 4/2/2013]**

a. No applicant will be considered 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 period. Loss of the right to the premises subjects the license to immediate revocation.

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. Locations of 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 within ten (10) days prior to the next available meeting of the License and Health Committee. It is within the discretion of the License and Health Committee and Common Council to approve or disapprove the change in the written premises description and/or floor plan. 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. **[Ord. O-2014-0078, 11/18/2014; Ord. O-2018-0037, 9/18/2018]**

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. Extension of Premises.

a. Outdoor Areas.

- i. Purpose. The licensing of outdoor areas for the possession, sale and consumption of fermented malt beverages and intoxicating liquors involves special considerations not associated with the licensing of building premises. Such considerations include control of public access to the premises, proper visibility, noise, lighting and public safety. Therefore, special regulations to protect the health, safety and welfare of the community are required and are herein set forth as a matter of public policy; however, nothing herein contained should be construed to in any manner act as a limitation upon or restriction of the general licensing authority of the Common Council under state and local laws and ordinances.
- ii. Authority. Outdoor areas may be included, as part of the licensed premises, subject to the qualifications, conditions and special regulations set forth in this paragraph.
- iii. Qualifications. An outdoor area, in order to qualify for consideration as

part of the licensed premises, shall:

- (1) Be located on the same site as the building premises described in the license application. For purposes of this subsection, "same site" means one (1) parcel of property or multiple abutting parcels of property as long as the licensee complies with Section 9.02(5)(a) of this Code. **[Ord. O-2018-0037, 9/18/2018]**
 - (2) The outdoor area shall conform to all setback requirements set forth in Chapter 12. **[Ord. 6105, 7/19/1994]**
 - (3) The outdoor area shall not be located on property which abuts or is within two hundred (200) feet of other property zoned or used for residential purposes. For purposes of this subsection, measurements shall be made from the boundary of the outdoor area to the building on other property zoned or used for residential purposes. **[Ord. 6105, 7/19/1994]**
- iv. Conditions. Qualified outdoor areas may be included as part of the licensed premises under the following conditions:
- (1) The outdoor area is screened from off-site view. In addition to planting materials, walls and/or fences shall be utilized to provide screening and to control access to the outdoor area; **[Ord. 6105, 7/19/1994]**
 - (2) Lighting sources shall be shielded and so arranged to prevent spray onto adjacent properties. Flashing, intermittent or moving light or lights, and lights which are directed at any part of a traveled street or highway or which interfere with or obscure an official traffic device, sign or signal, are prohibited;
 - (3) The site shall be constructed so as to assist in maintaining site noise within the standards set forth in Section 7.035(3) of this Code;
 - (4) The outdoor area shall be constructed and arranged so as to limit the number of patrons to not more than twenty-five percent (25%) of the person per square foot capacity for the licensed building premises.
- v. Special Regulations. The following special regulations shall apply to outdoor areas included as part of the licensed premises:
- (1) The closing hours during which no patron or guest shall be permitted to enter or remain in the outdoor area shall be between midnight (12:00 a.m.) and 10:00 a.m. **[Ord. 6105, 7/19/1994]**
 - (2) A service bar from which patrons may, through a waiter or waitress, purchase intoxicating liquor or fermented malt beverages, to be consumed by such patrons while seated at tables, shall be permitted. Patrons shall not be seated or permitted to be seated at the service bar.

- (3) No live music shall be permitted. Music which is mechanically or electronically reproduced shall be permitted, provided that said music is not audible beyond two hundred (200) feet. **[Ord. 6105, 7/19/1994]**
 - (4) In addition to the special regulations, outdoor areas shall be subject to the provisions of this Code and Wisconsin Statutes relating to the possession, sale and consumption of alcoholic beverages. **[Ord. 6105, 7/19/1994]**
- vi. Site Plans. Outdoor areas shall be constructed and maintained in accordance with site plans approved by the Common Council. Applicants for outdoor areas shall file a site plan with their license application, showing the following information:
- (1) The arrangement of all structures, paving and landscaping areas;
 - (2) The land uses and general location of improvements on adjoining properties within five hundred (500) feet of the outdoor area;
 - (3) Location and type of screening and/or landscape materials;
 - (4) Location and type of lighting for the outdoor area;
 - (5) Location of service bar, food preparation areas, tables, etc.;
 - (6) Entrances and exits to the outdoor area, including provision for controlled access;
 - (7) Such additional information as the Common Council may reasonably require.
- vii. Prior to acting upon any application to include an outdoor area as part of the licensed premises, the Common Council shall refer said application for recommendations to the Plan Commission, Police and Fire Departments, Health Department and the Department of Building Inspections and Zoning.
- viii. Nothing herein contained shall in any manner abridge the authority of the Common Council to stipulate such other and further qualifications, conditions and regulations as may be necessary to protect the public health, safety and welfare, or affect or limit the authority and discretion of the Common Council, under applicable state laws and local ordinances, to regulate the possession, sale and consumption of fermented malt beverages and intoxicating liquors.
- ix. Prior to granting the license to extend the premises outdoors, the fee shall be paid to the City Clerk. No fee is required for renewal unless the license holder wishes to change the site plan.
- x. This section shall not apply to licensed premises that are also "food establishments" as defined in section 7.04(1)(c) of the Revised Municipal Code. The extension of premises for such establishments shall be governed by Chapter 12. **[Ord. 6573, 6/5/2001]**
- b. Temporary Extension of Class "B" Tavern Licensed Premises for Special Events.

- i. Authority. The granting of a temporary extension of Class "B" fermented malt beverage or intoxicating liquor licensed premises for special events shall authorize the licensee to sell or serve fermented malt beverages and intoxicating liquors during the period of time and in the area described in the application for such temporary extension, as expressly approved by the Common Council. **[Ord. O-2018-0037, 9/18/2018]**
- ii. Eligibility. Any person holding a valid Class "B" tavern license may apply for temporary extension of such licensed premises for a special event. The area which the licensee wishes to include in any temporary extension of the licensed premises must be contiguous to the licensed premises and must either be owned by or be under the control of the licensee, or extend into or encroach upon public property or public thoroughfares. The applicant shall be required to enclose the extended licensed premises so that the ingress and egress of patrons may be monitored. If the extension is onto or in the public right of way, the application shall be accompanied by proof of insurance for comprehensive general liability in at least the following limits of coverage: \$300,000 each occurrence and \$300,000 aggregate for bodily injury; \$300,000 each occurrence and \$300,000 aggregate for property damage. The proof of insurance shall have an endorsement to indemnify and hold the City of West Allis harmless from any and all damages, judgments and claims which may be asserted against the City by reason of any damages or injuries sustained by any person or to any property by the extension onto or in the public right of way. The applicant shall also comply with all other applicable statutes, ordinances, resolutions and conditions.
- iii. (Reserved)

Editor's Note: Former Subsection (5)(b)2m, Farmers Market, added 2-7-2017 by Ord. O-2017-0004, was repealed 9-18-2018 by Ord. No. O-2018-0037.

- iv. Applicant's Responsibility.
 - (1) Application for the temporary extension of Class "B" tavern licensed premises for special events shall be made by an individual, or authorized agent in the case of a corporation, who shall be personally responsible for compliance with all of the terms and provisions of this Chapter.
 - (2) The applicant shall be responsible for cleaning up the extended licensed area and shall provide containers for storage of refuse.
- v. Application. Application for the temporary extension of Class "B" tavern licensed premises shall be made in writing to the City Clerk on forms provided by the City Clerk. The application shall be signed by the applicant, if an individual, or by a duly authorized agent or officer, if a corporation or limited liability company, and shall be sworn to by

the applicant. Such application shall contain the name of the licensee, the address of the existing licensed premises, the particular event or function for which the temporary extension of the licensed premises is sought, the date and period of time sought for the temporary extension of the licensed premises, a specific description of the area for which the temporary extension is sought, plans describing how the extended premises will be enclosed, and such other reasonable and pertinent information as the Common Council or the License and Health Committee of the Common Council may require. The application shall be filed at least thirty (30) days prior to the date of granting by the Common Council. Any application submitted within thirty (30) days, and no later than forty-eight (48) business hours, prior to the date of granting by the Common Council must be accompanied by a late fee of fifty dollars (\$50) in addition to the license fee. **[Ord. O-2007-0037, 10/2/2007]**

vi. Council Action. The Common Council may, in its discretion, grant or deny the application. If the application is denied, the City Clerk shall, in writing, notify the applicant of the decision and the Council's reasons for denial. In deciding whether to grant a license, the Common Council may consider, among other factors, the appropriateness of the location for which a temporary extension of licensed premises is sought, whether such location will create an adverse impact on other property in the neighborhood, and any other factors which reasonably relate to the public health, safety and welfare. More than three (3) temporary extension permits per licensing year shall be presumed to be unreasonable. **[Ord. O-2013-0004, 2/19/2013]**

vii. Issuance. In the event the Common Council grants the application for a temporary extension of licensed premises for special events, the City Clerk shall issue an appropriate document to the applicant confirming the granting of the license and specifying the date, period of time and specific location for which the extended licensed premises shall be in effect. Such document shall also contain any restrictions or conditions which the Common Council may place on such approvals. The City Clerk shall, within twenty-four (24) hours after the issuance of the approving document, inform the Chief of Police of the date, time, place and event.

c. ~~Expedited Temporary~~ Seasonal Extension of Class "B" and "Class B" Licensed Premises ~~(EFFECTIVE UNTIL 6/30/2021: O-2021-0025)~~

i. Eligibility. Any person holding a valid Class B license may apply under this subsection to the common council for ~~temporary~~ a seasonal extension of such licensed premises and any collateral entertainment licenses under the following conditions:

(1) The extended premises must be contiguous to the licensed premises and must either be owned by or be under the control

- of the licensee or extend on to a public sidewalk.
- (2) The extended premises, other than premises extending on to a public sidewalk, shall be enclosed in a manner that the ingress and egress of patrons may be monitored.
- ii. Use of Public Sidewalk. Any premises extended into a public sidewalk is granted a privilege to place only movable tables and chairs on that premises under the following conditions:
- (1) The licensee shall maintain a clear path 3 feet wide for pedestrian traffic.
 - (2) The licensee assumes primary liability for damages to person or property and agrees to maintain commercial liability insurance covering all activities on the extended premises. No bond is required.
 - (3) The licensee is obligated to immediately remove any obstructions upon notice by the city
 - (4) The licensee is not entitled to damages for removal of an obstruction, and if the licensee does not remove the obstruction upon notice, it may be removed at the licensee's expense.
 - (5) Third parties whose rights are interfered with by the granting of a privilege have a right of action against the licensee only.
- iii. Application. Licensees seeking to ~~temporarily~~ obtain a seasonal extension of ~~extend~~ their licensed premises under this subsection shall submit to the City Clerk a complete and signed application ~~on~~ in a form approved by the City Clerk.
- (1) The application shall include at least the following information:
 - (A) The name of the licensee
 - (B) Contact information for the licensee or the agent of a corporate licensee
 - (C) The address of the existing licensed premises
 - (D) A visual depiction of the proposed extended premises and the permanently licensed premises
 - (E) The combined person capacity of the permanent and temporary premises.
 - (2) The City Clerk shall notify the Police, Health, Fire, Planning, and Building Inspection and Neighborhood Services Departments 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 the information derived from such

investigation, accompanied by a recommendation as to whether a license should be granted or refused.

iv. Conditions. The following conditions shall apply to any seasonal extension of licensed premises granted under this subsection unless further limited by the council:

- (1) No extended premises may remain open after 9:00 p.m. Sunday through Thursday.
- (2) No extended premises may remain open after 10:00 p.m. Friday through Saturday
- (3) A sufficient number of toilet facilities shall be provided to accommodate the combined person capacity of the permanent and temporary licensed premises.

v. Council Action. ~~day~~ The Common Council may, in its discretion, grant or deny the application. If the application is denied, the City Clerk shall, in writing, notify the applicant of the decision and the Council's reasons for denial, if any. In deciding whether to grant a license, the Common Council may consider, among other factors, the appropriateness of the location for which a temporary extension of licensed premises is sought, whether such location will create an adverse impact on other property in the neighborhood, and any other factors which reasonably relate to the public health, safety and welfare.

vi. Issuance. For any granted applications and upon payment of a fee of \$250, the City Clerk shall issue an appropriate document to the applicant confirming the granting of the seasonal extension. Such document shall also contain any restrictions or conditions which the Common Council may place on such approvals. The City Clerk shall, within twenty-four (24) hours after the issuance of the approving document, provide a copy of the same document to the Chief of Police.

vii. Duration of Extended Premises ~~and Automatic Re-Application.~~ Applications granted under this subsection shall commence no earlier than 6:00 a.m. on the last Saturday of May and expire at 6:00 a.m. on the first Monday in September ~~the day after the subsequent meeting of the common council. Any application granted under this subsection shall be automatically resubmitted for council action at the next subsequent council meeting.~~

6. Approval of Application. In determining the suitability of an applicant, consideration shall be given to the criteria set forth in § 125.04(5) of the Wisconsin Statutes, the appropriateness of the location and premises proposed, and generally the applicant's fitness for the trust to be reposed.

7. 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.
8. 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]**

9. 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.

10. 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.
11. 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 license 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.

12. 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]**

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.

13. 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.
14. 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.
15. 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.
16. 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.

17. 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.

18. 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).

19. 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.
20. Fees. The following fees for licenses shall be paid to the City Clerk/Treasurer prior to issuance of the license:
- a. Class B Beer: \$100.
 - b. Class B Liquor: \$500.
 - c. Class A Beer: \$150. **[Ord. O-2009-0033, 11/3/2009]**
 - d. Class A Liquor: \$500. **[Ord. O-2006-0008, 2/7/2006]**
 - e. Temporary Extension of Class B Premises: \$70. **[Ord. 6055, 11/15/1993; Ord. O-2009-0033, 11/3/2009]**
 - f. Transfer of Class A or B Licenses: \$10.
 - g. Duplicate License: \$10. **[Ord. O-2009-0033, 11/3/2009]**
 - h. Operator's License: \$90. **[Ord. 6055, 11/15/1993; Ord. 6215, 3/5/1996; Ord.**

O-2003-0038, 6/3/2003; Ord. No. O-2009-0012, 3/17/2009]

- i. Provisional Operator's License: \$15.
 - j. Temporary Operator's License: \$15. **[Ord. No. O-2009-0012, 3/17/2009]**
 - k. Special Class B Beer and Wine License: \$10 per event.
 - l. Outdoor area included in licensed premises: \$200 one-time fee.
 - m. Class C: \$100. **[Ord. No. 6329, 9/2/1997]**
 - n. **(reserved)**
 - o. Publication: \$15. **[Ord. O-2009-0033, 11/3/2009]**
21. 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.

22. Late Fees. Any application for renewal of licenses submitted after April 30 shall be subject to the applicable late fee listed below and shall be paid to the City Clerk for deposit with the City Treasurer prior to issuance of the license: **[Ord. O-2014-0095, 12/16/2014]**
 - a. Class B Beer: \$50.
 - b. Class B Liquor: \$50.
 - c. Combination Class B Beer and Liquor: \$100.
 - d. Class A Beer: \$50.
 - e. Class A Liquor: \$50.
 - f. Combination Class A Beer and Liquor: \$100.
 - g. Class C: \$50.
23. Priority of License Applications. Multiple applications for "Class B" liquor license(s) available under quota. **[Ord. O-2015-0047, 10/6/2015]**
 - a. If more than one complete license application is timely filed with the City Clerk for any available "Class B" liquor license, the City Clerk shall require each applicant to complete a supplemental questionnaire regarding the benefits/impacts of such proposed licensed establishment. Such supplemental questionnaire shall seek information from the applicant as to the following:
 - i. Number of jobs to be created should the license be granted to the applicant.
 - ii. Scope and cost of any improvements the applicant intends to make to the location sought to be licensed.
 - iii. Size of premises for which the license is sought, including proposed seating capacity of such premises.
 - iv. Certainty of such venture and expected opening date.
 - v. Potential negative impacts on the neighborhood and how they will be addressed/ameliorated.
 - vi. Potential policing costs.
 - vii. What type of business and clientele the establishment intends to cater to.
 - b. The City Clerk shall forward all license application materials to the License and Health Committee for review.
 - c. The License and Health Committee shall review all materials submitted. Its recommendation to the Common Council on granting such available "Class B" license(s) shall be based upon its determination as to which application will provide the most benefit to the City with the fewest negative impacts. In making its recommendation, the License and Health Committee shall evaluate the factors set forth in Subsection (1) for each license application. The License and Health Committee, in its recommendation, shall indicate how each factor is met and to what extent. The order in which applications were received shall be given no weight.
 - d. In granting such license, the Common Council shall give consideration to the recommendation of the License and Health Committee and shall also make its

own determination regarding the factors set forth in Subsection (1) above. Any license decision to grant a license where multiple complete applications for such license are timely filed with the Clerk's office shall be based upon the Council's determination as to which application the Council determines shall provide the most economic benefit to the City.

SECTION 2: 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 Allis

Dan Devine, Mayor City Of West
Allis

CITY OF WEST ALLIS
ORDINANCE O-2021-0024

**ORDINANCE TO COMBINE VARIOUS ENTERTAINMENT-RELATED LICENSES INTO SINGLE PUBLIC ENTERTAINMENT LICENSE
CREATING SECTION 9.037, REPEALING AND RECREATING SECTION 9.08, AND REPEALING SECTIONS 9.032, 9.033, 9.034, 9.05, 9.06, 9.10, AND
9.105**

WHEREAS, various licenses regulating different types of public entertainment activities could be combined into a single license for clarity, efficiency, and ease of administration;

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

SECTION 1: **ADOPTION** "9.037 Public Entertainment License" of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.037 Public Entertainment License(*Added*)

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.

8. 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.

9. 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 licensee. 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)

SECTION 2: **ADOPTION** "9.08 Entertainment Device Distributor License" of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.08 Entertainment Device Distributor License(*Added*)

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 licensee. 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.

