

**CITY OF WEST ALLIS
ORDINANCE O-2025-0069**

**ORDINANCE TO UPDATE LICENSING AND TAX REFUND INTERCEPTION
PROVISIONS AND ADOPT STATE LITTERING LAW**

AMENDING SECTIONS 2.82, 6.02, AND 9.60, AND 9.69

WHEREAS, the common council seeks to keep the municipal code updated as issues arise;

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

SECTION 1: **AMENDMENT** “2.82 Tax Refund Interception Program” of the City Of West Allis Municipal Code is hereby *amended* as follows:

A M E N D M E N T

2.82 Tax Refund Interception Program

1. Authority. Pursuant to Wis. Stat. ~~Section~~ 71.935, the ~~City of West Allis~~ city attorney may certify to the Wisconsin Department of Revenue any debt owed to ~~it~~ the City of West Allis or any of its boards, commissions, authorities, or entities formed pursuant to an intergovernmental cooperation contract or agreement to provide consolidated services.
2. Notice. The city attorney shall provide to debtors any notices required under Wis. Stat. 71.935 ~~Within five (5) days of certifying the debt to the Department of Revenue, the City of West Allis shall notify the debtor in writing of its certification of the debt, the basis of the certification, the debtor's right to appeal the certification, the appeal procedure, and, in the case of parking citations, the debtor's right to contest the citation.~~
3. ~~Appeal~~ Debts Not Reduced to a Judgment. The city attorney shall provide each debtor with at least 20 days' advance notice and an opportunity to be heard before certifying a debt that has not been reduced to a judgment. A debtor is deemed to have received notice if that person receives actual notice or a notice is mailed to the debtor's last-known address ~~To appeal the certification of the debt, the debtor shall send a letter of appeal to the Finance Manager at 7525 West Greenfield Avenue, West Allis, Wisconsin 53214 within 30 days of the date of the certification notification letter. The letter of appeal shall clearly state the name and address of the debtor, the certification being appealed, and the reason(s) why the debtor feels the debt should not be certified.~~
4. Appeal Procedure.
 - a. ~~For the purposes of this section, pursuant to Wisconsin Statute~~

~~Section~~Pursuant to Wis. Stat. 68.16, the City ~~of West Allis is specifically electing~~elects not to be governed by ~~Chapter~~ Wis. Stat. Ch. 68 ~~of the Wisconsin Statutes.~~

- b. ~~The Finance Manager~~A debtor may appeal a certification of a debt by filing an appeal with the city clerk. If the city attorney refuses to cancel or rescind the certification, the matter shall be heard by the administrative appeals review board. The board shall grant or deny the appeal within 30 days of the City's receiving the appeal ~~letter~~ and shall notify the debtor of ~~his/her~~its decision ~~in written form.~~ The ~~Finance Manager's~~board's review shall be the final determination, ~~the provisions of Section 2.48 notwithstanding.~~

~~{Ord. O-2013-0053, 11-19-2013}~~

SECTION 2: AMENDMENT “6.02 Public Offenses” of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

6.02 Public Offenses

1. Definitions. For the purpose of this section, the definitions of words and phrases contained in Chapter 161 and in Chapters 939 to 948, 951 and sec. 990.01 of the Wisconsin Statutes, as the same may be from time to time amended, are hereby adopted and by reference made a part hereof with the same force and effect as if fully set forth herein.
2. Interpretation. In the following enumerated sections and subsections of the Wisconsin Statutes:
 - a. Whenever the word "crime" is used, it shall be taken to mean "offense."
 - b. Whenever the phrase "criminal intent" is used, it shall be taken to mean "intent."
 - c. Whenever the term "court" is used, it shall be taken to mean West Allis Municipal Court.
 - d. Whenever the phrase "District Attorney" is used, it shall mean City Attorney.
3. State Laws Adopted.
 - a. The following Chapters, sections and subsections of the Wisconsin Statutes, as may be amended from time to time, describing, defining and prohibiting conduct, are hereby adopted by reference and made a part of this Section as if fully set forth herein: **[Ord. 6249, 9/3/1996; Ord. O-2005-0039, 8/2/2005]**