SECTION 3: **REPEAL** "9.032 Tavern Instrumental Music Licenses" of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

9.032-Tavern Instrumental Music Licenses (Repealed)

1. License Required. No person holding a Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine license, nor the licensee's agents or employees shall provide, maintain, suffer or permit in or upon the licensed premises any instrumental music or singing accompanied by pre-recorded music (commonly referred to as "karaoke") without having first obtained a license therefor as hereinafter provided. Such music and singing shall be discontinued thirty (30) minutes prior to the established closing time set forth in Chapter 125 of the Wisconsin Statutes. The license shall be construed to permit singing by members of the musical group engaged to perform on the licensed premises or by members of the audience performing karaoke, however, no dancing shall be permitted under such license unless a dance hall license has been obtained pursuant to Section 9.05.
2. Application. Application for a license required by this section shall be made in writing upon a form prescribed by and filed with the City Clerk/Treasurer. The application shall contain the following information:
 - a. The name and address of the person, corporation, partnership, limited liability company or other entity applying for the license. Said applicant must be the same as the person or entity holding the Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine license.
 - b. Whether the applicant has, within five (5) years prior to the date of application, been licensed to sell alcohol beverages, and whether any such licenses were ever suspended or revoked and a statement of the reasons therefor.
 - c. The location of the premises for which the license is sought and identification of the Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine license held for the premises.
 - d. If, during the pendency of the application, or during the term of any license granted, there is any change in fact which would alter the information given on the application, the applicant shall notify the Clerk/Treasurer in writing thereof within ten (10) days after such change.
3. License Fee. The fee for an instrumental music license shall be one hundred forty dollars (\$140.00). The fee shall accompany each application. The full license fee shall be charged for the whole or fraction of the license year, except as provided in Paragraph (8). **[Ord. O-2009-0033, 11/3/2009]**
4. Granting of License.
 - a. Upon receipt of a proper application and the prescribed license fee, the Clerk/Treasurer shall forward such application to the Common Council for consideration. Within sixty (60) days of receiving an application, the Common Council shall grant or deny the license or hold the application for an additional thirty (30) days, unless otherwise agreed to by the applicant.
 - b. The Common Council shall examine all applications filed, as herein provided, and shall make or cause to be made such further investigation of the application as it deems necessary. The Common Council shall approve a license only if it finds all of the following facts exist:
 - i. That all of the statements made in the application are true;
 - ii. Subject to §§ 111.321, 111.322 and 111.335 of the Wisconsin Statutes, that the applicant or, if the applicant is not an individual, that every member, managing officer or agent of the applicant has not been convicted of any offense involving dishonesty or moral turpitude and has not been convicted of any violation of the law relating to the public health and safety;
 - iii. That the premises for which a license is sought will comply with the provisions of this section and all other applicable rules, regulations, ordinances and state laws, specifically including, but not limited to, zoning regulations, building code requirements, fire prevention code, and health code requirements;
 - iv. That the proposed instrumental music will comply with all applicable rules, regulations, ordinances and state laws, specifically including, but not limited to, noise limitations;
 - v. If the applicant is a corporation, that it is licensed to do business and is in good standing with the State of Wisconsin;
 - vi. That the applicant holds a Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine license for the premises for which the instrumental music license is sought and is otherwise entitled to a license under the provisions of this section.
 - c. Upon approval of the application by the Common Council, a license shall be issued to the applicant by the Clerk/Treasurer. Any license issued under this section shall be nonassignable and nontransferable from person to person or from one premises to another.
 - d. Whenever an application is denied or held for further investigation, the Clerk/Treasurer shall advise the applicant, in writing, of the action taken and the reasons for such action. The Clerk/Treasurer shall also advise the applicant of the right to request that the Common Council review its determination, pursuant to Section 2.48 of the West Allis Revised Municipal Code.
5. Expiration, Transfer and Lapse of License.
 - a. All licenses issued as herein provided shall expire on the 30th day of June of each year.
 - b. Any license issued pursuant to this section shall lapse and become void whenever the Common Council or licensee shall not renew the retail Class "B" fermented malt beverage, Class "B" intoxicating liquor or Class "C" wine license or said license is revoked by the Common Council. If any such retail Class "B" or "C" license shall be suspended, the license issued under this section shall be deemed suspended for a like period, without further action by the Common Council.
 - c. No license or interest in a license may be transferred to any person, partnership or corporation. The transfer of a license or any interest in a license shall automatically and immediately revoke the license.
6. Display of License. Any person licensed in accordance with the provisions of this section shall keep his license posted in a prominent place upon the license premises.
7. Revocation, Suspension or Nonrenewal. A license may be suspended for a period not to exceed ninety (90) days, revoked or not renewed by the Common Council for disorderly conduct upon the licensed premises or for any violation by the licensee, his agents or employees, of any provision of this section, or any ordinance or law relating to the use or occupation of the licensed premises. If at any time a license is revoked, at least one (1) year shall elapse before another license shall be given for the same premises or to the same licensee. Any revocation or suspension may be in addition to any forfeiture imposed under this section. The procedures set forth in § 125.12 of the Wisconsin Statutes and Section 9.02(20) of the Revised Municipal Code shall apply to revocation, suspensions and nonrenewals of instrumental music licenses.
8. Special Permits. A special instrumental music permit may be issued by the Clerk/Treasurer for a particular forty-eight hour period, upon approval by the Common Council. The applicant must meet all criteria for license approval set forth in Paragraph (2). Application for any such permit shall be made in writing upon a form prescribed by and filed with the Clerk/Treasurer, in accordance with the provisions of Paragraph (3). Not more than ten (10) special permits for either instrumental music shall be issued for the same premises in any license year. Subsequent to the issuance of an initial permit for a premises, the Clerk/Treasurer may issue additional permits for each premises, as provided in this paragraph, without further investigation of applications for any such premises and without the Council's approval for the entire period the license is held by the same individual or corporation and for the same licensed premises. A special permit, when issued, shall entitle the holder

thereof, for a particular forty-eight-hour period to the respective privileges accompanying the corresponding license provided for in this section. Any violation of this section by the permit holder or any reported unreasonably loud music or disorderly conduct on the premises shall be deemed cause for suspension or denial of any further special permit privileges. A permit fee of twenty dollars (\$20.00) shall accompany the application. Such fee shall be nonrefundable. [Ord. O-2009-0033, 11/3/2009]

9. Penalties. Any person violating any of the provisions of this section shall, upon conviction thereof, forfeit not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) or in default of payment of said forfeiture and costs, punishment shall be suspension of the defendant's operating privileges pursuant to §§ 343.30 and 345.47, Wis. Stats., or by imprisonment in the Milwaukee County House of Corrections or Milwaukee Jail until payment of the forfeiture and costs, but not in excess of the number of days set forth in § 800.095(4), Wis. Stats.

~~{Ord. 6539, (repeal and recreate) 11/6/2000}~~

SECTION 4: **REPEAL** "9.033 Tavern Entertainment License - Special Entertainment" of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~9.033 Tavern Entertainment License – Special Entertainment (Repealed)~~

1. License Required. No person holding a retail Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine license, nor the licensee's agents or employees, shall provide, maintain, suffer or permit in or upon the licensed premises [as described in §§ 125.26(3), 125.51(3)(d), and 125.51(3m)(d), Wis. Stats.], any singing or dancing floor shows, cabaret shows, lingerie shows, exotic dancing, or similar type of show or entertainment, whether live or prerecorded music is used or not, without having first obtained a license therefor as hereinafter provided. Such entertainment shall discontinue thirty (30) minutes prior to the established closing time for the licensed premises. No instrumental music license under Section 9.032 shall be required of any person holding a valid license under this section. [Ord. No. O-2009-0017, 6/2/2009]
2. Location. No person shall be granted an entertainment license if the licensed premises is located:
 - a. Within five hundred (500) feet of a residential area as defined in Section 9.28(1)(k) of the Revised Municipal Code.
 - b. Within five hundred (500) feet of an adult-oriented establishment as defined in Section 9.28(1)(a) of the Revised Municipal Code.
 - c. Within five hundred (500) feet of another business holding an entertainment license under this section or Section 9.034 of the Revised Municipal Code. [Ord. No. O-2009-0017, 6/2/2009]
 - d. Within five hundred (500) feet of any pre-existing school, church, or day-care center as defined in Sections 9.28(1)(h), 9.28(1)(j), and 9.28(1)(l) of the Revised Municipal Code. [Ord. No. O-2009-0017, 6/2/2009]
 - e. For purposes of this ordinance, distances are to be measured in a straight line without regard to intervening structures or objects, from the property line of the licensed premises to the nearest property line of an adult-oriented establishment, school, church, day-care center, residential area, or other premises holding a license under this section.
3. Application. Application for a license required by this section shall be made in writing upon a form prescribed by and filed with the Clerk/Treasurer. The application herein required shall contain the following information under oath:
 - a. The name and address of the person, corporation, partnership, limited liability company or other entity applying for the license. Said applicant must be the same as the person holding the Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine license.
 - b. If the applicant is not an individual, the names and addresses of the partners or the applicant's principal officers and agent under § 125.04(6), Wis. Stats.
 - c. If the applicant, or in the event the applicant is not an individual person, if any partner, principal officer, or agent of the applicant has been convicted in a court of competent jurisdiction of any offense, criminal or civil forfeiture, other than parking offenses or minor traffic offenses, including dates of conviction, nature of the offense, and location of the offense for such all offenses within the five-year period immediately preceding the date of application unless the applicant has been duly pardoned.
 - d. If the applicant, or in the event the applicant is not an individual person, if any partner, principal officer, or agent of the applicant has, within five (5) years prior to the date of application, been licensed to sell alcohol beverages and whether any such license was suspended, revoked, or not renewed and a statement of the reasons therefor.
 - e. A statement of the specific nature of the entertainment to be provided.
 - f. The location of the premises for which the license is sought and identification of the Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine license held for the premises.
4. Duty to Cooperate. Failure or refusal of the applicant to give any information relevant to the investigation of the application, or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or the applicant's refusal to submit to or cooperate with any investigation required or deemed necessary shall constitute an admission by the applicant that the applicant is ineligible for such license and shall be grounds for denial thereof.
5. Notification of Changes. If, while any application is pending, or during the term of any license granted thereon, there is any change in fact that would alter the information given on the application, the applicant or licensee shall notify the Clerk/Treasurer in writing thereof within ten (10) days after such change.
6. License Fee. The fee for a license issued under this section shall be \$1,400.00. The license fee shall accompany each application. The full license fee shall be charged for the whole or fraction of the license year. [Ord. O-2009-0033, 11/3/2009]
7. Processing of Application and Issuance of License.
 - a. Upon receipt of a proper application and the prescribed license fee, the Clerk/Treasurer shall provide copies of the application to the Police Department, Building Inspection Department, and other applicable departments for their investigation and review to determine compliance of the proposed tavern entertainment with the laws and regulations each department administers. Each department shall, within thirty (30) days, report back to the Clerk/Treasurer whether the applicant and premises comply with the laws and regulations administered by each department. No license may be issued unless each department reports that the applicant and premises comply with all relevant laws and regulations. A department shall recommend denial of a license if it finds that the proposed applicant or premises are not in conformance with the requirements of this section, the ordinances of the City of West Allis, the laws of the State of Wisconsin, or any other applicable law or regulation. A recommendation for denial shall be in writing and cite the specific reason or reasons therefor.
 - b. With sixty (60) days of receiving a completed application and fee, the Common Council shall grant or deny the license or hold the application for an additional period of time as agreed to by the applicant.
 - c. The Common Council shall examine all applications filed and shall make or cause to be made such further investigation as it deems necessary. The Common Council shall approve a license only if it finds all of the following:
 - i. That all of the statements made in the application are true.
 - ii. Subject to §§ 111.321, 111.322, and 111.335 of the Wisconsin Statutes, that the applicant or, if the applicant is not an individual, that every partner, principal officer, and agent appointed pursuant to Section 125.04(6) has not been convicted of any offense substantially related to the operation of a tavern entertainment establishment.
 - iii. That the premises for which the license is sought will comply with the provisions of this section and all other applicable rules, regulations, ordinances, and state laws, specifically including, but not limited to, zoning regulations, Building Code, Fire Prevention Code, and Health Code requirements.
 - iv. That the proposed entertainment will comply with all applicable rules, regulations, ordinances, and state laws, specifically including, but not limited to, noise limitations, performance standards, and distancing requirements under Sections 7.035, 9.02(19), and 18.03(3)(m) of the Revised Municipal Code. [Ord. No. O-2009-0017, 6/2/2009]
 - v. If the applicant is a corporation that it is licensed to do business in the State of Wisconsin and is in good standing.

- vi. That the applicant holds a Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine license for the premises for which an entertainment license is sought.
- d. Upon approval of the application by the Common Council, a license shall be issued to the applicant by the Clerk/Treasurer. Any license issued under this section shall be non-assignable and nontransferable from person to person or from one premises to another.
- e. Whenever an application is denied, the Clerk/Treasurer shall advise the applicant in writing of the action taken and the reasons for such action. The Clerk/Treasurer shall also advise the applicant of the right to request that the Common Council review its determination pursuant to § 2.48(5) of the Revised Municipal Code.
- 8. Display of License. The license shall be displayed in a conspicuous public place in the tavern entertainment establishment.
- 9. Renewal of License.
 - a. Every license issued pursuant to this section shall terminate on June 30th pursuant to Section 9.015, 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 Clerk/Treasurer. The application for renewal must be filed on or before May 1st. Operators filing a renewal application shall provide the information required by Subsection 9.033(3) and shall be processed pursuant to Subsection 9.033(7). [Ord. No. O-2009-0017, 6/2/2009]
 - b. A license renewal fee of \$1,400.00 shall be submitted with the application for renewal. [Ord. O-2009-0033, 11/3/2009]
- 10. Transfer of License. No license issued pursuant to this section shall be assignable or transferable. For purposes of this section, "assignable" or "transferable" shall mean and include any of the following:
 - a. The sale, lease, or sublease of the business; or
 - b. The transfer of securities which constitute a controlling interest in the business, whether by sale, gift, exchange, or similar means; or
 - c. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business.
- 11. Suspension, Revocation, and Nonrenewal of License.
 - a. A license may be suspended for a period not to exceed ninety (90) days, revoked, or not renewed by the Common Council for participating in, allowing, or suffering disorderly conduct or sexual offenses in or around the licensed premises or for any violation by the permittee, the licensee, or the licensee's agents, employees, or entertainers, of any of the provisions of this section, or any ordinance or law relating to the use or occupation of the licensed premises. If a license is revoked or not renewed, at least two (2) years shall elapse before another license or permit shall be given for the same premises or to the same licensee or permittee. Any suspension, revocation, or nonrenewal may be in addition to any forfeiture imposed under this section or other penalty imposed by law. The procedures set forth in § 125.12 of the Wisconsin Statutes shall apply to suspensions, revocations, and non-renewals of entertainment licenses and permits.
- 12. Exceptions. A tavern entertainment license is not required if the entertainment consists of dart games, amusement devices for which a license is required under Section 9.08 of this code, pool or billiard tables, or bowling.
- 13. Pre-Existing Entertainment Licenses and Discontinuation of Operation. Holders of Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine licenses who also possess an entertainment license at the time of passage of this ordinance are exempt from the locations provisions of Paragraph 9.033(2). Any transfer of the entertainment license from the licensed premises to any other premises shall cause said entertainment license to lapse and become void. Any discontinuation in the operation of the licensed premises for a period of six (6) months shall also cause the entertainment license to lapse and become void. A licensee whose license has lapsed and become void shall thereafter be subject to the location requirements in Paragraph 9.033(2). [Ord. No. O-2009-0017, 6/2/2009]

~~{Ord. 6540 (amended) 2/6/2001}~~

SECTION 5: **REPEAL** "9.034 Tavern Entertainment License - Other Entertainment" of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~9.034 Tavern Entertainment License – Other Entertainment (Repealed)~~

1. License Required. No person holding a retail Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine license, nor the licensee's agents or employees, shall provide, maintain, suffer or permit in or upon the licensed premises [as described in §§ 125.26(3), 125.51(3)(d), and 125.51(3m)(d), Wis. Stats.], any entertainment, exposition, or show, other than shows listed in Section 9.033, whether live or prerecorded music is used or not, without having first obtained a license therefor as hereinafter provided. Such entertainment shall discontinue thirty (30) minutes prior to the established closing time for the licensed premises. No instrumental music license under Section 9.032 shall be required of any person holding a valid license under this section.
2. Application. Application for a license required by this section shall be made in writing upon a form prescribed by and filed with the Clerk/Treasurer. The application herein required shall contain the following information under oath:
 - a. The name and address of the person, corporation, partnership, limited liability company or other entity applying for the license. Said applicant must be the same as the person holding the Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine license.
 - b. If the applicant is not an individual, the names and addresses of the partners or the applicant's principal officers and agent under § 125.04(6), Wis. Stats.
 - c. If the applicant or, in the event the applicant is not an individual person, if any partner, principal officer, or agent of the applicant has been convicted in a court of competent jurisdiction of any offense, criminal or civil forfeiture, other than parking offenses or minor traffic offenses, including dates of conviction, nature of the offense, and location of the offense for such all offenses within the five-year period immediately preceding the date of application unless the applicant has been duly pardoned.
 - d. If the applicant or, in the event the applicant is not an individual person, if any partner, principal officer, or agent of the applicant has, within five (5) years prior to the date of application, been licensed to sell alcohol beverages and whether any such license was suspended, revoked, or not renewed and a statement of the reasons therefor.
 - e. A statement of the specific nature of the entertainment to be provided.
 - f. The location of the premises for which the license is sought and identification of the Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine license held for the premises.
3. Duty to Cooperate. Failure or refusal of the applicant to give any information relevant to the investigation of the application, or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or the applicant's refusal to submit to or cooperate with any investigation required or deemed necessary shall constitute an admission by the applicant that the applicant is ineligible for such license and shall be grounds for denial thereof.
4. Notification of Changes. If, while any application is pending, or during the term of any license granted thereon, there is any change in fact that would alter the information given on the application, the applicant or licensee shall notify the Clerk/Treasurer in writing thereof within ten (10) days after such change.
5. License Fee. The fee for a license issued under this section shall be two hundred fifty dollars (\$250.). The license fee shall accompany each application. The full license fee shall be charged for the whole or fraction of the license year.
6. Processing of Application and Issuance of License.
 - a. Upon receipt of a proper application and the prescribed license fee, the Clerk/Treasurer shall provide copies of the application to the Police Department, Building Inspection Department, and other applicable departments for their investigation and review to determine compliance of the proposed tavern entertainment with the laws and regulations each department administers. Each department shall, within thirty (30) days, report back to the Clerk/Treasurer whether the applicant and premises comply with the laws and regulations administered by each department. No license may be issued unless each department reports that the applicant and premises comply with all relevant laws and regulations. A department shall recommend denial of a license if it finds that the proposed applicant or premises are not in conformance with the requirements of this section, the ordinances of the City of West Allis, the laws of the State of

- Wisconsin, or any other applicable law or regulation. A recommendation for denial shall be in writing and cite the specific reason or reasons therefor.
- b. With sixty (60) days of receiving a completed application and fee, the Common Council shall grant or deny the license or hold the application for an additional period of time as agreed to by the applicant.
 - c. The Common Council shall examine all applications filed and shall make or cause to be made such further investigation as it deems necessary. The Common Council shall approve a license only if it finds all of the following:
 - i. That all of the statements made in the application are true.
 - ii. Subject to §§ 111.321, 111.322, and 111.335 of the Wisconsin Statutes, that the applicant or, if the applicant is not an individual, that every partner, principal officer, and agent appointed pursuant to Section 125.04(6) has not been convicted of any offense substantially related to the operation of a tavern entertainment establishment.
 - iii. That the premises for which the license is sought will comply with the provisions of this section and all other applicable rules, regulations, ordinances, and state laws, specifically including, but not limited to, zoning regulations, Building Code, Fire Prevention Code, and Health Code requirements.
 - iv. That the proposed entertainment will comply with all applicable rules, regulations, ordinances, and state laws, specifically including, but not limited to, noise limitations, performance standards, and distancing requirements under Sections 7.035, 9.02(19), and 18.03(3)(m) of the Revised Municipal Code.
 - v. If the applicant is a corporation that it is licensed to do business in the State of Wisconsin and is in good standing.
 - vi. That the applicant holds a Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine license for the premises for which an entertainment license is sought.
 - d. Upon approval of the application by the Common Council, a license shall be issued to the applicant by the Clerk/Treasurer. Any license issued under this section shall be non-assignable and nontransferable from person to person or from one premises to another.
 - e. Whenever an application is denied, the Clerk/Treasurer shall advise the applicant in writing of the action taken and the reasons for such action. The Clerk/Treasurer shall also advise the applicant of the right to request that the Common Council review its determination pursuant to Section 2.48(5) of the Revised Municipal Code.
7. Display of License. The license shall be displayed in a conspicuous public place in the tavern entertainment establishment.
8. Renewal of License.
- a. Every license issued pursuant to this section shall terminate on June 30th pursuant to Section 9.015, 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 Clerk/Treasurer. The application for renewal must be filed on or before May 1st. Operators filing a renewal application shall provide the information required by Subsection 9.034(2) and shall be processed pursuant to Subsection 9.034(6).
 - b. A license renewal fee of two hundred fifty dollars (\$250.) shall be submitted with the application for renewal.
9. Transfer of License. No license issued pursuant to this section shall be assignable or transferable. For purposes of this section, "assignable" or "transferable" shall mean and include any of the following:
- a. The sale, lease, or sublease of the business; or
 - b. The transfer of securities which constitute a controlling interest in the business, whether by sale, gift, exchange, or similar means; or
 - c. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business.
10. Suspension, Revocation, and Nonrenewal of License.
- a. A license may be suspended for a period not to exceed ninety (90) days, revoked, or not renewed by the Common Council for participating in, allowing, or suffering disorderly conduct or sexual offenses in or around the licensed premises; or for any violation by the permittee, the licensee, or the licensee's agents, employees, or entertainers, of any of the provisions of this section; or any ordinance or law relating to the use or occupation of the licensed premises. If a license is revoked or not renewed, at least two (2) years shall elapse before another license or permit shall be given for the same premises or to the same licensee or permittee. Any suspension, revocation, or nonrenewal may be in addition to any forfeiture imposed under this section or other penalty imposed by law. The procedures set forth in Section 125.12 of the Wisconsin Statutes shall apply to suspensions, revocations, and nonrenewals of entertainment licenses and permits.
11. Exceptions. A tavern entertainment license is not required if the entertainment consists of dart games, amusement devices for which a license is required under Section 9.08 of this Code, pool or billiard tables, or bowling.
12. Discontinuation of Operation. Any transfer of the entertainment license from the licensed premises to any other premises shall cause said entertainment license to lapse and become void. Any discontinuation in the operation of the licensed premises for a period of six (6) months shall also cause the entertainment license to lapse and become void.
13. Special Entertainment. A license issued under this section shall not constitute a license to engage in entertainment under Section 9.033 of the Revised Municipal Code.

~~{Ord. No. O-2009-0016, 6/16/2009}~~

SECTION 6: **REPEAL** "9.05 Dance Halls" of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~9.05 Dance Halls (Repealed)~~

1. Definitions.
 - a. Public Dance. The term "public dance" or "public hall," as used in this section, shall be taken to mean any dance or hall to which admission can be had, either without charge when under personal supervision of the licensee or by payment of a fee or by purchase, possession or presentation of a ticket or token in which a charge is made for caring for clothing or other property, or any other dance to which the public generally may gain admission with or without payment of a fee.
 - b. Public Dance Hall. The term "public dance hall," as used herein, shall mean any room, place or space in which a public dance or public hall may be held, or hall or academy in which classes in dancing are held and instruction in dancing given for hire.
2. Dance Hall License.
 - a. License Required. It shall be unlawful to hold any public dance or public ball or to hold classes in dancing within the limits of the City until the dance hall in which the same may be held shall have been duly licensed for such purpose.
 - b. This section shall not apply to studios or dance academies whose primary business is dance instruction and do not offer food or beverages for sale on the premises. **[Ord. O-2010-0013, 6/1/2010]**
 - c. Fees. All such applications shall be accompanied by an annual license fee of sixty dollars (\$60.00). **[Ord. 6055, 11/15/1993; Ord. O-2009-0033, 11/3/2009]**
 - d. Granting License. No license for public dance hall shall be issued until it shall be determined that the hall conforms to all health and fire regulations of the City, that it is properly ventilated and supplied with sufficient toilet conveniences, and is a safe and proper place for the purpose for which it is to be used.
 - e. Revocation of License. The license of any public dance hall shall be revoked by the Common Council for disorderly or immoral conduct on the premises or for violation of any of the rules, regulations, ordinances and laws governing or applying to public dance halls or public dances. If at any time the license of a public dance hall be revoked, at least six (6) months shall elapse before another license or permit shall be given for dancing on the same premises to the same licensees.
3. Regulations of Dance Halls.
 - a. Renting of Hall.

- i. Licensee to Report. Every licensed owner of a dance hall shall immediately upon application being received by him from any person, club or society to lease or rent his hall for the purpose of holding a public dance or ball therein, report to the Chief of Police the name and address of such person, club or society and the date when such public dance or ball is proposed to be held. The Chief of Police shall at once make or cause to be made an investigation for the purpose of determining whether such dance or ball shall be held.
 - ii. Refusal to Permit Dance. If the Chief of Police shall determine that the proposed dance or ball ought not to be held, he shall, within five (5) days after receipt of the aforesaid notice of application for lease or rental, notify the licensed owner of such dance hall in writing that the proposed public dance or ball shall not be held therein, and the licensed owner of such dance hall thereupon shall refuse to permit such public dance or ball to be held in such hall. Failure on the part of the licensed owner of such hall to comply with the provisions of this notice shall be sufficient cause for the revocation of the license of such licensed owner.
 - iii. Exceptions. Nothing herein shall be construed as requiring the holder of a dance hall license to secure a dance permit where the dance is conducted in the hall under the direct personal supervision of such licensee.
- b. Minors at Dance Halls. It shall be unlawful after 10:00 p.m. to permit any person to attend or take part in any public dance who is under the age of eighteen (18) years unless accompanied by parent, lawful guardian or adult spouse when intoxicating or fermented malt beverages are available for consumption on the premises. It shall be unlawful for any person to represent himself or herself to have reached the age of eighteen (18) years in order to obtain admission to a public dance hall or to be permitted to remain therein when such person, in fact, is under eighteen (18) years of age, and it shall also be unlawful for any person to represent himself or herself to be a parent, lawful guardian or adult spouse of any person, in order that such person may obtain admission to a public dance hall, or shall be permitted to remain therein when the party making the representation is not, in fact, either a parent, lawful guardian or adult spouse of the other person.
- c. Closing Hours. All public dances, except upon licensed tavern premises, shall be discontinued and all public dance halls shall be closed on or before the hour of 1:30 a.m. during the week and 2:30 a.m. on Sunday, and shall remain closed until 8:00 a.m. of said day. Public dances upon licensed tavern premises shall be discontinued fifteen (15) minutes prior to the established closing time for such tavern premises.
- d. Dancing in Bar Room. It shall be unlawful to permit dancing in a bar room of any tavern within six (6) feet of any bar and back barwall, or the area within three (3) feet of any part of an exit door or toilet room door, or any other exit or passageway, or any toilet room or any other space or room which is not used exclusively by the public. The area in which dancing is permitted shall be either partitioned off, roped off or indicated by a line drawn upon the floor.

SECTION 7: **REPEAL** "9.06 Pool Tables And Bowling Alleys" of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

9.06 Pool Tables And Bowling Alleys (Repealed)

1. License Required. No person shall erect or keep, or permit to be erected, placed or kept upon his, her or their premises, within the limits of the City, any billiard table, pool table, bowling alley, nine- or ten-pin alley, used and kept for hire, without having obtained a license therefor, as provided in this section.
2. Application for License. Licenses for the erection or keeping of billiard tables, pool tables and bowling alleys shall be issued by the City Clerk when granted by the Common Council upon the presentation to the Clerk of the City Treasurer's receipt, showing payment of the sum required in Subsection (4) hereof.
3. License Non-assignable. No license shall be assignable or inure to the benefit of any other than the person, persons, company, association or corporation to whom such license was originally issued.
4. License Period and Fees. Every license shall expire on the 30th day of June following the date of its issue, and a fee of thirty-five dollars (\$35.00) shall be paid therefor, for each billiard table, pool table or bowling alley for which such license shall be issued. Payment shall be made to the City Clerk/Treasurer upon application. **[Ord. 6055, 11/15/1993; Ord. O-2009-0033, 11/3/2009]**
5. Regulations.
 - a. No licensee shall permit any minor under the age of sixteen (16) years to frequent, loiter in or to play pool or billiards in that part of any premises used by the public for the playing of pool or billiards.
 - b. In no event shall card playing be permitted on premises which are licensed for the erection or keeping of billiard or pool tables even if such card playing is for social purposes, unless such premises also has a retail Class "B" fermented malt beverage license.
 - c. All premises in which the game of pool or billiards is played shall be so arranged and shall be so lighted at all hours that a full view of the interior may be seen from the public street or sidewalk or from adjacent rooms to which the public is admitted.
 - d. It shall be unlawful for any person, society, club or corporation to operate a billiard or pool room during the closing hours established for retail Class "B" fermented malt beverage or intoxicating liquor licensed premises, as provided in section 9.02(17)(a)(3) of this Code, or to permit any person or persons, except regular employees performing necessary work within the premises, to be or remain in any room where billiard or pool tables are maintained for hire at any time during such hours.
 - e. No person, while in any billiard hall or pool room, shall have in his possession and no person, society, club or corporation operating a billiard or pool room shall permit any person to have in his possession, any intoxicating liquor or fermented malt beverage unless such premises also has a retail Class "B" fermented malt beverage license and a retail Class "B" liquor license, pursuant to the provisions of section 9.02 and section 9.03 of this Code.

SECTION 8: **REPEAL** "9.08 Amusement Devices" of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

9.08 Amusement Devices (Repealed)

1. Definitions.
 - a. Amusement Devices. An amusement device shall mean any electronic or mechanical game, including devices for the playing of miniature games of hockey, bowling, baseball or basketball, pinball and shuffleboard and similar games, and for which a consideration either in coin or in other thing of value is required for the playing thereof or participation in the playing thereof, but shall not be deemed to include any gambling device. A phonograph or instrument for reproducing music and which is not designed for the playing of games shall not be considered an amusement device.
 - b. Phonographs. Phonographs shall include any instrument which reproduces music by record or other means.
 - c. Distributor. Distributor shall mean any person who, as owner or lessor, distributes or leases any amusement device or phonograph to any person for use in the City.
 - d. Lessee. A lessee shall mean any person, not including a firm or corporation, who has leased or agrees to have in his custody or has in his possession, an amusement device under any agreement to pay rent or share in the proceeds of the operation of the machine with the owner or distributor thereof.
 - e. Gambling Device. Gambling device shall mean any instrument, device or thing used or usable for gambling or playing any game of chance for money or any other thing of value.
 - f. Pinball Machines, When Gambling Device. Any device or instrument or so-called pinball machine which contains a coin tray or compartment, in which coins, merchandise or thing of value is delivered or made available to the player, or to the lessee or distributor on behalf of said player or for the player's benefit, as a prize or a reward which is the result of a winning combination or a single or a series of combinations obtained by the player of said device in which the element of chance is a substantial factor is hereby declared to be a gambling device and its ownership or possession is unlawful.

- g. Owner-Operator. An owner-operator is any person who owns and operates an amusement device or phonograph in his own business establishment and is not actively engaged in the practice of distributing any amusement device or phonograph, as defined in subsection (1)(c) hereof.
2. Gambling Devices Prohibited. No person, firm or corporation shall set up for operation, operate, lease or distribute for the purpose of operation any gambling device or slot machine.
 3. License Required. No distributor shall own, lease, install, place, operate any amusement device or phonograph, share in the proceeds or profits or collect rents of any amusement devices or phonographs for use on any premises in the City without first having obtained a distributor's license and paying the license fee hereinafter provided. No person or lessee shall have in its possession or set up for use any amusement device or phonograph which has not been registered with the City Clerk and the registration fee paid, as hereinafter provided.
 4. Licenses.
 - a. Amusement Device Distributor's License.
 - i. Fees. The distributor's license fee for an amusement device shall be four hundred fifty dollars (\$450.00) per year, and shall be paid to the City Clerk/Treasurer at the time of filing the application for a license. **[Ord. 6055, 11/15/1993; Ord. O-2009-0033, 11/3/2009]**
 - b. Phonograph Distributor's License.
 - i. Fee. The Distributor's license fee for a phonograph shall be three hundred dollars (\$300.00) per year and shall be paid to the City Clerk/Treasurer at the time of filing the application for a license. **[Ord. 6055, 11/15/1993; Ord. O-2009-0033, 11/3/2009]**
 - c. Owner-operator's Licenses. The owner-operator's license fee for an amusement device shall be thirty dollars (\$30.00) per year, and for a phonograph shall be twenty-five dollars (\$25.00) per year, and shall be paid to the City Clerk/Treasurer at the time of filing the application for a license. **[Ord. O-2009-0033, 11/3/2009]**
 - d. Application for License.
 - i. An applicant for any of the licenses set forth in Subsection (3) of this section shall make application in writing to the Common Council on such application forms as shall be prescribed by the City Clerk.
 - ii. All applicants, in their application, shall consent to a reasonable inspection of their records and devices to determine ownership and character of amusement devices and phonographs to be operated in their business establishment.
 - e. Standards for Issuance. The Common Council may grant a license if it is found: **[Ord. 6519 (amend) 6/6/2000]**
 - i. 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.
 - ii. That subject to §§ 111.321, 111.322, and 111.335, Wis. Stats., the applicant has not, within the five years immediately preceding the date of the application, been convicted of violating this ordinance or of any other offense substantially related to the amusement device business.
 - iii. That the applicant be a Wisconsin resident or name an agent in the State of Wisconsin. Said agent shall be personally liable for the operation of the licensed business and agrees to accept service on behalf of the licensee until such time as a new agent is approved by the Common Council.
 - iv. The applicant is at least eighteen years of age.
 - v. 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.
 - vi. That the applicant, if a corporation, is licensed to do business and is in good standing in the State of Wisconsin.
 - vii. That the applicant has substantially complied with all building, zoning, plumbing, electrical, fire, and health codes.
 - f. License Period. The license period for any of the licenses provided for under this section shall extend from July 1 of each year to June 30 of the following year.
 5. Registration of Amusement Devices.
 - a. Devices to Be Registered. All licensed distributors, owners or possessors shall, on the first day of each July, register or cause to be registered with the City Clerk, all of their amusement devices or phonographs on location for use. Nothing herein contained shall be construed to authorize the registration of any slot machine or gambling device.
 - b. Issuance of Registration Symbols. The City Clerk shall require the registrant to submit the information as may be necessary to identify the amusement device so registered, and shall issue to the registrant an appropriate registration symbol so designed as to permit its secure attachment to the amusement device to be registered. Any person, firm or corporation delinquent in the payment of taxes, personal or real, shall not be issued a distributor's license.
 - c. Registration Fees. The registration fee for each amusement device shall be thirty-five dollars (\$35.00) per year per machine, and the registration fee for each phonograph shall be twenty-five dollars (\$25.00) per year per machine. The registration fee shall be paid to the City Clerk/Treasurer at the time of registration. **[Ord. 6055, 11/15/1993; Ord. O-2009-0033, 11/3/2009]**
 - d. Seizure. The Mayor, Chief of Police or any police officer shall seize or cause to be seized any amusement device upon which is not affixed a registration symbol, as herein required. The ownership or possession of any non-registered amusement device is declared to be a violation of this subsection.
 - e. Transfer of Registration Symbols. Any transfer of registration symbols from one machine to another shall be unlawful, unless a certificate of transfer is first obtained from the City Clerk. The Clerk shall issue such certificate upon the verified statement of the licensee or operator that the previously registered machine is no longer located at the place where originally registered, and that by such transfer the machines on hand shall not exceed two (2) in number. No person shall counterfeit a registration symbol or shall transfer such registration symbol from one amusement device to another without having previously registered such transfer with the City Clerk.
 6. Suspension, Revocation, or Non-renewal. **[Ord. 6519 (amend) 6/6/2000]**
 - a. Licenses. The Common Council may suspend, revoke, or not renew any license or registration symbol. No license shall be suspended, revoked, or non-renewed without first providing the licensee with due notice and hearing before the License and Health Committee of the West Allis Common Council for the purpose of determining whether grounds for such action exist. The License and Health Committee shall make findings and recommendations to the West Allis Common Council and a copy shall be mailed to the licensee or its in-state agent. The licensee shall have ten days from the date the findings and recommendations were mailed to make written objections. The Common Council shall then determine whether sufficient ground(s) exist and whether the license should be suspended, revoked, or non-renewed. The Clerk/Treasurer shall notify the operator in writing of the decision of the Common Council by first class mail.
 - b. Registration Symbols. Upon conviction for a violation of any provision of the section involving a device or phonograph registered under this section, the licensee shall surrender the registration symbol(s) for each device to the City Clerk/Treasurer. If the licensee fails or refuses to surrender said symbols, the City Clerk/Treasurer shall notify the licensee, in writing by first class mail, that such symbols are revoked effective the date of conviction, unless stayed on appeal.

SECTION 9: **REPEAL** "9.10 Arcades" of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

9.10 Arcades (Repealed)

1. Declaration of Intent. Whereas, there has been, as of the time of the enacting of this ordinance, an increase in the business of operating arcades, especially those offering amusement devices of the type known as electronic and video games; and, Whereas, it is the belief of the Common Council that such arcades are intended to, and in fact do, draw a major portion of their clientele from the juveniles and young people of the communities in which they are situated; and, Whereas, it is the policy of the Common Council that it is in the best interest of the community to closely monitor, regulate as necessary, and oversee the operation of those businesses that have a high degree of contact with the youth of the community; and, Whereas, it is the belief of the Common Council that without proper regulation, arcades may substantially interfere with the attainment of public education objectives

and priorities for the youth of the community, create an environment for disorderly behavior and conduct and threaten the peaceful enjoyment of the properties in the neighborhood; all contrary to the good order, safety, health and welfare of the community. Now, therefore, it is determined that it is in the best interest of the health, safety and welfare of the community to establish reasonable regulations for the operation of arcade businesses, and to such purpose this section is hereby enacted.

2. Definitions.

- a. Amusement Device. See sec. 9.08(1)(a) of this Chapter.
- b. Arcade. Any premises containing five (5) or more amusement devices for the primary use and entertainment of the public, except premises for which a license to sell fermented malt beverages and/or intoxicating liquors has been issued by the City.
- c. Good Moral Character. For purposes of this section, "good moral character" shall mean that the person under consideration has exhibited conduct consistent with that of the average person with regard to reputation, citizenship, decency, honesty and respect for law and order. The following, without limitation due to enumeration herein, shall be considered to be evidence of activities inconsistent with "good moral character":
 - i. Conviction within five (5) years preceding application for license of a crime involving moral turpitude, except as set out below.
 - ii. Conviction of the offense of contributing to the delinquency of minors, exposing minors to harmful materials, liquor law violations involving minors, sex offenses or sexual assaults involving minors, offenses against the controlled substances act or offenses against the organized crime control act, which offenses are hereby deemed to be of special concern and affecting the health, safety and welfare of youth in particular and the community in general.
 - iii. Being a probationer or parolee under the jurisdiction of the State Department of Health and Social Services, Department of Community Corrections, or a similar agency of another state or the federal government.
 - iv. Being the subject of any criminal prosecution for a crime involving moral turpitude, in the courts of any state or of the federal government. Nothing in this section shall be construed to prevent any such person from reapplying for a license under this section after the conclusion of said proceeding.
 - v. Being known to any police agency to be habitually disorderly as to conduct; a habitual drunkard or user of illicit controlled substances; a gambler; a frequenter of disorderly houses; a vagrant; an associate of known criminals; or, to have knowingly given false information to any police or government agency concerning any investigation, application or other proceeding.
 - vi. In the event that any application for a license under this section is denied on the grounds that a person named in the application is not of good moral character, such person may, using the procedures provided for in Chapter 68 of the Wisconsin Statutes, demand the reasons therefor in writing and shall be afforded the opportunity to, if desired by such person, have a hearing, as provided for under that Chapter, and to present evidence on his behalf.

3. License Required. No person, firm or corporation shall operate an arcade without first having obtained a license therefor from the Common Council.

4. Application for License. An application for a license shall be filed with the City Clerk on forms to be furnished by the Clerk, which form shall require the following information:

- a. Name and address of the applicant;
- b. In case of a partnership, the names and addresses of all partners;
- c. In case of a corporation, the names and addresses of all officers, directors and stockholders of ten percent (10%) or more of the capital stock of the corporation;
- d. In case of clubs, associations or other organizations, the names and addresses of all officers;
- e. The location of the premises to be licensed and the name and address of the owner or owners of said premises;
- f. Whether or not any person or persons named in the application have ever been convicted of violating any federal or state law bearing a criminal penalty, or any county, local or municipal ordinance in conformity therewith, or any offense described in subsection (2)(c)(2) above.
- g. The number of games, machines, tables or amusement devices to be located upon the premises to be licensed.

5. License Fee. The license fee shall be three hundred dollars (\$300.00) per year and shall accompany each application. [Ord. O-2009-0033, 11/3/2009]

6. License.

- a. All licenses herein provided for shall be issued upon approval by the Common Council, and shall limit the holder thereof to operate an arcade only on the premises for which the license has been issued. All licenses shall expire on the 30th day of June following the date of issuance.
- b. Such license shall bear the date of issuance, the name of the licensee, the purpose for which issued, and the location of the room or building wherein the licensee is authorized to carry on and conduct such business. Such license shall not be transferable by the holder to any other person, firm or corporation, but such license may be transferred by the holder to another location, provided that the licensee shall make written application for such transfer to the City Clerk and such transfer is approved by the Common Council. A transfer fee of twenty-five dollars (\$25) shall be paid by the applicant.
- c. Change in Ownership. Any change of ownership of an arcade business licensed under the provisions of this section shall void such license, unless the owner thereof shall apply for continuation of the license for the remainder of the license year for which it was originally granted. Such application shall be accompanied by an application fee of twenty-five dollars (\$25), and a publication fee of fifteen dollars (\$15). Such change includes, but shall not be limited to, a change of individual ownership, the addition of a partner or stockholder, the withdrawal of a partner or stockholder or a change in the percentage of interest in the business of a partner or stockholder. Unless such application shall take place within thirty (30) days of the date of the change of ownership, the license granted hereunder shall terminate. All changes in the membership of a partnership or all changes in the identity of the principal officers or any stockholders in the corporation shall be reported to the City Clerk within ten (10) days after they occur. The License & Health Committee of the Common Council shall have the authority to approve or deny continuance of said license following public hearing on such application for continuance. Notice of such hearing shall be published as required by law. Persons aggrieved by the decision of such Committee may appeal such decision pursuant to the provisions of Chapter 68 of the Wisconsin Statutes.
- d. The Common Council shall require the West Allis Police Department to make an investigation of all persons named in an application for a license and report the findings of such investigation to the City Clerk.
- e. A license shall not be issued if the applicant, or any partner, or the principal officer, or any stockholder holding more than twenty percent (20%) of the capital stock of the corporation, if applicant is a corporation:
 - i. Is not of good moral character as defined above;
 - ii. Is under eighteen (18) years of age.

7. Location of Premises.

- a. No license shall be issued to any applicant unless the applicant has first obtained a special use permit for the premises, as provided by Chapter 12 of this Code.
- b. In any event, no license shall be granted to any person, firm or corporation to operate a business offering to the public an opportunity to use amusement devices for a fee, which is located within five hundred (500) feet from the boundary of a parcel of real estate having situated on it a school, church, hospital, public library, park or public playground.

8. Revocation of License. The Common Council of the City of West Allis may suspend, revoke or deny reissuance of any license issued, pursuant to this section, at any time, for any reasonable cause, which shall be in the best interest and for the good order of the City, provided that the license shall be accorded due process of law. Cause for such revocation, suspension or denial shall include, without limitation for lack of reference herein, any violation of the provisions of this section, or other provisions of the West Allis Revised Municipal Code, relevant to the operation of said business.

9. Arcade Operator's Licenses. A licensed arcade operator shall be on the licensed premises at all times during the hours the arcade is open to the public, in order to provide supervision necessary to maintain proper order.