Chapters 941-948 Chapter 951 Sec. 146.70
Sec. 252.25
Sec. 287.81
Sec. 323.28 Sec. 940.19 Sec. 940.20

Sec. 940.24 Sec. 961.41 Sec. 961.43 Sec. 961.571-161-576

- b. Penalties. Every person, firm or corporation convicted of a violation of this section shall, for each offense, be punished by a forfeiture not to exceed the fine or forfeiture imposed for violations of the comparable state statute, including any variations or increases for subsequent offenses; provided, however, that prosecution under this Code may not provide for the imposition of a fine or of imprisonment, except for failure to pay any forfeiture imposed. In addition to such forfeiture, the costs of prosecution shall be imposed; and, in default of payment of said forfeiture and costs, punishment shall be suspension of the defendant's operating privilege, pursuant to secs. 343.30 and 345.47 of the Wisconsin Statutes, or by imprisonment in the Milwaukee County House of Correction or Milwaukee County Jail until payment of the forfeiture and costs, but not in excess of the number of days, pursuant to sec. 800.095(4) of the Wisconsin Statutes. Each and every day during which a violation continues constitutes a separate offense.
- c. Marijuana Offenses. Subject to the exceptions set forth in Section 961.41(3g) (intro.) and pursuant to the authority of Section 66.0107(1)(bm) of the Wisconsin Statutes, an officer may issue a citation for possession of marijuana. A police officer may also issue a citation for possession of more than twenty-five (25) grams of marijuana or possession of any amount of marijuana following a conviction in this state for possession of marijuana, provided that the district attorney dismissed charges for the same conduct or declined to prosecute the case. **[Ord. O-2014-0035, 6/3/2014]**
- d. Other Controlled Substance Offenses. Pursuant to the authority in Section 66.0107(1)(bn) of the Wisconsin Statutes, a police officer may issue a citation for possession of a controlled substance specified in Section 961.14(tb) to (ty), provided that a person previously convicted of possessing such controlled substances in this state may not be prosecuted under this provision for the same conduct unless the district attorney dismisses the charges or declines to prosecute. **[Ord. O-2014-0035, 6/3/2014]**
- 4. Solicitation. Whoever, with intent that an offense be committed, advises another to commit that offense under circumstances which indicate unequivocally that he has such intent, shall forfeit an amount not to exceed the maximum provided for the completed offense.
- 5. Conspiracy. Whoever, with intent that an offense under this section be committed, agrees or combines with another for the purpose of committing that offense, shall, if one or more of the parties to the conspiracy does an act to effect its object, forfeit an amount not to exceed the maximum provided for the completed offense.
- 6. Attempt.
 - a. Whoever attempts to commit an offense under this section shall forfeit an amount not to exceed one-half (1/2) the maximum penalty for the completed offense.
 - b. An attempt to commit an offense requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute such offense and that he does acts toward the commission of the offense which

demonstrates, under all the circumstances, that he formed that intent and would commit the offense, except for the intervention of another person or some other extraneous factor.

7. Gambling Devices. Any police officer may seize anything devised solely for gambling or found in actual use for gambling and any police officer may destroy or cause the destruction of any such things after a judicial determination that it was used solely for gambling or found in actual use for gambling.
8. Interference with Fire Department or Equipment. No person shall willfully offer any hindrance or resistance to firemen in the discharge of their duties, or willfully injure in any manner any fire hose, fire engine or fire apparatus in use in the City, or shall operate or drive any vehicle over any fire hose which may be laid in the streets or at any other place in the City.
9. Loitering.
 - a. Loitering or Prowling. No person shall loiter or prowl in a place, at a time or in a manner not usual for law abiding individuals, under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the actor or other circumstances makes it impracticable, a police or peace officer shall, prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this subsection if the police or peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true and, if believed by the police or peace officer at the time, would have dispelled the alarm.
 - b. Loitering in Public Places. It shall be unlawful for any person, not in official attendance or on official business, to enter into, congregate, loiter, wander, stroll, stand or play in the following public places in the City between the hours of 10:00 p.m. and sunrise.
 - i. School buildings or playground areas adjacent thereto; provided, further, that this prohibition shall also apply to such places between the hours of 8:00 a.m. and 4:00 p.m. on official school days.
 - ii. The courtyard located on the north side of the City Hall.
 - iii. Veterans Memorial Park (S. 70 Street and W. National Avenue).
 - iv. Washington Playground (S. 61 Street and W. Lapham Street).
 - v. Kopperud Park (S. 76 Street and W. Pierce Street.).
 - vi. Veterans Housing Park (W. Harrison Avenue and S. 72 Street).
 - vii. Rogers Park (S. 75 Street and W. Rogers Street.).
 - viii. Rogers Playground (S. 56 Street and W. Rogers Street.).
 - ix. Garfield School Park (S. 84 Street and W. National Avenue.).
 - x. Honey Creek Park and Settlement (S. 84 Street and W. National Avenue).