- a. An arcade operator's license shall entitle the holder thereof to work as operator upon premises licensed under this section. Such licenses will be issued by the Common Council only to persons of good moral character, as defined above, over eighteen (18) years of age.
- b. A written application shall be filed annually with the City Clerk stating the name, address, age and sex of applicant. The application shall be referred to the Chief of Police for report. A license fee must accompany the application. There will be no refund of the fee if the license is not subsequently granted.
- c. Fees. The annual fee for an arcade operator's license shall be thirty-five dollars (\$35.00). There will be a charge of ten dollars (\$10.00) for the issuance of a duplicate license. [Ord. O-2009-0033, 11/3/2009]

- d. Posting. Each arcade operator's license shall be posted in a conspicuous place where the licensee is employed.
 - e. Revocation. Any arcade operator's license issued under this section may be revoked, suspended or denied, at any time, for any reasonable cause, which shall be in the best interest of and for the good order of the City. Any arcade operator's license issued under the provisions of this section shall stand revoked without further proceedings, upon the conviction of a licensee for maintaining a disorderly or riotous, indecent or improper place of business. Whenever any such license shall be revoked, no refund of any unearned portion of the fee paid shall be made.
10. Conduct of Business and Miscellaneous Regulations. All arcade license and arcade operator's licenses 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, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
 - b. Each license 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.
 - c. There shall be upon premises operated under an arcade license at all times some person who shall have an arcade operator's license, and who shall be responsible for the acts of all persons employed at said premises.
 - d. No premises licensed under this section shall be permitted to remain open between the hours of 11:00 p.m. and 9:00 a.m. of any day.
 - e. No patron or guests shall be permitted to enter or remain on the licensed premises during the closing hours provided in Paragraph (d) above.
 - f. Nothing in this section shall be construed to authorize or permit or license any gambling device of any nature whatsoever.
 - g. No person, while using or operating a game of amusement or amusement device, or while on the licensed premises, shall gamble or make any bets.
 - h. In no event shall card playing be permitted on such licensed premises even if such card playing is for social purposes only.
 - i. Rooms in which games of amusement are located and used by the public shall, at all times, be kept in a clean, healthful and sanitary condition with ample and approved lighting and ventilation, in accordance with Municipal Code requirements and as hereinafter set forth.
 - j. No person, while on a premises licensed hereunder, shall have in his possession any intoxicating liquor or fermented malt beverage.
 - k. No person under the age of eighteen (18) years shall be permitted on the licensed premises where the use of games of amusement or amusement devices is offered to the public for a fee 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 his or her legal parent or guardian.
 - l. The licensee of the premises shall provide a minimum unobstructed area of two (2) feet perpendicular to the front of each game, device, machine or table for customers to stand while using same; in addition, an unobstructed aisle for the safe passage of customers of at least three (3) feet shall be provided in front of each game, device, machine or table.
 - m. In no event shall occupation by more persons than allowed by the provisions of the West Allis Fire Prevention Code, as applicable to the licensed premises, be permitted.
 - n. Nothing in this section shall be construed to permit any relaxation of, or exemption from, the provisions of sec. 7.035 of the West Allis Revised Municipal Code.
 - o. All areas of the licensed premises shall, during business hours, have a sustained minimum white light illumination of thirty (30) foot candles, measured on a plane thirty (30) inches above the floor.
 - p. The licensed premises shall afford front window treatment of such a design as to allow full observation of the interior of the premises from the public way at all times.
 - q. The licensee of the premises shall provide a bicycle storage area sufficient to take care of the needs of all customers, which shall be located off the public way.
11. Exemptions. Exemptions from the provisions of this section shall be:
- a. Education, religious, charitable institutions and fraternal organizations which do not permit use of amusement devices on their premises by the general public and which are nonprofit organizations.
 - b. Any premises licensed to sell fermented malt beverages and/or intoxicating liquors has been issued by the City.
 - c. Other commercial premises primarily used for the conducting of a business other than the business of operating an arcade, which offer the use of less than five (5) amusement devices shall be exempt from the provisions of this section.
12. Penalties. Any action taken to revoke, suspend or deny a license issued under this section shall not preclude prosecution, conviction and punishment for violations of this section, as provided by sec. 9.27(b) of this Chapter. Each day that any violation is permitted to continue shall be deemed to be a separate offense.
13. Severability. Should any subsection or portion thereof of this section be held unlawful and unenforceable by any court of competent jurisdiction, such decision of the court shall apply only to the specific subsection or portion thereof directly specified in the decision, and all other subsections or portions thereof of this ordinance shall remain in full force and effect.

SECTION 10: **REPEAL** "9.105 Shooting Galleries And Gun Ranges" of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

9.105 Shooting Galleries And Gun Ranges (Repealed)

1. Regulation for Shooting Galleries and Gun Ranges. No premises shall be used or permitted to be used, leased or hired as a shooting gallery, gun range or place to practice target shooting, wherein firearms shall be discharged, without being duly licensed therefor. The license shall expire on the 31st day of December after the granting thereof, unless sooner revoked. No corporation, firm, association or club shall be granted a license to conduct in any manner a shooting gallery, gun range or place to practice target shooting within the limits of the City, except to an agent thereof first duly appointed by it, who is, at the time of filing said application, an officer, manager or member thereof, a full citizen of the United States, a resident of Milwaukee County continuously for at least two (2) years prior to the date of said application and who shall have vested in him by a properly authorized and executed written delegation full authority and control of the premises described in the license and of the conduct of all business and acts therein in any way relating to firearms and the use thereof or of the shooting gallery, gun range or place to practice target shooting and who shall, with respect to his qualifications be satisfactory to the Common Council. Such agent shall be personally responsible for compliance with all the terms and provisions of this ordinance. If such duly appointed agent shall, during any licensed year, cease to be an officer, manager or member of any corporation, firm, association or club, on whose behalf said license was issued, a new license shall be required and application therefor shall be forthwith made pursuant to the terms and provisions of this section. **[Ord. O-2009-0033, 11/3/2009]**
2. Application for License. No person shall be granted a license to conduct in any manner a shooting gallery, gun range or place to practice target shooting within the limits of the City, unless he shall have been, at the time of filing said application, a full citizen of the United States, a resident of Milwaukee County continuously for at least two (2) years prior to the date of said application, nor unless such individual is, with respect to his qualifications, satisfactory to the Common Council. Application for a license for any specific premises sought to be used as a shooting gallery, gun range or place to practice target shooting shall be made on forms provided by the City Clerk/Treasurer and be accompanied by the full license fee of sixty dollars (\$60.00). Said application shall contain the following information:
 - a. Name and age of applicant, whether a firm, association, corporation or club.
 - b. Address of applicant.
 - c. Location and description of premises sought to be licensed.
 - d. Qualifications of licensee.
 - e. Name of agent.
 - f. Qualifications of agent.

No application shall be submitted to the Common Council unless said application shall have been approved by the Chief of Police and Building Inspector. No premises shall be licensed unless constructed in accordance with the specifications provided in this section. **[Ord. O-2009-0033, 11/3/2009]**

3. Specifications.

- a. Use and Construction. The room, place or enclosure wherein the firing of firearms is to take place shall not be used for any other purpose whatsoever during the progress of firing. The rear wall and side walls in front of the firing line shall be made bullet proof and shall be of at least the following construction:
 - i. Eight (8) inch solid masonry or concrete, or
 - ii. Ten (10) inch hollow concrete block, or
 - iii. Wood stud and plaster walls or equivalent construction covered with one-quarter (1/4) inch steel plate and faced with wood one (1) inch thick.
- b. Bullet Protecting Plates.
 - i. When the floor construction is other than reinforced concrete and there is a room below, such floor in front of the firing line for a distance of at least ten (10) feet shall be covered with a steel plate not less than one-quarter (1/4) inch in thickness. When there is no room below such floor and the floor construction is other than reinforced concrete, the thickness of such steel plate may be one-sixteenth (1/16) inch in order to provide fire protection for unburned powder.
 - ii. When the ceiling construction is of other than reinforced or precast reinforced concrete and there is a room above, such ceiling in front of the firing line for a distance of at least ten (10) feet shall be covered with a steel plate not less than one-quarter (1/4) inch in thickness.
 - iii. Exposed pipes, conduits, beams, pilaster, columns, lights or any other projecting surface in front of the firing line shall be provided with protecting steel plates not less than one-quarter (1/4) inch in thickness faced with wood two (2) inches in thickness to prevent damage by stray bullets and to prevent injury to persons by ricocheting bullets. These plates shall be set at such an angle that no bullet can possibly return towards the firing point.
- c. Door and Window Openings.
 - i. All door, window or other openings in the range, in front of the firing line, shall be protected with one-quarter (1/4) inch steel plate faced with wood one (1) inch thick.
 - ii. All doors opening into the range, except those behind the firing line, shall be bolted from the inside.
- d. Bullet Stops.
 - i. The bullet stop shall consist of a steel plate placed at an angle of forty-five degrees (45°) from the horizontal and running the width of the range. When only twenty-two caliber (.22) ammunition is used, the plate shall be three-eighths (3/8) inch thick if of structural steel or one-quarter (1/4) inch thick if of armor plate. The thickness shall be increased to one-half (1/2) inch structural steel or three-eighths (3/8) inch armor plate if thirty-eight caliber (.38) or forty-five caliber (.45) ammunition is used.
 - ii. The plates of the bullet stop shall be butted tightly together and bolted to an angle or tee at the joints using countersunk heads on the face. Shiplap joints or welded joints can be used also. Targets should not be mounted in front of any joints.
 - iii. The side walls at the bullet stop shall be covered by one-quarter (1/4) inch steel plate, not less than two (2) feet wide and slanting with the bullet stop to protect the walls from the spatter of lead.
 - iv. At the base of the inclined bullet stop there shall be provided a box, not less than five (5) feet wide and running the width of the range, with not less than six (6) inches of clean sand or sawdust or not less than twelve (12) inches of water to catch the deflected bullets.
- e. Targets.
 - i. Targets shall be stationary bull's-eye type. All moving targets are prohibited.
 - ii. There shall be provided a target carrier system or device for running the targets back and forth between the firing line and the bullet stop which will eliminate the necessity of any one going in front of the firing line during the progress of firing for the purpose of changing targets.
- f. Firing Line. At the firing line a bench, shelf or other separation, not less than three (3) feet high and running the width of the range, shall be provided. The lower part of such bench, shelf or other separation shall be open to permit shooting under it in the kneeling, sitting or prone position. No person shall be permitted in front of the firing line during the progress of firing.
- g. Sound Quieting Treatment. Shooting premises located adjacent to premises used in whole or in part for residence purposes shall not be offensive by reason of the emission of noise to the outdoors. In such cases, where the noise of firing is conveyed to the outdoors, the walls and ceiling of the shooting premises or range shall be covered with sufficient sound absorbing material to eliminate the nuisance, or sound absorbing boxes, in which the muzzle of the gun is inserted before firing, shall be used.
- h. High-Powered Rifles. The firing of high-powered rifles shall not be permitted on any shooting premises. A high powered rifle is hereby defined as one which discharges a center fire cartridge.
 - i. No person shall consume fermented malt beverages or intoxicating liquor upon that part of the premises licensed as a shooting gallery, gun range or place to practice target shooting.

SECTION 11: AMENDMENT "9.28 Adult Oriented Establishments" of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

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. ~~Any establishment holding a Class "B" Fermented Malt Beverage License or Class "B" Intoxicating Liquor License, is ineligible to obtain a permit to conduct an adult-oriented establishment but may obtain an entertainment license pursuant to Section 9.032 of this Code.~~(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).

SECTION 12:AMENDMENT "18.03 Public Nuisances" of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

18.03 Public Nuisances

The following acts, omissions, places, conditions, and things are specifically declared to be public nuisances, but such enumeration shall not be construed to exclude other nuisances:

1. Nuisances Affecting Health, Welfare, and Enjoyment of Property.

- a. Noxious Odors, Etc. Any use of property, substances, or things within the City emitting or causing any foul, offensive, noisome, noxious or disagreeable odors, gases, effluvia, or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure, or inconvenience the health of any appreciable number of persons within the City.
- b. Street Pollution. Any use of property which causes any noxious or unwholesome liquid or substance or any dirt, mud, sand, gravel, stone, or other materials to flow into or be deposited upon any street, gutter, alley, sidewalk, or public place within the City.
- c. Release of Dust Into the Air. The handling, transportation, or disposition of any substance or material which is likely to be scattered by the air or wind, or is susceptible to being airborne or wind-borne, or operating or maintaining or causing to be operated or maintained any premises, open area, right-of-way, storage pile of materials, vehicle, construction, demolition or wrecking operations, stone or concrete crushing operation, or any other enterprise, which involves any dust likely to be scattered by the wind or air, or susceptible to being wind-borne or airborne such that there is a discharge of any dust emissions and the visible settlement of dust on property beyond the property on which it originated so as to damage or to interfere with the use and enjoyment of adjacent properties, including public property and right-of-way.
 - i. "Dust" shall mean solid particulate matter released into or carried in the air by natural forces, by any combustion, construction work, or mechanical or industrial processes or devices.
 - ii. "Interfere with the use of adjacent properties" includes, but is not limited to, requiring the owner, occupants, or users of the adjacent property to close doors or windows on buildings or vehicles to prevent dust from entering, requiring the owner or user of vehicles or other tangible personal property to wipe, brush, wash, or blow off accumulated dust prior to normal operation or use, or requiring the sweeping, washing, or other cleaning of paved surfaces to prevent further tracking or scattering of the dust.
- d. General Pollution. Waste which is prepared or stored on any premises in a manner which creates or may create a public health hazard, safety hazard or blighting condition.

2. Nuisances Affecting Morals and Decency. [Ord. O-2005-0008, 2/1/2005]

- a. For the purposes of this section, "nuisance activity" means any of the following activities, behaviors or conduct whenever engaged in by premises owners, operators, occupants or persons associated with the premises:
 - i. Disorderly Houses. All disorderly houses, gambling houses and buildings or structures kept or resorted to for the purpose of gambling, or any drug or criminal gang houses as defined in sec. 823.113, (1) and (1)(b) Wis. Stats., and all buildings or structures where the sale, manufacture or delivery of drug paraphernalia as defined in sec. 961.571(1)(a), Wis. Stats., occurs.
 - ii. Gambling Devices. The keeping of gambling devices ~~as defined in Section 9.08(1)(c) of the Revised Municipal Code.~~
 - iii. Unlicensed Sale of Liquor and Beer. All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided by the ordinances of the City.
 - iv. Continuous Violation of City Ordinances. Any place or premises within the City where City ordinances or state laws relating to public health, safety, peace, morals or welfare are repeatedly violated.
 - v. Illegal Drinking. Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of state laws.

- vi. Establishment Violating Laws Related to Obscenity, Etc. Any place or premises within the City where the laws related to obscenity and related offenses set forth in secs. 944.20 to 944.34 of the Wisconsin Statutes occur.
- vii. An act of harassment as defined in sec. 947.013, Wis. Stats.
- viii. Disorderly conduct as defined in sec. 947.01, Wis. Stats.
- ix. Battery, substantial battery or aggravated battery as defined in sec. 940.19, Wis. Stats.
- x. Littering of premises as defined in Section 7.05 of the West Allis Revised Municipal Code.
- xi. Theft as defined in sec. 943.20, Wis. Stats.
- xii. Arson as defined in sec. 943.02, Wis. Stats.
- xiii. Possession, manufacture or delivery of a controlled substance or related offenses as defined in Chapter 961, Wis. Stats.
- xiv. Gambling as defined in sec. 945.02, Wis. Stats.
- xv. Keeping an animal in violation of Section 7.12 of the West Allis Revised Municipal Code. [Ord. O-2007-0041, 10/16/2007]
- xvi. Trespass to land as defined in sec. 943.13, Wis. Stats., or criminal trespass to dwelling as defined in sec. 943.14, Wis. Stats.
- xvii. Any conspiracy to commit, as defined in Section 6.02(5) of the West Allis Revised Municipal Code or sec. 939.31, Wis. Stats., or attempt to commit, as defined in sec. 939.32, Wis. Stats., any of the activities, behaviors or conduct enumerated in Paragraphs (1) to (16).
- xviii. Discharge of a firearm or air rifle as defined in Section 6.01(1) and (2) of the West Allis Revised Municipal Code.
- xix. Loitering as defined in Section 6.02(9) of the West Allis Revised Municipal Code.
- xx. Persons associated "with" means any person who, whenever engaged in nuisance activity, enters, patronizes, visits or attempts to enter, patronize or visit, or wishes to enter, patronize or visit, a premises or person present on the premises, including any officer, director, customer, agent, employee or independent contractor of a premises owner.

3. Nuisances Affecting Peace and Safety.

- a. Dangerous Signs and Billboards. All signs, billboards, awnings, and other similar structures over or near streets, sidewalks, public grounds, or places frequented by the public, so situated, constructed, or maintained as to endanger the public safety.
- b. Illegal Buildings. All buildings erected, repaired, altered, or maintained without a permit or in violation of City ordinances relating to materials and manner of construction of buildings.
- c. Unauthorized Traffic Signs. All unauthorized signs, signals, markings, or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as official traffic control devices or railroad signs or signals or which, because of their color, location, brilliance, or manner of operation, interfere with the effectiveness of any such device, sign, or signal.
- d. Obstruction of Intersections. All trees, hedges, billboards, or other obstructions which prevent persons driving vehicles on public streets, alleys, or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- e. Low-Hanging Tree Limbs. All limbs of trees, bushes, shrubs, or other plants which project over or into any public sidewalk, street, or other public place and interfere with the full use and enjoyment thereof.
- f. Dangerous Trees. All trees which are a menace to public safety because of disease or other condition of the tree or are the cause of substantial annoyance to the general public.
- g. Dilapidated Buildings. All buildings or structures so old, dilapidated, or out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human use.
- h. Low-Hanging Wires and Cables. All wires and cables over streets, alleys, or public grounds which are strung less than fifteen (15) feet above the surface thereof.
- i. Noisy Animals. The keeping or harboring of any animal which, by frequent or habitual howling, yelping, barking, crowing, or making of other noises, to the great discomfort of the peace and quiet of the neighborhood or in such a manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities.
- j. Obstructions of Streets; Excavations. All obstructions of streets, alleys, sidewalks, or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the City but including those which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished or which do not conform to the permit.
- k. Blighted Buildings and Premises. Premises existing within the City which are blighted because of faulty design or construction, failure to maintain them in a proper state of repair, improper management, or due to the accumulation thereon of junk or other unsightly debris, structurally unsound fences and other items which depreciate property values and jeopardize or are detrimental to the health, safety, enjoyment of property, or welfare of the people of the City.
- l. Suffocation Hazards. Any abandoned, unattended or discarded ice box, refrigerator, walk-in cooler, or other container of any kind, which has an air-tight door, left outside of any building or dwelling without first removing the door from the said ice box, refrigerator, walk-in cooler, or other container.
- m. Excessive Noise. The making, continuation, or causing to be made or continued any noise which either injures, endangers the comfort, repose, health, or safety of another, or substantially annoys another between the hours of 10:00 p.m. and 7:00 a.m. This provision shall not apply to noise necessary for the protection or preservation of property, or the health, or safety of a person or to emergency short-term operations which are necessary to protect the public health, safety, and welfare including emergency utility and public works operations.

SECTION 13: AMENDMENT "12.40 C-1 Central Business District" of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

12.40 C-1 Central Business District

The C-1 Central Business District is intended to accommodate those retail and office uses which are characteristic of the unique shopping streets of the "downtown" area of the City, and discourage uses which detract from, or are incompatible with, pedestrian, shopping and service oriented traffic, such as manufacturing or wholesale distribution uses.

1. Permitted Uses.

- a. Barbers and beauty shops.
- b. Books and stationary stores.
- c. Bridal and wedding salons.
- d. Camera stores and photographic equipment sales and services.
- e. Clothing stores.
- f. Computer and computer software sales and service.
- g. Costume rental stores.
- h. Curtains and draperies sales.
- i. Drug stores.
- j. Electronic equipment sales and service.
- k. Employment agencies and offices conditioned upon the following: [Ord. O-2005-0022, 5/17/2005]
 - i. Transportation for temporary employees shall not be provided by, or on behalf of, the employment agency from the agency or office to the work site.
 - ii. Employees shall not report to the employment agency or office for work assignments. The employees shall report directly to the work site assigned. Applicants for employment shall not be allowed to use public property as a waiting area.
 - iii. Restroom facilities adequate for applicants shall be provided on site.
- l. Financial institutions without drive-through facilities, except check-cashing businesses as defined in Section 9.32. [Ord. O-2006-0061, 10/17/2006]

- m. Florist shops.
- n. Hardware stores.
- o. Hobby or gift stores.
- p. Home improvement, furnishings, appliances and accessory sales. [Ord. O-2003-0028, 4/2/2003]
- q. Jewelry stores.
- r. Keymaking and locksmithing stores.
- s. Laundry and dry cleaning — pick up only.
- t. Leather goods sales.
- u. Luggage stores.
- v. Millinery shops.
- w. Tattoo and/or body piercing establishments. [Ord. O-2016-0020, 5/3/2016]

Editor's Note: Former Subsection (1)(w), which set forth liquor stores as a permitted use, was repealed 5-20-2014 by Ord. O-2014-0022.

- x. Office supply stores.
- y. Offices; business, professional and governmental. [Ord. O-2015-0001, 1/20/2015]
- z. Medical clinics. [Ord. O-2015-0001, 1/20/2015]
- aa. Photography studios and film developing.
- ab. Post offices.
- ac. Printing services; blueprinting and photocopying.
- ad. Restricted productions and repair, limited to the following: artwork; clothing custom manufacturing and alterations, for retail only; hearing aid devices; jewelry from precious metals; watches; dentures; and optical lenses.
- ae. Sewing machine sales and service.
- af. Shoe sales and repair stores.
- ag. Small appliance sales and service.
- ah. Specialty stores including arts and crafts and related uses.
- ai. Sporting goods stores.
- aj. Tobacco retailers. [Ord. 6279, 12/17/1996; Ord. O-2016-0032, 7/5/2016]
 - i. No tobacco retailer shall be located within one thousand (1,000) feet of parcels occupied by the following uses:
 - (1) A public or private kindergarten, elementary, junior high or high school;
 - (2) Libraries;
 - (3) Zoned parkland; or
 - (4) Another tobacco retailer or establishment licensed to sell any tobacco product or tobacco paraphernalia as defined within Section 12.06.
- ak. Trophy and award sales.
- al. Resale stores. [Ord. O-2007-0026, 8/7/2007 (repeal and recreate); Ord. O-2015-0029, 5/7/2015]
- am. Videotape sales and rental.
- an. Places of assembly including clubs, lodges, meeting halls and theaters, limited to a maximum of up to five thousand (5,000) square feet of building area and subject to the provisions of Sec. 9.28 of the Revised Municipal Code. [Ord. 6415, 1/5/1999; Ord. O-2007-0027, 8/7/2007 repeal; Ord. O-2011-0083, 1/3/2012 add; Ord. O-2013-0013, 3/5/2013]
- ao. Day-care facilities. [Ord. 6618, 6/18/2002]
- ap. Tanning and toning salons. [Ord. O-2005-022, 5/17/2005]
- aq. Public utility service structures not larger than six (6) feet tall and twenty-five (25) square feet in surface area, conditioned upon the following: [Ord. O-2008-0006, 2/5/2008; Ord. O-2008-0031, 7/1/2008]
 - i. Site, landscaping and screening, and architectural review of the public utility service structure and the immediate area surrounding the structure, by the Department of Development staff. Public utility service structures shall be effectively screened from any abutting lot(s) and City right-of-way by landscaping or other means, as necessary, as approved by the Department of Development staff; and
 - (1) If the staff and applicant are unable to come to an agreement on the proposed location and screening, the applicant may file a request for a variance with the Plan Commission by submitting a written request to the Department of Development not less than twenty (20) days before the next regularly scheduled Plan Commission meeting. At the time that a request for a variance is made, the applicant shall pay the required fee in accordance with development review fees in Chapter 12 of the Revised Municipal Code.
 - ii. Public utility service structures shall not be located within any front yard or corner side yard on private property.
- ar. Grocery stores. [Ord. O-2015-0002, 1/6/2015]
- as. Instruction and/or training facility, small. [Ord. O-2017-0007, 2/23/2017]
- at. Art galleries. [Ord. O-2017-0050, 11/21/2017]
- au. Tourist Rooming House, conditioned upon the following:
 - i. The structure is a single or two-family residence, or a mixed-use or multifamily containing not more than 4 dwelling units.
- av. Taverns and cocktail lounges.

2. Special Uses.

- a. Any permitted use with drive-through facilities, except check-cashing businesses as defined in Section 9.32. [Ord. O-2006-0061, 10/17/2006]
- b. Food production, limited. [Ord. O-2015-0002, 1/6/2015]
- c. Massage Therapy. [Ord. O-2017-0044, 10/17/2017]

Editor's Note: Former Subsection (2)(c), Candy and ice cream stores, was repealed 1/6/2015 by Ord. O-2015-0002.

- d. Department stores.
- e. Hotels and motels.
- f. Laundries and dry cleaners.
- g. Mixed residential and commercial uses.
- h. Multiple family developments.
- i. Restaurants.
- j. Retirement homes and communities.
- k. Instruction and/or training facility. [Ord. O-2017-0007, 2/23/2017]
- l. [Reserved]
- m. Community living arrangements as licensed under Sec. 46.22 of Wisconsin Statutes [Ord. 6501, amend, 2/15/2000]
- n. Printing, commercial. [Ord. 6522, amend, 6/6/2000]
- o. Outdoor dining areas for "food establishments" under Section 7.04(1)(c). [Ord. 6568, 5/15/2000]
- p. Indoor recreation facilities including the following: [Ord. O-2003-0040, 6/17/2003]
 - i. Indoor driving range and batting cages.
 - ii. Indoor volleyball courts.
 - iii. Indoor basketball courts.
 - iv. Indoor bowling alleys.
 - v. Game centers and tournament facilities (not arcades as regulated in Section 9-109.037 of the Revised Municipal Code).
- q. Radio and television stations. [Ord. O-2003-0044, 6/17/2003]

- r. Athletic, health clubs. [Ord. O-2005-0022, 5/17/2005; Ord. O-2015-0001, 1/20/2015]
 - s. Museums. [Ord. O-2008-0023, 5/20/2008]
 - t. Places of assembly including clubs, lodges, meeting halls and theaters, greater than five thousand (5,000) square feet of building area and subject to the provisions of Sec. 9.28 of the Revised Municipal Code. [Ord. O-2011-0083, 1/3/2012; Ord. O-2013-0013, 3/5/2013]
 - u. Collocation/attachment of telecommunication equipment to existing structures. [Ord. O-2012-0036, 9/18/2012]
 - v. Animal grooming. [Ord. O-2015-0016, 3/3/2015]
 - w. Pet shops. [Ord. O-2015-0016, 3/3/2015]
 - x. Veterinary clinics. [Ord. O-2015-0016, 3/3/2015]
3. Required Conditions.
- a. Dwelling units are not permitted below the second floor.
 - b. All businesses, servicing or processing, storage or merchandise display, except off-street parking or off-street loading, shall be conducted within completely enclosed buildings.
 - c. Establishments of the "drive-in" type, offering goods or services directly to customers waiting in parked motor vehicles, are not permitted unless specifically authorized herein.
 - d. Multi-family dwellings will comply with the bulk regulations of the RC-2 District.
 - e. Outdoor Storage. Outdoor storage, display or repair shall not be permitted. [Ord. O-2003-0028, 4/2/2003]
 - f. Commercial Vehicles. A maximum of two commercial vehicles may be associated with a use. Open vehicles, utility trucks, trailers and similar vehicles shall not be permitted. [Ord. O-2003-0028, 4/2/2003]
 - g. Interior Storage Spaces. A maximum of 25% of a businesses interior floor area may be used for general wholesale, warehousing and storage. Such areas shall not be visible from the exterior of the building. [Ord. O-2003-0028, 4/2/2003]
 - h. Interior Spaces. Interior walls parallel to window glazing shall be not less than 6 feet from the plane of the window glazing. [Ord. O-2003-0028, 4/2/2003]
 - i. Display Racks and Fixtures. Display racks within 4 feet of a window shall be open-backed and shall not obscure more than 50% of the glazing area. [Ord. O-2003-0028, 4/2/2003]
 - j. Window Coverings. Operable interior window coverings may be used. Such coverings include, but are not limited to, blinds and draperies. No window covering may be permanently affixed or adhered to the window such that the window becomes permanently opaque. [Ord. O-2003-0028, 4/2/2003]
 - k. Site Plan. A site, landscaping and screening plan in accordance with Section 12.13 of the Revised Municipal Code shall be required when commercial vehicles are associated with a use. [Ord. O-2003-0028, 4/2/2003]
 - l. All business establishments shall contain on-site retail or be service establishments dealing directly with consumers. [Ord. O-2015-0002, 1/6/2015]
 - m. Outdoor animal holding areas shall not be allowed. [Ord. O-2015-0016, 3/3/2015]
4. Floor Area Ratio. The floor area ratio shall not exceed 2.0.
5. Yard Requirements. The C-1 District shall have no yard requirements.
6. Off-Street Parking and Loading Requirements. Off-street parking and loading facilities shall be provided in accordance with Section 12.19 of this subchapter. Credit shall be given to day-care uses for use of public off-street parking spaces located within the C-1 Central Business District. [Ord. 6618, 6/18/2002]

SECTION 14: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 15: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 16: **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 Allis

Dan Devine, Mayor City Of West Allis

CITY OF WEST ALLIS
ORDINANCE O-2021-0024

**ORDINANCE TO COMBINE VARIOUS ENTERTAINMENT-RELATED LICENSES INTO SINGLE PUBLIC ENTERTAINMENT LICENSE
CREATING SECTION 9.037, REPEALING AND RECREATING SECTION 9.08, AND REPEALING SECTIONS 9.032, 9.033, 9.034, 9.05, 9.06, 9.10, AND
9.105**

WHEREAS, various licenses regulating different types of public entertainment activities could be combined into a single license for clarity, efficiency, and ease of administration;

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

SECTION 1: **ADOPTION** "9.037 Public Entertainment License" of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.037 Public Entertainment License(*Added*)

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.

8. 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.

9. 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 licensee. 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 licensee. 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)

SECTION 2: **ADOPTION** "9.08 Entertainment Device Distributor License" of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.08 Entertainment Device Distributor License(*Added*)

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 licensee. 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.

SECTION 3: **REPEAL** "9.032 Tavern Instrumental Music Licenses" of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~9.032 Tavern Instrumental Music Licenses (Repealed)~~

1. License Required. No person holding a Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine license, nor the licensee's agents or employees shall provide, maintain, suffer or permit in or upon the licensed premises any instrumental music or singing accompanied by pre-recorded music (commonly referred to as "karaoke") without having first obtained a license therefor as hereinafter provided. Such music and singing shall be discontinued thirty (30) minutes prior to the established closing time set forth in Chapter 125 of the Wisconsin Statutes. The license shall be construed to permit singing by members of the musical group engaged to perform on the licensed premises or by members of the audience performing karaoke, however, no dancing shall be permitted under such license unless a dance hall license has been obtained pursuant to Section 9.05.
2. Application. Application for a license required by this section shall be made in writing upon a form prescribed by and filed with the City Clerk/Treasurer. The application shall contain the following information:
 - a. The name and address of the person, corporation, partnership, limited liability company or other entity applying for the license. Said applicant must be the same as the person or entity holding the Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine license.
 - b. Whether the applicant has, within five (5) years prior to the date of application, been licensed to sell alcohol beverages, and whether any such licenses were ever suspended or revoked and a statement of the reasons therefor.
 - c. The location of the premises for which the license is sought and identification of the Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine license held for the premises.
 - d. If, during the pendency of the application, or during the term of any license granted, there is any change in fact which would alter the information given on the application, the applicant shall notify the Clerk/Treasurer in writing thereof within ten (10) days after such change.
3. License Fee. The fee for an instrumental music license shall be one hundred forty dollars (\$140.00). The fee shall accompany each application. The full license fee shall be charged for the whole or fraction of the license year, except as provided in Paragraph (8). **[Ord. O-2009-0033, 11/3/2009]**
4. Granting of License.
 - a. Upon receipt of a proper application and the prescribed license fee, the Clerk/Treasurer shall forward such application to the Common Council for consideration. Within sixty (60) days of receiving an application, the Common Council shall grant or deny the license or hold the application for an additional thirty (30) days, unless otherwise agreed to by the applicant.
 - b. The Common Council shall examine all applications filed, as herein provided, and shall make or cause to be made such further investigation of the application as it deems necessary. The Common Council shall approve a license only if it finds all of the following facts exist:
 - i. That all of the statements made in the application are true;
 - ii. Subject to §§ 111.321, 111.322 and 111.335 of the Wisconsin Statutes, that the applicant or, if the applicant is not an individual, that every member, managing officer or agent of the applicant has not been convicted of any offense involving dishonesty or moral turpitude and has not been convicted of any violation of the law relating to the public health and safety;
 - iii. That the premises for which a license is sought will comply with the provisions of this section and all other applicable rules, regulations, ordinances and state laws, specifically including, but not limited to, zoning regulations, building code requirements, fire prevention code, and health code requirements;
 - iv. That the proposed instrumental music will comply with all applicable rules, regulations, ordinances and state laws, specifically including, but not limited to, noise limitations;
 - v. If the applicant is a corporation, that it is licensed to do business and is in good standing with the State of Wisconsin;
 - vi. That the applicant holds a Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine license for the premises for which the instrumental music license is sought and is otherwise entitled to a license under the provisions of this section.
 - c. Upon approval of the application by the Common Council, a license shall be issued to the applicant by the Clerk/Treasurer. Any license issued under this section shall be nonassignable and nontransferable from person to person or from one premises to another.
 - d. Whenever an application is denied or held for further investigation, the Clerk/Treasurer shall advise the applicant, in writing, of the action taken and the reasons for such action. The Clerk/Treasurer shall also advise the applicant of the right to request that the Common Council review its determination, pursuant to Section 2.48 of the West Allis Revised Municipal Code.
5. Expiration, Transfer and Lapse of License.
 - a. All licenses issued as herein provided shall expire on the 30th day of June of each year.
 - b. Any license issued pursuant to this section shall lapse and become void whenever the Common Council or licensee shall not renew the retail Class "B" fermented malt beverage, Class "B" intoxicating liquor or Class "C" wine license or said license is revoked by the Common Council. If any such retail Class "B" or "C" license shall be suspended, the license issued under this section shall be deemed suspended for a like period, without further action by the Common Council.
 - c. No license or interest in a license may be transferred to any person, partnership or corporation. The transfer of a license or any interest in a license shall automatically and immediately revoke the license.
6. Display of License. Any person licensed in accordance with the provisions of this section shall keep his license posted in a prominent place upon the license premises.
7. Revocation, Suspension or Nonrenewal. A license may be suspended for a period not to exceed ninety (90) days, revoked or not renewed by the Common Council for disorderly conduct upon the licensed premises or for any violation by the licensee, his agents or employees, of any provision of this section, or any ordinance or law relating to the use or occupation of the licensed premises. If at any time a license is revoked, at least one (1) year shall elapse before another license shall be given for the same premises or to the same licensee. Any revocation or suspension may be in addition to any forfeiture imposed under this section. The procedures set forth in § 125.12 of the Wisconsin Statutes and Section 9.02(20) of the Revised Municipal Code shall apply to revocation, suspensions and nonrenewals of instrumental music licenses.
8. Special Permits. A special instrumental music permit may be issued by the Clerk/Treasurer for a particular forty-eight hour period, upon approval by the Common Council. The applicant must meet all criteria for license approval set forth in Paragraph (2). Application for any such permit shall be made in writing upon a form prescribed by and filed with the Clerk/Treasurer, in accordance with the provisions of Paragraph (3). Not more than ten (10) special permits for either instrumental music shall be issued for the same premises in any license year. Subsequent to the issuance of an initial permit for a premises, the Clerk/Treasurer may issue additional permits for each premises, as provided in this paragraph, without further investigation of applications for any such premises and without the Council's approval for the entire period the license is held by the same individual or corporation and for the same licensed premises. A special permit, when issued, shall entitle the holder

thereof, for a particular forty-eight-hour period to the respective privileges accompanying the corresponding license provided for in this section. Any violation of this section by the permit holder or any reported unreasonably loud music or disorderly conduct on the premises shall be deemed cause for suspension or denial of any further special permit privileges. A permit fee of twenty dollars (\$20.00) shall accompany the application. Such fee shall be nonrefundable. [Ord. O-2009-0033, 11/3/2009]

9. Penalties. Any person violating any of the provisions of this section shall, upon conviction thereof, forfeit not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) or in default of payment of said forfeiture and costs, punishment shall be suspension of the defendant's operating privileges pursuant to §§ 343.30 and 345.47, Wis. Stats., or by imprisonment in the Milwaukee County House of Corrections or Milwaukee Jail until payment of the forfeiture and costs, but not in excess of the number of days set forth in § 800.095(4), Wis. Stats.

~~{Ord. 6539, (repeal and recreate) 11/6/2000}~~

SECTION 4: **REPEAL** "9.033 Tavern Entertainment License - Special Entertainment" of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~9.033 Tavern Entertainment License – Special Entertainment (Repealed)~~

1. License Required. No person holding a retail Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine license, nor the licensee's agents or employees, shall provide, maintain, suffer or permit in or upon the licensed premises [as described in §§ 125.26(3), 125.51(3)(d), and 125.51(3m)(d), Wis. Stats.], any singing or dancing floor shows, cabaret shows, lingerie shows, exotic dancing, or similar type of show or entertainment, whether live or prerecorded music is used or not, without having first obtained a license therefor as hereinafter provided. Such entertainment shall discontinue thirty (30) minutes prior to the established closing time for the licensed premises. No instrumental music license under Section 9.032 shall be required of any person holding a valid license under this section. [Ord. No. O-2009-0017, 6/2/2009]
2. Location. No person shall be granted an entertainment license if the licensed premises is located:
 - a. Within five hundred (500) feet of a residential area as defined in Section 9.28(1)(k) of the Revised Municipal Code.
 - b. Within five hundred (500) feet of an adult-oriented establishment as defined in Section 9.28(1)(a) of the Revised Municipal Code.
 - c. Within five hundred (500) feet of another business holding an entertainment license under this section or Section 9.034 of the Revised Municipal Code. [Ord. No. O-2009-0017, 6/2/2009]
 - d. Within five hundred (500) feet of any pre-existing school, church, or day-care center as defined in Sections 9.28(1)(h), 9.28(1)(j), and 9.28(1)(l) of the Revised Municipal Code. [Ord. No. O-2009-0017, 6/2/2009]
 - e. For purposes of this ordinance, distances are to be measured in a straight line without regard to intervening structures or objects, from the property line of the licensed premises to the nearest property line of an adult-oriented establishment, school, church, day-care center, residential area, or other premises holding a license under this section.
3. Application. Application for a license required by this section shall be made in writing upon a form prescribed by and filed with the Clerk/Treasurer. The application herein required shall contain the following information under oath:
 - a. The name and address of the person, corporation, partnership, limited liability company or other entity applying for the license. Said applicant must be the same as the person holding the Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine license.
 - b. If the applicant is not an individual, the names and addresses of the partners or the applicant's principal officers and agent under § 125.04(6), Wis. Stats.
 - c. If the applicant, or in the event the applicant is not an individual person, if any partner, principal officer, or agent of the applicant has been convicted in a court of competent jurisdiction of any offense, criminal or civil forfeiture, other than parking offenses or minor traffic offenses, including dates of conviction, nature of the offense, and location of the offense for such all offenses within the five-year period immediately preceding the date of application unless the applicant has been duly pardoned.
 - d. If the applicant, or in the event the applicant is not an individual person, if any partner, principal officer, or agent of the applicant has, within five (5) years prior to the date of application, been licensed to sell alcohol beverages and whether any such license was suspended, revoked, or not renewed and a statement of the reasons therefor.
 - e. A statement of the specific nature of the entertainment to be provided.
 - f. The location of the premises for which the license is sought and identification of the Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine license held for the premises.
4. Duty to Cooperate. Failure or refusal of the applicant to give any information relevant to the investigation of the application, or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or the applicant's refusal to submit to or cooperate with any investigation required or deemed necessary shall constitute an admission by the applicant that the applicant is ineligible for such license and shall be grounds for denial thereof.
5. Notification of Changes. If, while any application is pending, or during the term of any license granted thereon, there is any change in fact that would alter the information given on the application, the applicant or licensee shall notify the Clerk/Treasurer in writing thereof within ten (10) days after such change.
6. License Fee. The fee for a license issued under this section shall be \$1,400.00. The license fee shall accompany each application. The full license fee shall be charged for the whole or fraction of the license year. [Ord. O-2009-0033, 11/3/2009]
7. Processing of Application and Issuance of License.
 - a. Upon receipt of a proper application and the prescribed license fee, the Clerk/Treasurer shall provide copies of the application to the Police Department, Building Inspection Department, and other applicable departments for their investigation and review to determine compliance of the proposed tavern entertainment with the laws and regulations each department administers. Each department shall, within thirty (30) days, report back to the Clerk/Treasurer whether the applicant and premises comply with the laws and regulations administered by each department. No license may be issued unless each department reports that the applicant and premises comply with all relevant laws and regulations. A department shall recommend denial of a license if it finds that the proposed applicant or premises are not in conformance with the requirements of this section, the ordinances of the City of West Allis, the laws of the State of Wisconsin, or any other applicable law or regulation. A recommendation for denial shall be in writing and cite the specific reason or reasons therefor.
 - b. With sixty (60) days of receiving a completed application and fee, the Common Council shall grant or deny the license or hold the application for an additional period of time as agreed to by the applicant.
 - c. The Common Council shall examine all applications filed and shall make or cause to be made such further investigation as it deems necessary. The Common Council shall approve a license only if it finds all of the following:
 - i. That all of the statements made in the application are true.
 - ii. Subject to §§ 111.321, 111.322, and 111.335 of the Wisconsin Statutes, that the applicant or, if the applicant is not an individual, that every partner, principal officer, and agent appointed pursuant to Section 125.04(6) has not been convicted of any offense substantially related to the operation of a tavern entertainment establishment.
 - iii. That the premises for which the license is sought will comply with the provisions of this section and all other applicable rules, regulations, ordinances, and state laws, specifically including, but not limited to, zoning regulations, Building Code, Fire Prevention Code, and Health Code requirements.
 - iv. That the proposed entertainment will comply with all applicable rules, regulations, ordinances, and state laws, specifically including, but not limited to, noise limitations, performance standards, and distancing requirements under Sections 7.035, 9.02(19), and 18.03(3)(m) of the Revised Municipal Code. [Ord. No. O-2009-0017, 6/2/2009]
 - v. If the applicant is a corporation that it is licensed to do business in the State of Wisconsin and is in good standing.