- xi. Joyce Radtke Park (8320 W. National Avenue).
- xii. Klentz Park (2601 S. 72 Street.).

- xiii. Liberty Heights Park (1540 S. 62 Street.).
- xiv. North Greenfield Railroad Station Park (8139 W. National Avenue.).
- xv. Reservoir Park (9621 W. Lapham Street.).
- xvi. McKinley Park Playground (S. 72 Street and W. Washington Avenue.).
- xvii. Any property owned by the City of West Allis, upon notice from a police officer or other city official
- xviii. Farmers Market (6501 W. National Avenue).

- c. Loitering in Buildings. No person shall remain in a building or structure, without lawful cause, after being asked to leave by the owner or by the person entitled to possession or in control thereof. No person shall lodge in any building or structure without the permission of the owner or the person entitled to possession or in control thereof.
- d. Loitering on Posted Private Property. It shall be unlawful for any person to congregate, loiter, wander, stroll or stand upon any private property in the City which has been posted with a notice stating "No Loitering," "Patrons Only," or other notice indicating that the said property is not a thoroughfare for the use of the general public. Such notice shall be at least eight and one-half by eleven (8 1/2 x 11) inches in size, or of comparable area, and plainly posted, at least one to each property intended to be so posted. This section shall include loitering in parked motor vehicles. **[Ord. 6248, 9/3/1996]**

10. Exposing Minors to Harmful Materials.

a. Definitions. As used in this subsection:

- i. "Harmful to minors" means— That quality, of any description or representation, in whatever form of nudity, sexual conduct or sado-masochistic abuse; and,
 - (1) Which, when taken as a whole, the average person, applying contemporary community standards, would find appeals to the prurient or morbid interest of minors; and,
 - (2) Which depicts or describes nudity, sexual conduct or sado-masochistic abuse in a patently offensive way, with respect to what is suitable materials for minors; and,
 - (3) Which, when taken as a whole, lacks serious literary, artistic, political or scientific value for minors.
- ii. "Knowingly" means having general knowledge of, or reason to know, or belief or ground for belief which warrants further inspection or inquiry or both with respect to:
 - (1) The character and content of any material described herein, which is reasonably susceptible to examination by the defendant.
 - (2) The age of a minor; provided, however, that an honest mistake shall constitute an excuse from liability hereunder, if

the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.

- iii. "Minor" shall mean any person under the age of eighteen (18) years.
 - iv. "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.
 - v. "Sexual conduct" shall mean human genitals in a state of sexual stimulation or arousal, act of human masturbation, sexual stimulation or arousal, sexual intercourse or sodomy, defiling or other erotic touching of human genitals, pubic region, buttocks or female breasts.
- b. No person, firm or corporation shall knowingly sell, give away, display or loan to a minor:
- i. Any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body which depicts nudity or sexual conduct and which is harmful to minors.
 - ii. Any book, pamphlet, magazine, printed matter, however reproduced, or sound recording, which contains any matter enumerated in subsection (b)(1) hereof, or explicit and detailed verbal descriptions or narrative accounts of sexual conduct and which, taken as a whole, is harmful to minors.
- c. No person shall have in his possession, with intent to transfer or exhibit to a person under the age of eighteen (18) years, any matter prohibited by this section.
11. Display of Sexually Explicit Reading Materials and Video Tapes in Establishments Accessible to Minors.
- a. Definitions. As used in this subsection:
- i. "Knowingly" means knowledge of or reason to know or believe or grounds for belief which warrants further inspection or inquiry, or both, with respect to character and content of the material.
 - ii. "Minor" means any person under eighteen (18) years of age.
 - iii. "Adult" means any person eighteen (18) years of age or older.
 - iv. "Person" means any individual, partnership, firm, association, corporation or other legal entity.
 - v. "Public place" means any premises which is at the time made public by the assembly of people, whether by allurement of entertainment or otherwise, including, but not limited to, liquor stores, grocery stores, video stores, book stores, gas stations, taverns, restaurants, theaters and meeting rooms, regardless of the specific nature.
 - vi. "Sexually explicit reading materials" shall mean any book, magazine or newspaper, which contains on the cover or interior, any photograph, picture, drawing, animation, depiction or other visual representation of specified anatomical areas or sexual conduct, as

herein defined.

- vii. "Sexually explicit video tapes" shall mean any video tape which contains on the cover any photograph, picture, drawing, animation, depiction or other visual representation of specified anatomical areas or sexual conduct, as herein defined.
- viii. "Specified anatomical area" shall mean less than completely opaquely covered human genitals, pubic area, buttocks or female breasts below a point immediately above the top of the areola. It shall also mean human, male genitals in discernible turgid state, even if completely and opaquely covered.
- ix. "Sexual conduct" shall mean human genitals in a state of sexual stimulation or arousal, act of human masturbation, sexual stimulation or arousal, sexual intercourse or sodomy, defiling or other erotic touching of human genitals, pubic region, buttocks or female breasts.
- b. Display of sexually explicit reading materials and video tapes. It shall be unlawful for any person to knowingly display sexually explicit reading materials and video tapes in any public place in the City of West Allis which is accessible to minors; provided, however, that such sexually explicit reading material and video tapes may be displayed behind a checkout counter or cash register stand or adjacent to such counters or stands, which have no rear access. In the alternative, any public place in the City of West Allis may display such sexually explicit reading material and video tapes in a specific area where only adults are allowed. Such area must contain a sign no smaller than two (2) feet stating "Adults Only." If the cover of such reading material or video tape displays a visual representation of a specified anatomical area or sexual conduct, such cover must have an opaque screen or border of sufficient height so that only the title is visible.
- c. Exceptions. Nothing contained in this section shall be construed to apply to the public display of any of the following:
 - i. Any art or photographic publication which devotes at least twenty-five percent (25%) of the lineage of each edition to articles and advertisements dealing with the subject of art and photography.
 - ii. Any news periodicals which report or describe current events and which, from time to time, publish photographs or drawings of nude or semi-nude persons in connection with dissemination of the news.
 - iii. Any publication which describes or reports on different cultures and which may, from time to time, publish photographs or depictions of nude or semi-nude persons, which describe cultures in which such nudity or semi-nudity is indigenous to the population.
 - iv. Any medical or bona fide educational publication.
 - v. Any publication which, from time to time, publishes photographs or depictions of nude or semi-nude persons in an advertisement or article which pertains to that advertisement or article.
- d. Penalties. Any person who shall violate any provision of this section shall,

upon conviction, pay a forfeiture not to exceed five hundred dollars (\$500), together with the costs of the action, and upon default of payment thereof, shall be imprisoned in the Milwaukee County House of Corrections for a period not to exceed ninety (90) days, or until such forfeiture and costs are paid. Each day during which a violation of this section is permitted to exist shall be deemed to be a separate violation.

12. Age Requirements for Motion Picture Attendance.

- a. It is the responsibility of every manager or person in charge of any motion picture theater in the City of West Allis to enforce the regulations as dictated by the rating assigned to the motion picture to be shown.
- b. No manager or person in charge of any motion picture theater in the City of West Allis shall allow any person, including employees, to enter any area of the theater where the motion picture screen can be seen, unless such person or employee is of an age conforming to the requirements of the rating assigned to the motion picture scheduled to be shown.
- c. No person shall, in any manner, assist any other person to gain entry to a motion picture theater when such other person's age does not conform with the requirements of the rating assigned to the motion picture scheduled to be shown.
- d. Each motion picture theater shall prominently display the audience rating assigned to the motion picture scheduled to be shown at the ticket window and at the place where tickets are taken.
- e. The Police Department of the City of West Allis shall notify the parents or guardian of any person under eighteen (18) who is found to be in violation of this subsection.