- vi. That the applicant holds a Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine license for the premises for which an entertainment license is sought.
- d. Upon approval of the application by the Common Council, a license shall be issued to the applicant by the Clerk/Treasurer. Any license issued under this section shall be non-assignable and nontransferable from person to person or from one premises to another.
- e. Whenever an application is denied, the Clerk/Treasurer shall advise the applicant in writing of the action taken and the reasons for such action. The Clerk/Treasurer shall also advise the applicant of the right to request that the Common Council review its determination pursuant to § 2.48(5) of the Revised Municipal Code.
- 8. Display of License. The license shall be displayed in a conspicuous public place in the tavern entertainment establishment.
- 9. Renewal of License.
 - a. Every license issued pursuant to this section shall terminate on June 30th pursuant to Section 9.015, 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 Clerk/Treasurer. The application for renewal must be filed on or before May 1st. Operators filing a renewal application shall provide the information required by Subsection 9.033(3) and shall be processed pursuant to Subsection 9.033(7). [Ord. No. O-2009-0017, 6/2/2009]
 - b. A license renewal fee of \$1,400.00 shall be submitted with the application for renewal. [Ord. O-2009-0033, 11/3/2009]
- 10. Transfer of License. No license issued pursuant to this section shall be assignable or transferable. For purposes of this section, "assignable" or "transferable" shall mean and include any of the following:
 - a. The sale, lease, or sublease of the business; or
 - b. The transfer of securities which constitute a controlling interest in the business, whether by sale, gift, exchange, or similar means; or
 - c. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business.
- 11. Suspension, Revocation, and Nonrenewal of License.
 - a. A license may be suspended for a period not to exceed ninety (90) days, revoked, or not renewed by the Common Council for participating in, allowing, or suffering disorderly conduct or sexual offenses in or around the licensed premises or for any violation by the permittee, the licensee, or the licensee's agents, employees, or entertainers, of any of the provisions of this section, or any ordinance or law relating to the use or occupation of the licensed premises. If a license is revoked or not renewed, at least two (2) years shall elapse before another license or permit shall be given for the same premises or to the same licensee or permittee. Any suspension, revocation, or nonrenewal may be in addition to any forfeiture imposed under this section or other penalty imposed by law. The procedures set forth in § 125.12 of the Wisconsin Statutes shall apply to suspensions, revocations, and non-renewals of entertainment licenses and permits.
- 12. Exceptions. A tavern entertainment license is not required if the entertainment consists of dart games, amusement devices for which a license is required under Section 9.08 of this code, pool or billiard tables, or bowling.
- 13. Pre-Existing Entertainment Licenses and Discontinuation of Operation. Holders of Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine licenses who also possess an entertainment license at the time of passage of this ordinance are exempt from the locations provisions of Paragraph 9.033(2). Any transfer of the entertainment license from the licensed premises to any other premises shall cause said entertainment license to lapse and become void. Any discontinuation in the operation of the licensed premises for a period of six (6) months shall also cause the entertainment license to lapse and become void. A licensee whose license has lapsed and become void shall thereafter be subject to the location requirements in Paragraph 9.033(2). [Ord. No. O-2009-0017, 6/2/2009]

~~[Ord. 6540 (amended) 2/6/2001]~~

SECTION 5: **REPEAL** "9.034 Tavern Entertainment License - Other Entertainment" of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~9.034 Tavern Entertainment License – Other Entertainment (Repealed)~~

1. License Required. No person holding a retail Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine license, nor the licensee's agents or employees, shall provide, maintain, suffer or permit in or upon the licensed premises [as described in §§ 125.26(3), 125.51(3)(d), and 125.51(3m)(d), Wis. Stats.], any entertainment, exposition, or show, other than shows listed in Section 9.033, whether live or prerecorded music is used or not, without having first obtained a license therefor as hereinafter provided. Such entertainment shall discontinue thirty (30) minutes prior to the established closing time for the licensed premises. No instrumental music license under Section 9.032 shall be required of any person holding a valid license under this section.
2. Application. Application for a license required by this section shall be made in writing upon a form prescribed by and filed with the Clerk/Treasurer. The application herein required shall contain the following information under oath:
 - a. The name and address of the person, corporation, partnership, limited liability company or other entity applying for the license. Said applicant must be the same as the person holding the Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine license.
 - b. If the applicant is not an individual, the names and addresses of the partners or the applicant's principal officers and agent under § 125.04(6), Wis. Stats.
 - c. If the applicant or, in the event the applicant is not an individual person, if any partner, principal officer, or agent of the applicant has been convicted in a court of competent jurisdiction of any offense, criminal or civil forfeiture, other than parking offenses or minor traffic offenses, including dates of conviction, nature of the offense, and location of the offense for such all offenses within the five-year period immediately preceding the date of application unless the applicant has been duly pardoned.
 - d. If the applicant or, in the event the applicant is not an individual person, if any partner, principal officer, or agent of the applicant has, within five (5) years prior to the date of application, been licensed to sell alcohol beverages and whether any such license was suspended, revoked, or not renewed and a statement of the reasons therefor.
 - e. A statement of the specific nature of the entertainment to be provided.
 - f. The location of the premises for which the license is sought and identification of the Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine license held for the premises.
3. Duty to Cooperate. Failure or refusal of the applicant to give any information relevant to the investigation of the application, or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or the applicant's refusal to submit to or cooperate with any investigation required or deemed necessary shall constitute an admission by the applicant that the applicant is ineligible for such license and shall be grounds for denial thereof.
4. Notification of Changes. If, while any application is pending, or during the term of any license granted thereon, there is any change in fact that would alter the information given on the application, the applicant or licensee shall notify the Clerk/Treasurer in writing thereof within ten (10) days after such change.
5. License Fee. The fee for a license issued under this section shall be two hundred fifty dollars (\$250.). The license fee shall accompany each application. The full license fee shall be charged for the whole or fraction of the license year.
6. Processing of Application and Issuance of License.
 - a. Upon receipt of a proper application and the prescribed license fee, the Clerk/Treasurer shall provide copies of the application to the Police Department, Building Inspection Department, and other applicable departments for their investigation and review to determine compliance of the proposed tavern entertainment with the laws and regulations each department administers. Each department shall, within thirty (30) days, report back to the Clerk/Treasurer whether the applicant and premises comply with the laws and regulations administered by each department. No license may be issued unless each department reports that the applicant and premises comply with all relevant laws and regulations. A department shall recommend denial of a license if it finds that the proposed applicant or premises are not in conformance with the requirements of this section, the ordinances of the City of West Allis, the laws of the State of

- Wisconsin, or any other applicable law or regulation. A recommendation for denial shall be in writing and cite the specific reason or reasons therefor.
- b. With sixty (60) days of receiving a completed application and fee, the Common Council shall grant or deny the license or hold the application for an additional period of time as agreed to by the applicant.
 - c. The Common Council shall examine all applications filed and shall make or cause to be made such further investigation as it deems necessary. The Common Council shall approve a license only if it finds all of the following:
 - i. That all of the statements made in the application are true.
 - ii. Subject to §§ 111.321, 111.322, and 111.335 of the Wisconsin Statutes, that the applicant or, if the applicant is not an individual, that every partner, principal officer, and agent appointed pursuant to Section 125.04(6) has not been convicted of any offense substantially related to the operation of a tavern entertainment establishment.
 - iii. That the premises for which the license is sought will comply with the provisions of this section and all other applicable rules, regulations, ordinances, and state laws, specifically including, but not limited to, zoning regulations, Building Code, Fire Prevention Code, and Health Code requirements.
 - iv. That the proposed entertainment will comply with all applicable rules, regulations, ordinances, and state laws, specifically including, but not limited to, noise limitations, performance standards, and distancing requirements under Sections 7.035, 9.02(19), and 18.03(3)(m) of the Revised Municipal Code.
 - v. If the applicant is a corporation that it is licensed to do business in the State of Wisconsin and is in good standing.
 - vi. That the applicant holds a Class "B" fermented malt beverage, Class "B" intoxicating liquor, or Class "C" wine license for the premises for which an entertainment license is sought.
 - d. Upon approval of the application by the Common Council, a license shall be issued to the applicant by the Clerk/Treasurer. Any license issued under this section shall be non-assignable and nontransferable from person to person or from one premises to another.
 - e. Whenever an application is denied, the Clerk/Treasurer shall advise the applicant in writing of the action taken and the reasons for such action. The Clerk/Treasurer shall also advise the applicant of the right to request that the Common Council review its determination pursuant to Section 2.48(5) of the Revised Municipal Code.
7. Display of License. The license shall be displayed in a conspicuous public place in the tavern entertainment establishment.
8. Renewal of License.
- a. Every license issued pursuant to this section shall terminate on June 30th pursuant to Section 9.015, 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 Clerk/Treasurer. The application for renewal must be filed on or before May 1st. Operators filing a renewal application shall provide the information required by Subsection 9.034(2) and shall be processed pursuant to Subsection 9.034(6).
 - b. A license renewal fee of two hundred fifty dollars (\$250.) shall be submitted with the application for renewal.
9. Transfer of License. No license issued pursuant to this section shall be assignable or transferable. For purposes of this section, "assignable" or "transferable" shall mean and include any of the following:
- a. The sale, lease, or sublease of the business; or
 - b. The transfer of securities which constitute a controlling interest in the business, whether by sale, gift, exchange, or similar means; or
 - c. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business.
10. Suspension, Revocation, and Nonrenewal of License.
- a. A license may be suspended for a period not to exceed ninety (90) days, revoked, or not renewed by the Common Council for participating in, allowing, or suffering disorderly conduct or sexual offenses in or around the licensed premises; or for any violation by the permittee, the licensee, or the licensee's agents, employees, or entertainers, of any of the provisions of this section; or any ordinance or law relating to the use or occupation of the licensed premises. If a license is revoked or not renewed, at least two (2) years shall elapse before another license or permit shall be given for the same premises or to the same licensee or permittee. Any suspension, revocation, or nonrenewal may be in addition to any forfeiture imposed under this section or other penalty imposed by law. The procedures set forth in Section 125.12 of the Wisconsin Statutes shall apply to suspensions, revocations, and nonrenewals of entertainment licenses and permits.
11. Exceptions. A tavern entertainment license is not required if the entertainment consists of dart games, amusement devices for which a license is required under Section 9.08 of this Code, pool or billiard tables, or bowling.
12. Discontinuation of Operation. Any transfer of the entertainment license from the licensed premises to any other premises shall cause said entertainment license to lapse and become void. Any discontinuation in the operation of the licensed premises for a period of six (6) months shall also cause the entertainment license to lapse and become void.
13. Special Entertainment. A license issued under this section shall not constitute a license to engage in entertainment under Section 9.033 of the Revised Municipal Code.

~~[Ord. No. O-2009-0016, 6/16/2009]~~

SECTION 6: **REPEAL** "9.05 Dance Halls" of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~9.05 Dance Halls (Repealed)~~

1. Definitions.
 - a. Public Dance. The term "public dance" or "public hall," as used in this section, shall be taken to mean any dance or hall to which admission can be had, either without charge when under personal supervision of the licensee or by payment of a fee or by purchase, possession or presentation of a ticket or token in which a charge is made for caring for clothing or other property, or any other dance to which the public generally may gain admission with or without payment of a fee.
 - b. Public Dance Hall. The term "public dance hall," as used herein, shall mean any room, place or space in which a public dance or public hall may be held, or hall or academy in which classes in dancing are held and instruction in dancing given for hire.
2. Dance Hall License.
 - a. License Required. It shall be unlawful to hold any public dance or public ball or to hold classes in dancing within the limits of the City until the dance hall in which the same may be held shall have been duly licensed for such purpose.
 - b. This section shall not apply to studios or dance academies whose primary business is dance instruction and do not offer food or beverages for sale on the premises. **[Ord. O-2010-0013, 6/1/2010]**
 - c. Fees. All such applications shall be accompanied by an annual license fee of sixty dollars (\$60.00). **[Ord. 6055, 11/15/1993; Ord. O-2009-0033, 11/3/2009]**
 - d. Granting License. No license for public dance hall shall be issued until it shall be determined that the hall conforms to all health and fire regulations of the City, that it is properly ventilated and supplied with sufficient toilet conveniences, and is a safe and proper place for the purpose for which it is to be used.
 - e. Revocation of License. The license of any public dance hall shall be revoked by the Common Council for disorderly or immoral conduct on the premises or for violation of any of the rules, regulations, ordinances and laws governing or applying to public dance halls or public dances. If at any time the license of a public dance hall be revoked, at least six (6) months shall elapse before another license or permit shall be given for dancing on the same premises to the same licensees.
3. Regulations of Dance Halls.
 - a. Renting of Hall.

- i. Licensee to Report. Every licensed owner of a dance hall shall immediately upon application being received by him from any person, club or society to lease or rent his hall for the purpose of holding a public dance or ball therein, report to the Chief of Police the name and address of such person, club or society and the date when such public dance or ball is proposed to be held. The Chief of Police shall at once make or cause to be made an investigation for the purpose of determining whether such dance or ball shall be held.
 - ii. Refusal to Permit Dance. If the Chief of Police shall determine that the proposed dance or ball ought not to be held, he shall, within five (5) days after receipt of the aforesaid notice of application for lease or rental, notify the licensed owner of such dance hall in writing that the proposed public dance or ball shall not be held therein, and the licensed owner of such dance hall thereupon shall refuse to permit such public dance or ball to be held in such hall. Failure on the part of the licensed owner of such hall to comply with the provisions of this notice shall be sufficient cause for the revocation of the license of such licensed owner.
 - iii. Exceptions. Nothing herein shall be construed as requiring the holder of a dance hall license to secure a dance permit where the dance is conducted in the hall under the direct personal supervision of such licensee.
- b. Minors at Dance Halls. It shall be unlawful after 10:00 p.m. to permit any person to attend or take part in any public dance who is under the age of eighteen (18) years unless accompanied by parent, lawful guardian or adult spouse when intoxicating or fermented malt beverages are available for consumption on the premises. It shall be unlawful for any person to represent himself or herself to have reached the age of eighteen (18) years in order to obtain admission to a public dance hall or to be permitted to remain therein when such person, in fact, is under eighteen (18) years of age, and it shall also be unlawful for any person to represent himself or herself to be a parent, lawful guardian or adult spouse of any person, in order that such person may obtain admission to a public dance hall, or shall be permitted to remain therein when the party making the representation is not, in fact, either a parent, lawful guardian or adult spouse of the other person.
- c. Closing Hours. All public dances, except upon licensed tavern premises, shall be discontinued and all public dance halls shall be closed on or before the hour of 1:30 a.m. during the week and 2:30 a.m. on Sunday, and shall remain closed until 8:00 a.m. of said day. Public dances upon licensed tavern premises shall be discontinued fifteen (15) minutes prior to the established closing time for such tavern premises.
- d. Dancing in Bar Room. It shall be unlawful to permit dancing in a bar room of any tavern within six (6) feet of any bar and back barwall, or the area within three (3) feet of any part of an exit door or toilet room door, or any other exit or passageway, or any toilet room or any other space or room which is not used exclusively by the public. The area in which dancing is permitted shall be either partitioned off, roped off or indicated by a line drawn upon the floor.

SECTION 7: **REPEAL** "9.06 Pool Tables And Bowling Alleys" of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

9.06 Pool Tables And Bowling Alleys (Repealed)

1. License Required. No person shall erect or keep, or permit to be erected, placed or kept upon his, her or their premises, within the limits of the City, any billiard table, pool table, bowling alley, nine- or ten-pin alley, used and kept for hire, without having obtained a license therefor, as provided in this section.
2. Application for License. Licenses for the erection or keeping of billiard tables, pool tables and bowling alleys shall be issued by the City Clerk when granted by the Common Council upon the presentation to the Clerk of the City Treasurer's receipt, showing payment of the sum required in Subsection (4) hereof.
3. License Non-assignable. No license shall be assignable or inure to the benefit of any other than the person, persons, company, association or corporation to whom such license was originally issued.
4. License Period and Fees. Every license shall expire on the 30th day of June following the date of its issue, and a fee of thirty-five dollars (\$35.00) shall be paid therefor, for each billiard table, pool table or bowling alley for which such license shall be issued. Payment shall be made to the City Clerk/Treasurer upon application. **[Ord. 6055, 11/15/1993; Ord. O-2009-0033, 11/3/2009]**
5. Regulations.
 - a. No licensee shall permit any minor under the age of sixteen (16) years to frequent, loiter in or to play pool or billiards in that part of any premises used by the public for the playing of pool or billiards.
 - b. In no event shall card playing be permitted on premises which are licensed for the erection or keeping of billiard or pool tables even if such card playing is for social purposes, unless such premises also has a retail Class "B" fermented malt beverage license.
 - c. All premises in which the game of pool or billiards is played shall be so arranged and shall be so lighted at all hours that a full view of the interior may be seen from the public street or sidewalk or from adjacent rooms to which the public is admitted.
 - d. It shall be unlawful for any person, society, club or corporation to operate a billiard or pool room during the closing hours established for retail Class "B" fermented malt beverage or intoxicating liquor licensed premises, as provided in section 9.02(17)(a)(3) of this Code, or to permit any person or persons, except regular employees performing necessary work within the premises, to be or remain in any room where billiard or pool tables are maintained for hire at any time during such hours.
 - e. No person, while in any billiard hall or pool room, shall have in his possession and no person, society, club or corporation operating a billiard or pool room shall permit any person to have in his possession, any intoxicating liquor or fermented malt beverage unless such premises also has a retail Class "B" fermented malt beverage license and a retail Class "B" liquor license, pursuant to the provisions of section 9.02 and section 9.03 of this Code.

SECTION 8: **REPEAL** "9.08 Amusement Devices" of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

9.08 Amusement Devices (Repealed)

1. Definitions.
 - a. Amusement Devices. An amusement device shall mean any electronic or mechanical game, including devices for the playing of miniature games of hockey, bowling, baseball or basketball, pinball and shuffleboard and similar games, and for which a consideration either in coin or in other thing of value is required for the playing thereof or participation in the playing thereof, but shall not be deemed to include any gambling device. A phonograph or instrument for reproducing music and which is not designed for the playing of games shall not be considered an amusement device.
 - b. Phonographs. Phonographs shall include any instrument which reproduces music by record or other means.
 - c. Distributor. Distributor shall mean any person who, as owner or lessor, distributes or leases any amusement device or phonograph to any person for use in the City.
 - d. Lessee. A lessee shall mean any person, not including a firm or corporation, who has leased or agrees to have in his custody or has in his possession, an amusement device under any agreement to pay rent or share in the proceeds of the operation of the machine with the owner or distributor thereof.
 - e. Gambling Device. Gambling device shall mean any instrument, device or thing used or usable for gambling or playing any game of chance for money or any other thing of value.
 - f. Pinball Machines, When Gambling Device. Any device or instrument or so-called pinball machine which contains a coin tray or compartment, in which coins, merchandise or thing of value is delivered or made available to the player, or to the lessee or distributor on behalf of said player or for the player's benefit, as a prize or a reward which is the result of a winning combination or a single or a series of combinations obtained by the player of said device in which the element of chance is a substantial factor is hereby declared to be a gambling device and its ownership or possession is unlawful.