13. Unlawful Entry on Property. Any person or state, or any political subdivision thereof, engaged in or preparing to engage in, the manufacture, transportation or storage of any product to be used in the preparation of the United States or of any of the states for defense or for war or in the prosecution of war by the United States or the manufacture, transportation, distribution or storage of gas, oil, coal, electricity or water, or any of said natural or artificial persons operating any public utility, whose property, except where it fronts on water or where there are entrances for railway cars, vehicles, persons or things, is surrounded by a fence or wall, or a fence or wall and buildings, may post around his or its property at each gate, entrance, dock or railway entrance and every one thousand (1,000) feet of water front a sign reading "No Entry Without Permission." No person shall, without permission, willfully enter upon premises so posted.

14. Parties to an Offense.

- a. Whoever is concerned in the commission of an offense under this section as a principal and may be charged with and convicted of the commission of the offense, although he did not directly commit it, and although the person who directly committed it has not been convicted or has been convicted of some other degree of the offense or of some other offense based on the same act.
- b. A person is concerned in the commission of the offense if he:
 - i. Directly commits the offense; or,

- ii. Intentionally aids or abets the commission of it; or,
- iii. Is a party to a conspiracy with another to commit it or advises, hires, counsels or otherwise procures another to commit it. Such a party is also concerned in the commission of any other offense under this section, which is committed in pursuance of the intended offense under this section and which, under the circumstances, is a natural and probable consequence of the intended offense. This paragraph does not apply to a person who voluntarily changes his mind and no longer desires that the offense be committed and notifies the other parties concerned of his withdrawal within a reasonable time before the commission of the offense so as to allow the others to withdraw.

15. Contributing to Delinquent Condition of Minor. No person eighteen (18) or older shall intentionally encourage or contribute to the delinquency of any child of any age. For purposes of this section, "delinquent" means a child who is less than eighteen (18) years of age who has violated any state or federal criminal law, any state or federal law, violation of which is punishable by the imposition of a forfeiture or any county or municipal ordinance.

Penalty for violation of this section shall be a forfeiture of not less than ten dollars (\$10) nor more than five hundred dollars (\$500), together with the costs of prosecution and, in default of payment of said forfeiture and costs, by imprisonment in the Milwaukee County House of Correction until such forfeiture and costs are paid, but not in excess of the terms set forth in sec. 800.095(4) of the Wisconsin Statutes.

16. Hindering Officers.
- a. No person shall knowingly resist, obstruct, hinder or substantially interfere with any police officer while such officer is doing any act in his official capacity and with lawful authority.
 - b. "Resist" means to oppose the officer by force or threat of force. The resistance must be directed to the officer personally.
 - c. "Obstruct" includes, but is not limited to, giving false information to an officer which tends to mislead him in the performance of his duty.
 - d. "Hindering" includes, but is not limited to, fleeing or attempting to flee from a police officer, failing to obey a lawful order of an officer, concealing or attempting to conceal evidence or substantially interfering or attempting to interfere with an investigation or arrest.
17. Roller Skates, In-Line Skates and Skateboards Prohibited. No person shall ride or otherwise use roller skates, in-line skates or skateboards upon public property as follows:

Sidewalks along W. Greenfield Ave., from S. 70 St. to S. 76 St. Sidewalks along W. Greenfield Ave., from S. 60 St. to S. 65 St. Sidewalks along W. National Ave., from S. 60 St. to S. 65 St. City Hall Courtyard Area West Allis Public Library All Municipal parking lots

18. County Park Ordinances Adopted. The provisions of Chapter 47 of the Milwaukee

County ordinances, as amended, describing, defining and prohibiting conduct in Milwaukee County Parks, are hereby adopted by reference and made a part of this section with the same force and effect as if fully set forth herein. Any law enforcement officer may issue citations for enforcement of any ordinances adopted under this section and the Municipal Court shall have jurisdiction over said cases.