- g. Owner-Operator. An owner-operator is any person who owns and operates an amusement device or phonograph in his own business establishment and is not actively engaged in the practice of distributing any amusement device or phonograph, as defined in subsection (1)(c) hereof.
2. Gambling Devices Prohibited. No person, firm or corporation shall set up for operation, operate, lease or distribute for the purpose of operation any gambling device or slot machine.
 3. License Required. No distributor shall own, lease, install, place, operate any amusement device or phonograph, share in the proceeds or profits or collect rents of any amusement devices or phonographs for use on any premises in the City without first having obtained a distributor's license and paying the license fee hereinafter provided. No person or lessee shall have in its possession or set up for use any amusement device or phonograph which has not been registered with the City Clerk and the registration fee paid, as hereinafter provided.
 4. Licenses.
 - a. Amusement Device Distributor's License.
 - i. Fees. The distributor's license fee for an amusement device shall be four hundred fifty dollars (\$450.00) per year, and shall be paid to the City Clerk/Treasurer at the time of filing the application for a license. **[Ord. 6055, 11/15/1993; Ord. O-2009-0033, 11/3/2009]**
 - b. Phonograph Distributor's License.
 - i. Fee. The Distributor's license fee for a phonograph shall be three hundred dollars (\$300.00) per year and shall be paid to the City Clerk/Treasurer at the time of filing the application for a license. **[Ord. 6055, 11/15/1993; Ord. O-2009-0033, 11/3/2009]**
 - c. Owner-operator's Licenses. The owner-operator's license fee for an amusement device shall be thirty dollars (\$30.00) per year, and for a phonograph shall be twenty-five dollars (\$25.00) per year, and shall be paid to the City Clerk/Treasurer at the time of filing the application for a license. **[Ord. O-2009-0033, 11/3/2009]**
 - d. Application for License.
 - i. An applicant for any of the licenses set forth in Subsection (3) of this section shall make application in writing to the Common Council on such application forms as shall be prescribed by the City Clerk.
 - ii. All applicants, in their application, shall consent to a reasonable inspection of their records and devices to determine ownership and character of amusement devices and phonographs to be operated in their business establishment.
 - e. Standards for Issuance. The Common Council may grant a license if it is found: **[Ord. 6519 (amend) 6/6/2000]**
 - i. 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.
 - ii. That subject to §§ 111.321, 111.322, and 111.335, Wis. Stats., the applicant has not, within the five years immediately preceding the date of the application, been convicted of violating this ordinance or of any other offense substantially related to the amusement device business.
 - iii. That the applicant be a Wisconsin resident or name an agent in the State of Wisconsin. Said agent shall be personally liable for the operation of the licensed business and agrees to accept service on behalf of the licensee until such time as a new agent is approved by the Common Council.
 - iv. The applicant is at least eighteen years of age.
 - v. 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.
 - vi. That the applicant, if a corporation, is licensed to do business and is in good standing in the State of Wisconsin.
 - vii. That the applicant has substantially complied with all building, zoning, plumbing, electrical, fire, and health codes.
 - f. License Period. The license period for any of the licenses provided for under this section shall extend from July 1 of each year to June 30 of the following year.
 5. Registration of Amusement Devices.
 - a. Devices to Be Registered. All licensed distributors, owners or possessors shall, on the first day of each July, register or cause to be registered with the City Clerk, all of their amusement devices or phonographs on location for use. Nothing herein contained shall be construed to authorize the registration of any slot machine or gambling device.
 - b. Issuance of Registration Symbols. The City Clerk shall require the registrant to submit the information as may be necessary to identify the amusement device so registered, and shall issue to the registrant an appropriate registration symbol so designed as to permit its secure attachment to the amusement device to be registered. Any person, firm or corporation delinquent in the payment of taxes, personal or real, shall not be issued a distributor's license.
 - c. Registration Fees. The registration fee for each amusement device shall be thirty-five dollars (\$35.00) per year per machine, and the registration fee for each phonograph shall be twenty-five dollars (\$25.00) per year per machine. The registration fee shall be paid to the City Clerk/Treasurer at the time of registration. **[Ord. 6055, 11/15/1993; Ord. O-2009-0033, 11/3/2009]**
 - d. Seizure. The Mayor, Chief of Police or any police officer shall seize or cause to be seized any amusement device upon which is not affixed a registration symbol, as herein required. The ownership or possession of any non-registered amusement device is declared to be a violation of this subsection.
 - e. Transfer of Registration Symbols. Any transfer of registration symbols from one machine to another shall be unlawful, unless a certificate of transfer is first obtained from the City Clerk. The Clerk shall issue such certificate upon the verified statement of the licensee or operator that the previously registered machine is no longer located at the place where originally registered, and that by such transfer the machines on hand shall not exceed two (2) in number. No person shall counterfeit a registration symbol or shall transfer such registration symbol from one amusement device to another without having previously registered such transfer with the City Clerk.
 6. Suspension, Revocation, or Non-renewal. **[Ord. 6519 (amend) 6/6/2000]**
 - a. Licenses. The Common Council may suspend, revoke, or not renew any license or registration symbol. No license shall be suspended, revoked, or non-renewed without first providing the licensee with due notice and hearing before the License and Health Committee of the West Allis Common Council for the purpose of determining whether grounds for such action exist. The License and Health Committee shall make findings and recommendations to the West Allis Common Council and a copy shall be mailed to the licensee or its in-state agent. The licensee shall have ten days from the date the findings and recommendations were mailed to make written objections. The Common Council shall then determine whether sufficient ground(s) exist and whether the license should be suspended, revoked, or non-renewed. The Clerk/Treasurer shall notify the operator in writing of the decision of the Common Council by first class mail.
 - b. Registration Symbols. Upon conviction for a violation of any provision of the section involving a device or phonograph registered under this section, the licensee shall surrender the registration symbol(s) for each device to the City Clerk/Treasurer. If the licensee fails or refuses to surrender said symbols, the City Clerk/Treasurer shall notify the licensee, in writing by first class mail, that such symbols are revoked effective the date of conviction, unless stayed on appeal.

SECTION 9: **REPEAL** "9.10 Arcades" of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

9.10 Arcades (Repealed)

1. Declaration of Intent. Whereas, there has been, as of the time of the enacting of this ordinance, an increase in the business of operating arcades, especially those offering amusement devices of the type known as electronic and video games; and, Whereas, it is the belief of the Common Council that such arcades are intended to, and in fact do, draw a major portion of their clientele from the juveniles and young people of the communities in which they are situated; and, Whereas, it is the policy of the Common Council that it is in the best interest of the community to closely monitor, regulate as necessary, and oversee the operation of those businesses that have a high degree of contact with the youth of the community; and, Whereas, it is the belief of the Common Council that without proper regulation, arcades may substantially interfere with the attainment of public education objectives

and priorities for the youth of the community, create an environment for disorderly behavior and conduct and threaten the peaceful enjoyment of the properties in the neighborhood; all contrary to the good order, safety, health and welfare of the community. Now, therefore, it is determined that it is in the best interest of the health, safety and welfare of the community to establish reasonable regulations for the operation of arcade businesses, and to such purpose this section is hereby enacted.

2. Definitions.

- a. Amusement Device. See sec. 9.08(1)(a) of this Chapter.
- b. Arcade. Any premises containing five (5) or more amusement devices for the primary use and entertainment of the public, except premises for which a license to sell fermented malt beverages and/or intoxicating liquors has been issued by the City.
- c. Good Moral Character. For purposes of this section, "good moral character" shall mean that the person under consideration has exhibited conduct consistent with that of the average person with regard to reputation, citizenship, decency, honesty and respect for law and order. The following, without limitation due to enumeration herein, shall be considered to be evidence of activities inconsistent with "good moral character":
 - i. Conviction within five (5) years preceding application for license of a crime involving moral turpitude, except as set out below.
 - ii. Conviction of the offense of contributing to the delinquency of minors, exposing minors to harmful materials, liquor law violations involving minors, sex offenses or sexual assaults involving minors, offenses against the controlled substances act or offenses against the organized crime control act, which offenses are hereby deemed to be of special concern and affecting the health, safety and welfare of youth in particular and the community in general.
 - iii. Being a probationer or parolee under the jurisdiction of the State Department of Health and Social Services, Department of Community Corrections, or a similar agency of another state or the federal government.
 - iv. Being the subject of any criminal prosecution for a crime involving moral turpitude, in the courts of any state or of the federal government. Nothing in this section shall be construed to prevent any such person from reapplying for a license under this section after the conclusion of said proceeding.
 - v. Being known to any police agency to be habitually disorderly as to conduct; a habitual drunkard or user of illicit controlled substances; a gambler; a frequenter of disorderly houses; a vagrant; an associate of known criminals; or, to have knowingly given false information to any police or government agency concerning any investigation, application or other proceeding.
 - vi. In the event that any application for a license under this section is denied on the grounds that a person named in the application is not of good moral character, such person may, using the procedures provided for in Chapter 68 of the Wisconsin Statutes, demand the reasons therefor in writing and shall be afforded the opportunity to, if desired by such person, have a hearing, as provided for under that Chapter, and to present evidence on his behalf.

3. License Required. No person, firm or corporation shall operate an arcade without first having obtained a license therefor from the Common Council.

4. Application for License. An application for a license shall be filed with the City Clerk on forms to be furnished by the Clerk, which form shall require the following information:

- a. Name and address of the applicant;
- b. In case of a partnership, the names and addresses of all partners;
- c. In case of a corporation, the names and addresses of all officers, directors and stockholders of ten percent (10%) or more of the capital stock of the corporation;
- d. In case of clubs, associations or other organizations, the names and addresses of all officers;
- e. The location of the premises to be licensed and the name and address of the owner or owners of said premises;
- f. Whether or not any person or persons named in the application have ever been convicted of violating any federal or state law bearing a criminal penalty, or any county, local or municipal ordinance in conformity therewith, or any offense described in subsection (2)(c)(2) above.
- g. The number of games, machines, tables or amusement devices to be located upon the premises to be licensed.

5. License Fee. The license fee shall be three hundred dollars (\$300.00) per year and shall accompany each application. [Ord. O-2009-0033, 11/3/2009]

6. License.

- a. All licenses herein provided for shall be issued upon approval by the Common Council, and shall limit the holder thereof to operate an arcade only on the premises for which the license has been issued. All licenses shall expire on the 30th day of June following the date of issuance.
- b. Such license shall bear the date of issuance, the name of the licensee, the purpose for which issued, and the location of the room or building wherein the licensee is authorized to carry on and conduct such business. Such license shall not be transferable by the holder to any other person, firm or corporation, but such license may be transferred by the holder to another location, provided that the licensee shall make written application for such transfer to the City Clerk and such transfer is approved by the Common Council. A transfer fee of twenty-five dollars (\$25) shall be paid by the applicant.
- c. Change in Ownership. Any change of ownership of an arcade business licensed under the provisions of this section shall void such license, unless the owner thereof shall apply for continuation of the license for the remainder of the license year for which it was originally granted. Such application shall be accompanied by an application fee of twenty-five dollars (\$25), and a publication fee of fifteen dollars (\$15). Such change includes, but shall not be limited to, a change of individual ownership, the addition of a partner or stockholder, the withdrawal of a partner or stockholder or a change in the percentage of interest in the business of a partner or stockholder. Unless such application shall take place within thirty (30) days of the date of the change of ownership, the license granted hereunder shall terminate. All changes in the membership of a partnership or all changes in the identity of the principal officers or any stockholders in the corporation shall be reported to the City Clerk within ten (10) days after they occur. The License & Health Committee of the Common Council shall have the authority to approve or deny continuance of said license following public hearing on such application for continuance. Notice of such hearing shall be published as required by law. Persons aggrieved by the decision of such Committee may appeal such decision pursuant to the provisions of Chapter 68 of the Wisconsin Statutes.
- d. The Common Council shall require the West Allis Police Department to make an investigation of all persons named in an application for a license and report the findings of such investigation to the City Clerk.
- e. A license shall not be issued if the applicant, or any partner, or the principal officer, or any stockholder holding more than twenty percent (20%) of the capital stock of the corporation, if applicant is a corporation:
 - i. Is not of good moral character as defined above;
 - ii. Is under eighteen (18) years of age.

7. Location of Premises.

- a. No license shall be issued to any applicant unless the applicant has first obtained a special use permit for the premises, as provided by Chapter 12 of this Code.
- b. In any event, no license shall be granted to any person, firm or corporation to operate a business offering to the public an opportunity to use amusement devices for a fee, which is located within five hundred (500) feet from the boundary of a parcel of real estate having situated on it a school, church, hospital, public library, park or public playground.

8. Revocation of License. The Common Council of the City of West Allis may suspend, revoke or deny reissuance of any license issued, pursuant to this section, at any time, for any reasonable cause, which shall be in the best interest and for the good order of the City, provided that the license shall be accorded due process of law. Cause for such revocation, suspension or denial shall include, without limitation for lack of reference herein, any violation of the provisions of this section, or other provisions of the West Allis Revised Municipal Code, relevant to the operation of said business.

9. Arcade Operator's Licenses. A licensed arcade operator shall be on the licensed premises at all times during the hours the arcade is open to the public, in order to provide supervision necessary to maintain proper order.

- a. An arcade operator's license shall entitle the holder thereof to work as operator upon premises licensed under this section. Such licenses will be issued by the Common Council only to persons of good moral character, as defined above, over eighteen (18) years of age.
- b. A written application shall be filed annually with the City Clerk stating the name, address, age and sex of applicant. The application shall be referred to the Chief of Police for report. A license fee must accompany the application. There will be no refund of the fee if the license is not subsequently granted.
- c. Fees. The annual fee for an arcade operator's license shall be thirty-five dollars (\$35.00). There will be a charge of ten dollars (\$10.00) for the issuance of a duplicate license. [Ord. O-2009-0033, 11/3/2009]

- d. Posting. Each arcade operator's license shall be posted in a conspicuous place where the licensee is employed.
 - e. Revocation. Any arcade operator's license issued under this section may be revoked, suspended or denied, at any time, for any reasonable cause, which shall be in the best interest of and for the good order of the City. Any arcade operator's license issued under the provisions of this section shall stand revoked without further proceedings, upon the conviction of a licensee for maintaining a disorderly or riotous, indecent or improper place of business. Whenever any such license shall be revoked, no refund of any unearned portion of the fee paid shall be made.
10. Conduct of Business and Miscellaneous Regulations. All arcade license and arcade operator's licenses 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, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
 - b. Each license 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.
 - c. There shall be upon premises operated under an arcade license at all times some person who shall have an arcade operator's license, and who shall be responsible for the acts of all persons employed at said premises.
 - d. No premises licensed under this section shall be permitted to remain open between the hours of 11:00 p.m. and 9:00 a.m. of any day.
 - e. No patron or guests shall be permitted to enter or remain on the licensed premises during the closing hours provided in Paragraph (d) above.
 - f. Nothing in this section shall be construed to authorize or permit or license any gambling device of any nature whatsoever.
 - g. No person, while using or operating a game of amusement or amusement device, or while on the licensed premises, shall gamble or make any bets.
 - h. In no event shall card playing be permitted on such licensed premises even if such card playing is for social purposes only.
 - i. Rooms in which games of amusement are located and used by the public shall, at all times, be kept in a clean, healthful and sanitary condition with ample and approved lighting and ventilation, in accordance with Municipal Code requirements and as hereinafter set forth.
 - j. No person, while on a premises licensed hereunder, shall have in his possession any intoxicating liquor or fermented malt beverage.
 - k. No person under the age of eighteen (18) years shall be permitted on the licensed premises where the use of games of amusement or amusement devices is offered to the public for a fee 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 his or her legal parent or guardian.
 - l. The licensee of the premises shall provide a minimum unobstructed area of two (2) feet perpendicular to the front of each game, device, machine or table for customers to stand while using same; in addition, an unobstructed aisle for the safe passage of customers of at least three (3) feet shall be provided in front of each game, device, machine or table.
 - m. In no event shall occupation by more persons than allowed by the provisions of the West Allis Fire Prevention Code, as applicable to the licensed premises, be permitted.
 - n. Nothing in this section shall be construed to permit any relaxation of, or exemption from, the provisions of sec. 7.035 of the West Allis Revised Municipal Code.
 - o. All areas of the licensed premises shall, during business hours, have a sustained minimum white light illumination of thirty (30) foot candles, measured on a plane thirty (30) inches above the floor.
 - p. The licensed premises shall afford front window treatment of such a design as to allow full observation of the interior of the premises from the public way at all times.
 - q. The licensee of the premises shall provide a bicycle storage area sufficient to take care of the needs of all customers, which shall be located off the public way.
11. Exemptions. Exemptions from the provisions of this section shall be:
- a. Education, religious, charitable institutions and fraternal organizations which do not permit use of amusement devices on their premises by the general public and which are nonprofit organizations.
 - b. Any premises licensed to sell fermented malt beverages and/or intoxicating liquors has been issued by the City.
 - c. Other commercial premises primarily used for the conducting of a business other than the business of operating an arcade, which offer the use of less than five (5) amusement devices shall be exempt from the provisions of this section.
12. Penalties. Any action taken to revoke, suspend or deny a license issued under this section shall not preclude prosecution, conviction and punishment for violations of this section, as provided by sec. 9.27(b) of this Chapter. Each day that any violation is permitted to continue shall be deemed to be a separate offense.
13. Severability. Should any subsection or portion thereof of this section be held unlawful and unenforceable by any court of competent jurisdiction, such decision of the court shall apply only to the specific subsection or portion thereof directly specified in the decision, and all other subsections or portions thereof of this ordinance shall remain in full force and effect.

SECTION 10: **REPEAL** "9.105 Shooting Galleries And Gun Ranges" of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

9.105 Shooting Galleries And Gun Ranges (Repealed)

1. Regulation for Shooting Galleries and Gun Ranges. No premises shall be used or permitted to be used, leased or hired as a shooting gallery, gun range or place to practice target shooting, wherein firearms shall be discharged, without being duly licensed therefor. The license shall expire on the 31st day of December after the granting thereof, unless sooner revoked. No corporation, firm, association or club shall be granted a license to conduct in any manner a shooting gallery, gun range or place to practice target shooting within the limits of the City, except to an agent thereof first duly appointed by it, who is, at the time of filing said application, an officer, manager or member thereof, a full citizen of the United States, a resident of Milwaukee County continuously for at least two (2) years prior to the date of said application and who shall have vested in him by a properly authorized and executed written delegation full authority and control of the premises described in the license and of the conduct of all business and acts therein in any way relating to firearms and the use thereof or of the shooting gallery, gun range or place to practice target shooting and who shall, with respect to his qualifications be satisfactory to the Common Council. Such agent shall be personally responsible for compliance with all the terms and provisions of this ordinance. If such duly appointed agent shall, during any licensed year, cease to be an officer, manager or member of any corporation, firm, association or club, on whose behalf said license was issued, a new license shall be required and application therefor shall be forthwith made pursuant to the terms and provisions of this section. **[Ord. O-2009-0033, 11/3/2009]**
2. Application for License. No person shall be granted a license to conduct in any manner a shooting gallery, gun range or place to practice target shooting within the limits of the City, unless he shall have been, at the time of filing said application, a full citizen of the United States, a resident of Milwaukee County continuously for at least two (2) years prior to the date of said application, nor unless such individual is, with respect to his qualifications, satisfactory to the Common Council. Application for a license for any specific premises sought to be used as a shooting gallery, gun range or place to practice target shooting shall be made on forms provided by the City Clerk/Treasurer and be accompanied by the full license fee of sixty dollars (\$60.00). Said application shall contain the following information:
 - a. Name and age of applicant, whether a firm, association, corporation or club.
 - b. Address of applicant.
 - c. Location and description of premises sought to be licensed.
 - d. Qualifications of licensee.
 - e. Name of agent.
 - f. Qualifications of agent.

No application shall be submitted to the Common Council unless said application shall have been approved by the Chief of Police and Building Inspector. No premises shall be licensed unless constructed in accordance with the specifications provided in this section. **[Ord. O-2009-0033, 11/3/2009]**

3. Specifications.

- a. Use and Construction. The room, place or enclosure wherein the firing of firearms is to take place shall not be used for any other purpose whatsoever during the progress of firing. The rear wall and side walls in front of the firing line shall be made bullet proof and shall be of at least the following construction:
 - i. Eight (8) inch solid masonry or concrete, or
 - ii. Ten (10) inch hollow concrete block, or
 - iii. Wood stud and plaster walls or equivalent construction covered with one-quarter (1/4) inch steel plate and faced with wood one (1) inch thick.
- b. Bullet Protecting Plates.
 - i. When the floor construction is other than reinforced concrete and there is a room below, such floor in front of the firing line for a distance of at least ten (10) feet shall be covered with a steel plate not less than one-quarter (1/4) inch in thickness. When there is no room below such floor and the floor construction is other than reinforced concrete, the thickness of such steel plate may be one-sixteenth (1/16) inch in order to provide fire protection for unburned powder.
 - ii. When the ceiling construction is of other than reinforced or precast reinforced concrete and there is a room above, such ceiling in front of the firing line for a distance of at least ten (10) feet shall be covered with a steel plate not less than one-quarter (1/4) inch in thickness.
 - iii. Exposed pipes, conduits, beams, pilaster, columns, lights or any other projecting surface in front of the firing line shall be provided with protecting steel plates not less than one-quarter (1/4) inch in thickness faced with wood two (2) inches in thickness to prevent damage by stray bullets and to prevent injury to persons by ricocheting bullets. These plates shall be set at such an angle that no bullet can possibly return towards the firing point.
- c. Door and Window Openings.
 - i. All door, window or other openings in the range, in front of the firing line, shall be protected with one-quarter (1/4) inch steel plate faced with wood one (1) inch thick.
 - ii. All doors opening into the range, except those behind the firing line, shall be bolted from the inside.
- d. Bullet Stops.
 - i. The bullet stop shall consist of a steel plate placed at an angle of forty-five degrees (45°) from the horizontal and running the width of the range. When only twenty-two caliber (.22) ammunition is used, the plate shall be three-eighths (3/8) inch thick if of structural steel or one-quarter (1/4) inch thick if of armor plate. The thickness shall be increased to one-half (1/2) inch structural steel or three-eighths (3/8) inch armor plate if thirty-eight caliber (.38) or forty-five caliber (.45) ammunition is used.
 - ii. The plates of the bullet stop shall be butted tightly together and bolted to an angle or tee at the joints using countersunk heads on the face. Shiplap joints or welded joints can be used also. Targets should not be mounted in front of any joints.
 - iii. The side walls at the bullet stop shall be covered by one-quarter (1/4) inch steel plate, not less than two (2) feet wide and slanting with the bullet stop to protect the walls from the spatter of lead.
 - iv. At the base of the inclined bullet stop there shall be provided a box, not less than five (5) feet wide and running the width of the range, with not less than six (6) inches of clean sand or sawdust or not less than twelve (12) inches of water to catch the deflected bullets.
- e. Targets.
 - i. Targets shall be stationary bull's-eye type. All moving targets are prohibited.
 - ii. There shall be provided a target carrier system or device for running the targets back and forth between the firing line and the bullet stop which will eliminate the necessity of any one going in front of the firing line during the progress of firing for the purpose of changing targets.
- f. Firing Line. At the firing line a bench, shelf or other separation, not less than three (3) feet high and running the width of the range, shall be provided. The lower part of such bench, shelf or other separation shall be open to permit shooting under it in the kneeling, sitting or prone position. No person shall be permitted in front of the firing line during the progress of firing.
- g. Sound Quieting Treatment. Shooting premises located adjacent to premises used in whole or in part for residence purposes shall not be offensive by reason of the emission of noise to the outdoors. In such cases, where the noise of firing is conveyed to the outdoors, the walls and ceiling of the shooting premises or range shall be covered with sufficient sound absorbing material to eliminate the nuisance, or sound absorbing boxes, in which the muzzle of the gun is inserted before firing, shall be used.
- h. High-Powered Rifles. The firing of high-powered rifles shall not be permitted on any shooting premises. A high powered rifle is hereby defined as one which discharges a center fire cartridge.
 - i. No person shall consume fermented malt beverages or intoxicating liquor upon that part of the premises licensed as a shooting gallery, gun range or place to practice target shooting.

SECTION 11: AMENDMENT "9.28 Adult Oriented Establishments" of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

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. ~~Any establishment holding a Class "B" Fermented Malt Beverage License or Class "B" Intoxicating Liquor License, is ineligible to obtain a permit to conduct an adult-oriented establishment but may obtain an entertainment license pursuant to Section 9.032 of this Code.~~(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).

SECTION 12:AMENDMENT "18.03 Public Nuisances" of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

18.03 Public Nuisances

The following acts, omissions, places, conditions, and things are specifically declared to be public nuisances, but such enumeration shall not be construed to exclude other nuisances:

1. Nuisances Affecting Health, Welfare, and Enjoyment of Property.

- a. Noxious Odors, Etc. Any use of property, substances, or things within the City emitting or causing any foul, offensive, noisome, noxious or disagreeable odors, gases, effluvia, or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure, or inconvenience the health of any appreciable number of persons within the City.
- b. Street Pollution. Any use of property which causes any noxious or unwholesome liquid or substance or any dirt, mud, sand, gravel, stone, or other materials to flow into or be deposited upon any street, gutter, alley, sidewalk, or public place within the City.
- c. Release of Dust Into the Air. The handling, transportation, or disposition of any substance or material which is likely to be scattered by the air or wind, or is susceptible to being airborne or wind-borne, or operating or maintaining or causing to be operated or maintained any premises, open area, right-of-way, storage pile of materials, vehicle, construction, demolition or wrecking operations, stone or concrete crushing operation, or any other enterprise, which involves any dust likely to be scattered by the wind or air, or susceptible to being wind-borne or airborne such that there is a discharge of any dust emissions and the visible settlement of dust on property beyond the property on which it originated so as to damage or to interfere with the use and enjoyment of adjacent properties, including public property and right-of-way.
 - i. "Dust" shall mean solid particulate matter released into or carried in the air by natural forces, by any combustion, construction work, or mechanical or industrial processes or devices.
 - ii. "Interfere with the use of adjacent properties" includes, but is not limited to, requiring the owner, occupants, or users of the adjacent property to close doors or windows on buildings or vehicles to prevent dust from entering, requiring the owner or user of vehicles or other tangible personal property to wipe, brush, wash, or blow off accumulated dust prior to normal operation or use, or requiring the sweeping, washing, or other cleaning of paved surfaces to prevent further tracking or scattering of the dust.
- d. General Pollution. Waste which is prepared or stored on any premises in a manner which creates or may create a public health hazard, safety hazard or blighting condition.

2. Nuisances Affecting Morals and Decency. [Ord. O-2005-0008, 2/1/2005]

- a. For the purposes of this section, "nuisance activity" means any of the following activities, behaviors or conduct whenever engaged in by premises owners, operators, occupants or persons associated with the premises:
 - i. Disorderly Houses. All disorderly houses, gambling houses and buildings or structures kept or resorted to for the purpose of gambling, or any drug or criminal gang houses as defined in sec. 823.113, (1) and (1)(b) Wis. Stats., and all buildings or structures where the sale, manufacture or delivery of drug paraphernalia as defined in sec. 961.571(1)(a), Wis. Stats., occurs.
 - ii. Gambling Devices. The keeping of gambling devices ~~as defined in Section 9.08(1)(c) of the Revised Municipal Code.~~
 - iii. Unlicensed Sale of Liquor and Beer. All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided by the ordinances of the City.
 - iv. Continuous Violation of City Ordinances. Any place or premises within the City where City ordinances or state laws relating to public health, safety, peace, morals or welfare are repeatedly violated.
 - v. Illegal Drinking. Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of state laws.

- vi. Establishment Violating Laws Related to Obscenity, Etc. Any place or premises within the City where the laws related to obscenity and related offenses set forth in secs. 944.20 to 944.34 of the Wisconsin Statutes occur.
- vii. An act of harassment as defined in sec. 947.013, Wis. Stats.
- viii. Disorderly conduct as defined in sec. 947.01, Wis. Stats.
- ix. Battery, substantial battery or aggravated battery as defined in sec. 940.19, Wis. Stats.
- x. Littering of premises as defined in Section 7.05 of the West Allis Revised Municipal Code.
- xi. Theft as defined in sec. 943.20, Wis. Stats.
- xii. Arson as defined in sec. 943.02, Wis. Stats.
- xiii. Possession, manufacture or delivery of a controlled substance or related offenses as defined in Chapter 961, Wis. Stats.
- xiv. Gambling as defined in sec. 945.02, Wis. Stats.
- xv. Keeping an animal in violation of Section 7.12 of the West Allis Revised Municipal Code. [Ord. O-2007-0041, 10/16/2007]
- xvi. Trespass to land as defined in sec. 943.13, Wis. Stats., or criminal trespass to dwelling as defined in sec. 943.14, Wis. Stats.
- xvii. Any conspiracy to commit, as defined in Section 6.02(5) of the West Allis Revised Municipal Code or sec. 939.31, Wis. Stats., or attempt to commit, as defined in sec. 939.32, Wis. Stats., any of the activities, behaviors or conduct enumerated in Paragraphs (1) to (16).
- xviii. Discharge of a firearm or air rifle as defined in Section 6.01(1) and (2) of the West Allis Revised Municipal Code.
- xix. Loitering as defined in Section 6.02(9) of the West Allis Revised Municipal Code.
- xx. Persons associated "with" means any person who, whenever engaged in nuisance activity, enters, patronizes, visits or attempts to enter, patronize or visit, or wishes to enter, patronize or visit, a premises or person present on the premises, including any officer, director, customer, agent, employee or independent contractor of a premises owner.

3. Nuisances Affecting Peace and Safety.

- a. Dangerous Signs and Billboards. All signs, billboards, awnings, and other similar structures over or near streets, sidewalks, public grounds, or places frequented by the public, so situated, constructed, or maintained as to endanger the public safety.
- b. Illegal Buildings. All buildings erected, repaired, altered, or maintained without a permit or in violation of City ordinances relating to materials and manner of construction of buildings.
- c. Unauthorized Traffic Signs. All unauthorized signs, signals, markings, or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as official traffic control devices or railroad signs or signals or which, because of their color, location, brilliance, or manner of operation, interfere with the effectiveness of any such device, sign, or signal.
- d. Obstruction of Intersections. All trees, hedges, billboards, or other obstructions which prevent persons driving vehicles on public streets, alleys, or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- e. Low-Hanging Tree Limbs. All limbs of trees, bushes, shrubs, or other plants which project over or into any public sidewalk, street, or other public place and interfere with the full use and enjoyment thereof.
- f. Dangerous Trees. All trees which are a menace to public safety because of disease or other condition of the tree or are the cause of substantial annoyance to the general public.
- g. Dilapidated Buildings. All buildings or structures so old, dilapidated, or out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human use.
- h. Low-Hanging Wires and Cables. All wires and cables over streets, alleys, or public grounds which are strung less than fifteen (15) feet above the surface thereof.
- i. Noisy Animals. The keeping or harboring of any animal which, by frequent or habitual howling, yelping, barking, crowing, or making of other noises, to the great discomfort of the peace and quiet of the neighborhood or in such a manner as to materially disturb or annoy persons in the neighborhood who are of ordinary sensibilities.
- j. Obstructions of Streets; Excavations. All obstructions of streets, alleys, sidewalks, or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the City but including those which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished or which do not conform to the permit.
- k. Blighted Buildings and Premises. Premises existing within the City which are blighted because of faulty design or construction, failure to maintain them in a proper state of repair, improper management, or due to the accumulation thereon of junk or other unsightly debris, structurally unsound fences and other items which depreciate property values and jeopardize or are detrimental to the health, safety, enjoyment of property, or welfare of the people of the City.
- l. Suffocation Hazards. Any abandoned, unattended or discarded ice box, refrigerator, walk-in cooler, or other container of any kind, which has an air-tight door, left outside of any building or dwelling without first removing the door from the said ice box, refrigerator, walk-in cooler, or other container.
- m. Excessive Noise. The making, continuation, or causing to be made or continued any noise which either injures, endangers the comfort, repose, health, or safety of another, or substantially annoys another between the hours of 10:00 p.m. and 7:00 a.m. This provision shall not apply to noise necessary for the protection or preservation of property, or the health, or safety of a person or to emergency short-term operations which are necessary to protect the public health, safety, and welfare including emergency utility and public works operations.

SECTION 13: AMENDMENT "12.40 C-1 Central Business District" of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

12.40 C-1 Central Business District

The C-1 Central Business District is intended to accommodate those retail and office uses which are characteristic of the unique shopping streets of the "downtown" area of the City, and discourage uses which detract from, or are incompatible with, pedestrian, shopping and service oriented traffic, such as manufacturing or wholesale distribution uses.

1. Permitted Uses.

- a. Barbers and beauty shops.
- b. Books and stationary stores.
- c. Bridal and wedding salons.
- d. Camera stores and photographic equipment sales and services.
- e. Clothing stores.
- f. Computer and computer software sales and service.
- g. Costume rental stores.
- h. Curtains and draperies sales.
- i. Drug stores.
- j. Electronic equipment sales and service.
- k. Employment agencies and offices conditioned upon the following: [Ord. O-2005-0022, 5/17/2005]
 - i. Transportation for temporary employees shall not be provided by, or on behalf of, the employment agency from the agency or office to the work site.
 - ii. Employees shall not report to the employment agency or office for work assignments. The employees shall report directly to the work site assigned. Applicants for employment shall not be allowed to use public property as a waiting area.
 - iii. Restroom facilities adequate for applicants shall be provided on site.
- l. Financial institutions without drive-through facilities, except check-cashing businesses as defined in Section 9.32. [Ord. O-2006-0061, 10/17/2006]

- m. Florist shops.
- n. Hardware stores.
- o. Hobby or gift stores.
- p. Home improvement, furnishings, appliances and accessory sales. [Ord. O-2003-0028, 4/2/2003]
- q. Jewelry stores.
- r. Keymaking and locksmithing stores.
- s. Laundry and dry cleaning — pick up only.
- t. Leather goods sales.
- u. Luggage stores.
- v. Millinery shops.
- w. Tattoo and/or body piercing establishments. [Ord. O-2016-0020, 5/3/2016]

Editor's Note: Former Subsection (1)(w), which set forth liquor stores as a permitted use, was repealed 5-20-2014 by Ord. O-2014-0022.

- x. Office supply stores.
- y. Offices; business, professional and governmental. [Ord. O-2015-0001, 1/20/2015]
- z. Medical clinics. [Ord. O-2015-0001, 1/20/2015]
- aa. Photography studios and film developing.
- ab. Post offices.
- ac. Printing services; blueprinting and photocopying.
- ad. Restricted productions and repair, limited to the following: artwork; clothing custom manufacturing and alterations, for retail only; hearing aid devices; jewelry from precious metals; watches; dentures; and optical lenses.
- ae. Sewing machine sales and service.
- af. Shoe sales and repair stores.
- ag. Small appliance sales and service.
- ah. Specialty stores including arts and crafts and related uses.
- ai. Sporting goods stores.
- aj. Tobacco retailers. [Ord. 6279, 12/17/1996; Ord. O-2016-0032, 7/5/2016]
 - i. No tobacco retailer shall be located within one thousand (1,000) feet of parcels occupied by the following uses:
 - (1) A public or private kindergarten, elementary, junior high or high school;
 - (2) Libraries;
 - (3) Zoned parkland; or
 - (4) Another tobacco retailer or establishment licensed to sell any tobacco product or tobacco paraphernalia as defined within Section 12.06.
- ak. Trophy and award sales.
- al. Resale stores. [Ord. O-2007-0026, 8/7/2007 (repeal and recreate); Ord. O-2015-0029, 5/7/2015]
- am. Videotape sales and rental.
- an. Places of assembly including clubs, lodges, meeting halls and theaters, limited to a maximum of up to five thousand (5,000) square feet of building area and subject to the provisions of Sec. 9.28 of the Revised Municipal Code. [Ord. 6415, 1/5/1999; Ord. O-2007-0027, 8/7/2007 repeal; Ord. O-2011-0083, 1/3/2012 add; Ord. O-2013-0013, 3/5/2013]
- ao. Day-care facilities. [Ord. 6618, 6/18/2002]
- ap. Tanning and toning salons. [Ord. O-2005-022, 5/17/2005]
- aq. Public utility service structures not larger than six (6) feet tall and twenty-five (25) square feet in surface area, conditioned upon the following: [Ord. O-2008-0006, 2/5/2008; Ord. O-2008-0031, 7/1/2008]
 - i. Site, landscaping and screening, and architectural review of the public utility service structure and the immediate area surrounding the structure, by the Department of Development staff. Public utility service structures shall be effectively screened from any abutting lot(s) and City right-of-way by landscaping or other means, as necessary, as approved by the Department of Development staff; and
 - (1) If the staff and applicant are unable to come to an agreement on the proposed location and screening, the applicant may file a request for a variance with the Plan Commission by submitting a written request to the Department of Development not less than twenty (20) days before the next regularly scheduled Plan Commission meeting. At the time that a request for a variance is made, the applicant shall pay the required fee in accordance with development review fees in Chapter 12 of the Revised Municipal Code.
 - ii. Public utility service structures shall not be located within any front yard or corner side yard on private property.
- ar. Grocery stores. [Ord. O-2015-0002, 1/6/2015]
- as. Instruction and/or training facility, small. [Ord. O-2017-0007, 2/23/2017]
- at. Art galleries. [Ord. O-2017-0050, 11/21/2017]
- au. Tourist Rooming House, conditioned upon the following:
 - i. The structure is a single or two-family residence, or a mixed-use or multifamily containing not more than 4 dwelling units.
- av. Taverns and cocktail lounges.

2. Special Uses.

- a. Any permitted use with drive-through facilities, except check-cashing businesses as defined in Section 9.32. [Ord. O-2006-0061, 10/17/2006]
- b. Food production, limited. [Ord. O-2015-0002, 1/6/2015]
- c. Massage Therapy. [Ord. O-2017-0044, 10/17/2017]

Editor's Note: Former Subsection (2)(c), Candy and ice cream stores, was repealed 1/6/2015 by Ord. O-2015-0002.

- d. Department stores.
- e. Hotels and motels.
- f. Laundries and dry cleaners.
- g. Mixed residential and commercial uses.
- h. Multiple family developments.
- i. Restaurants.
- j. Retirement homes and communities.
- k. Instruction and/or training facility. [Ord. O-2017-0007, 2/23/2017]
- l. [Reserved]
- m. Community living arrangements as licensed under Sec. 46.22 of Wisconsin Statutes [Ord. 6501, amend, 2/15/2000]
- n. Printing, commercial. [Ord. 6522, amend, 6/6/2000]
- o. Outdoor dining areas for "food establishments" under Section 7.04(1)(c). [Ord. 6568, 5/15/2000]
- p. Indoor recreation facilities including the following: [Ord. O-2003-0040, 6/17/2003]
 - i. Indoor driving range and batting cages.
 - ii. Indoor volleyball courts.
 - iii. Indoor basketball courts.
 - iv. Indoor bowling alleys.
 - v. Game centers and tournament facilities (not arcades as regulated in Section 9-109.037 of the Revised Municipal Code).
- q. Radio and television stations. [Ord. O-2003-0044, 6/17/2003]

- r. Athletic, health clubs. [Ord. O-2005-0022, 5/17/2005; Ord. O-2015-0001, 1/20/2015]
 - s. Museums. [Ord. O-2008-0023, 5/20/2008]
 - t. Places of assembly including clubs, lodges, meeting halls and theaters, greater than five thousand (5,000) square feet of building area and subject to the provisions of Sec. 9.28 of the Revised Municipal Code. [Ord. O-2011-0083, 1/3/2012; Ord. O-2013-0013, 3/5/2013]
 - u. Collocation/attachment of telecommunication equipment to existing structures. [Ord. O-2012-0036, 9/18/2012]
 - v. Animal grooming. [Ord. O-2015-0016, 3/3/2015]
 - w. Pet shops. [Ord. O-2015-0016, 3/3/2015]
 - x. Veterinary clinics. [Ord. O-2015-0016, 3/3/2015]
3. Required Conditions.
- a. Dwelling units are not permitted below the second floor.
 - b. All businesses, servicing or processing, storage or merchandise display, except off-street parking or off-street loading, shall be conducted within completely enclosed buildings.
 - c. Establishments of the "drive-in" type, offering goods or services directly to customers waiting in parked motor vehicles, are not permitted unless specifically authorized herein.
 - d. Multi-family dwellings will comply with the bulk regulations of the RC-2 District.
 - e. Outdoor Storage. Outdoor storage, display or repair shall not be permitted. [Ord. O-2003-0028, 4/2/2003]
 - f. Commercial Vehicles. A maximum of two commercial vehicles may be associated with a use. Open vehicles, utility trucks, trailers and similar vehicles shall not be permitted. [Ord. O-2003-0028, 4/2/2003]
 - g. Interior Storage Spaces. A maximum of 25% of a businesses interior floor area may be used for general wholesale, warehousing and storage. Such areas shall not be visible from the exterior of the building. [Ord. O-2003-0028, 4/2/2003]
 - h. Interior Spaces. Interior walls parallel to window glazing shall be not less than 6 feet from the plane of the window glazing. [Ord. O-2003-0028, 4/2/2003]
 - i. Display Racks and Fixtures. Display racks within 4 feet of a window shall be open-backed and shall not obscure more than 50% of the glazing area. [Ord. O-2003-0028, 4/2/2003]
 - j. Window Coverings. Operable interior window coverings may be used. Such coverings include, but are not limited to, blinds and draperies. No window covering may be permanently affixed or adhered to the window such that the window becomes permanently opaque. [Ord. O-2003-0028, 4/2/2003]
 - k. Site Plan. A site, landscaping and screening plan in accordance with Section 12.13 of the Revised Municipal Code shall be required when commercial vehicles are associated with a use. [Ord. O-2003-0028, 4/2/2003]
 - l. All business establishments shall contain on-site retail or be service establishments dealing directly with consumers. [Ord. O-2015-0002, 1/6/2015]
 - m. Outdoor animal holding areas shall not be allowed. [Ord. O-2015-0016, 3/3/2015]
4. Floor Area Ratio. The floor area ratio shall not exceed 2.0.
5. Yard Requirements. The C-1 District shall have no yard requirements.
6. Off-Street Parking and Loading Requirements. Off-street parking and loading facilities shall be provided in accordance with Section 12.19 of this subchapter. Credit shall be given to day-care uses for use of public off-street parking spaces located within the C-1 Central Business District. [Ord. 6618, 6/18/2002]

SECTION 14: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 15: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 16: **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 APRIL 07, 2021.

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

Attest

Presiding Officer

Rebecca Grill, City Clerk, City Of West Allis

Dan Devine, Mayor City Of West Allis