19. Purchase or Possession of Tobacco Products by Children/Sale of Tobacco Products to Children. **[Ord. 6216, 3/20/1996; Ord. 6565, 4/3/2001; Ord. 6584, 9/18/2001]**
 - a. Sections 254.92 and 134.66 of the Wisconsin Statutes, as they may be amended from time to time, are hereby adopted by reference and made a part of this section as if fully set forth herein.
 - b. Any person under the age of eighteen (18) violating this section is subject to the dispositions set forth in section 938.343 of the Wisconsin Statutes.
 - c. A person violating section 134.66, Wis. Stat., shall be subject to the penalties set forth in section 134.66(4). The court ordered suspensions shall not prohibit the West Allis Common Council from further suspensions or revocation under section 9.65(5) of the Revised Municipal Code.
20. Graffiti; Parental Liability. Sections 895.035(2g) and 895.035(4) of the Wisconsin Statutes, as amended from time to time, describing and defining parental liability for the cost of repair, replacement or removal of property damages by graffiti, as defined in sec. 943.017 of the Wisconsin Statutes, are hereby adopted by reference and made a part of this section, as if fully set forth herein. **[Ord. 6247, 9/3/1996]**
21. Nudity in Public Place. **[Ord. 6010, 4/20/1993; Ord. O-2016-0003, 1/19/2016]**
 - a. Declaration of Intent.
 - i. Whereas, the Common Council of the City of West Allis has determined that certain modifications need to be made to Ordinance No. 6010, entitled "An Ordinance to Create Section 6.02(21) of the Revised Municipal Code Regarding Nudity in a Public Place," originally passed by the Common Council on April 20, 1993, due to the Seventh Circuit Court of Appeals decision in *Foxxxy Ladyz Adult World, Inc. v. Village of Dix*; and
 - ii. Whereas, the Common Council has conducted an extensive review of available reports and studies concerning the detrimental secondary effects associated with nudity in public places. The secondary effects reports and studies that have been reviewed include the following:
Effects of Adult Entertainment Businesses on Residential Neighborhoods, El Paso, TX (1986); Nude Entertainment Study, Adams County, CO (1988); An Analysis of the Effects of Sexually Oriented Businesses on the Surrounding Neighborhoods, Dallas, TX (1997); Sexually-Oriented Business Study, Rochester, NY (2000); Crime-Related Secondary Effects of Sexually-Oriented Businesses, Palm Beach County, FL (2007); Does the Presence of Sexually-Oriented Businesses Relate to Increased Levels of Crime? An Examination Using Spatial Analyses, Eric S. McCord and Richard Tewksbury (2012); Testimony on SB 3348, Richard McCleary and Lori Sexton (2012); and

- iii. Whereas, the Common Council has reviewed the holdings and findings of the following court cases: City of Erie v. Pap's A.M., 529 U.S. 277 (2000); Barnes v. Glen Theatre, Inc. 501 U.S. 560 (1991); Schultz v. City of Cumberland, 228 F.3d 831 (7th Cir. 2000); Kev, Inc. v. Kitsap County, 793 F.2d 1053 (9th Cir. 1986); Urmanski v. Town of Bradley, 2000 WI App. 141, 613 N.W. 2d 905; Ben's Bar, Inc. v. Village of Somerset, 316 F.3d 702 (7th Cir. 2003); Foxxxxy Ladyz Adult World, Inc. v. Village of Dix, 779 F.3d 706 (7th Cir. 2015); and
 - iv. Whereas, the Common Council finds that nudity in public places has a negative impact on property values; increases crime rates, including sexually-based and alcohol-related offenses; and results in deterioration of nearby residential neighborhoods; and
 - v. Whereas, the Common Council is deeply concerned about the risk to the health, safety, and welfare of West Allis residents from the deleterious secondary effects associated with nudity in public places; for that purpose, the enactment of the following subsection is hereby reaffirmed.
 - b. Definition. "Nudity" means the showing of the human male or female genitals, or pubic area with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple.
 - c. Prohibition. No person shall knowingly or intentionally, in a public place, appear in a state of nudity.
 - d. Exception. Subsection (c) does not apply to a mother's breast-feeding of her child.
- 22. Loitering By Sex Offenders. **[Ord. O-2007-0025, 7/3/2007]**
 - a. Definitions. The definitions delineated in Section 6.027 of the City of West Allis Revised Municipal Code shall be applicable to this subsection. In addition, the following term shall mean:
 - i. "Child safety zones" shall include any real property upon which there exists any facility used for or which supports a use of:
 - (1) A public park, parkway, parkland, park facility;
 - (2) A public swimming pool;
 - (3) A public library;
 - (4) A recreational trail;
 - (5) A public playground;
 - (6) A school for children;
 - (7) Athletic fields used by children;
 - (8) A day-care center;
 - (9) Any specialized school for children, including, but not limited to a gymnastics academy, dance academy or music school;
 - (10) Aquatic facilities open to the public; and
 - (11) Any facility for children [which means a public or private

school, a group home, as defined in Section 48.02(7), Stats., a residential care center for children and youth, as defined in Section 48.02 (15d), Stats., a shelter care facility, as defined in Section 48.02 (17), Stats., a foster home, as defined in Section 48.02(6), Stats., a treatment foster home, as defined in Section 48.02 (17q), Stats., a day-care center licensed under Section 48.65, Stats., a day-care program established under Section 120.13(14), Stats., a day-care provider certified under Section 48.651, Stats., or a youth center, as defined in Section 961.01 (22) Stats].

- b. Prohibition. It shall be unlawful for any sex offender to enter into, congregate, loiter, wander, stroll, stand or play in or near a child safety zone under circumstances that warrant alarm for the safety of persons in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the actor or other circumstances makes it impracticable, a police or peace officer shall, prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this subsection if the police or peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true and, if believed by the police or peace officer at the time, would have dispelled the alarm.
 - c. Penalty. Any person who shall violate any provision of this subsection shall pay, upon conviction, a forfeiture not to exceed one thousand dollars (\$1,000) per violation, together with the costs of this action, and upon default of payment thereof, shall be imprisoned in the Milwaukee County House of Corrections for a period not to exceed ninety (90) days, or until such forfeiture and costs are paid. Each day during which a violation of this section is permitted to exist shall be deemed to be a separate violation.
23. Trespassing on Private Property. No person shall enter or remain upon the lands, buildings, or premises of another or any part, portion, or area thereof if: **[Ord. O-2011-0002; 1/4/2011]**
- a. The owner, owner's agent or representative, lessee, custodian, or other person in possession thereof forbids or warns him/her not to enter or remain, whether orally or in writing;
 - b. A reasonably visible sign posted on such lands, building, premises, or any part or portion thereof, forbids or warns him/her not to enter or remain.
 - i. Signs shall be posted at all common entrances and shall be at least eight and one-half (8 1/2) by eleven (11) inches in size, with letters at least one (1) inch in height.
 - c. Exceptions. This prohibition does not apply to law enforcement officers, firefighters, or rescue personnel acting under the scope of their official duties;

or any person who, in the scope of his or her employment, has a lawful right to be on the property.

- d. Penalties. Any person, firm, or corporation violating this section shall, upon conviction, forfeit not less than three hundred dollars (\$300) nor more than one thousand dollars (\$1,000), together with the costs of prosecution and, in default of payment, shall be imprisoned in the House of Correction until such forfeiture and costs are paid, but not more than the number of days set forth in Section 800.095(4), Wis. Stat.

24. Unauthorized Presence On School Grounds. **[Ord. O-2014-0081, 12/2/2014]**

- a. Adoption of State Statute. Except as otherwise provided herein, Wisconsin Statute Section 120.13(35) is hereby adopted by reference and made a part hereof with the same force and effect as if fully set forth herein.
- b. Application. This section shall apply to all schools in the West Allis-West Milwaukee School District located in the City of West Allis.
- c. Unauthorized Persons Prohibited. Pursuant to the West Allis-West Milwaukee School District Policy entitled "Visitors to the Schools," as it may be amended from time to time, no person shall enter or remain in a school building unless s/he is:
 - i. A student participating in his/her educational program or school activities;
 - ii. Parents/guardians of students enrolled in the school when observing or participating in activities related to their child's educational program or when requested by school officials;
 - iii. Any school district employee, officer, agent, or volunteer conducting school district business;
 - iv. Any individual attending or participating in a meeting, activity, or event open to the general public;
 - v. Individuals specifically authorized by Board policy to be in the school building; or
 - vi. Other individuals with the permission of the building principal or Superintendent of Schools.
- d. Reporting. When an individual visits a school, s/he shall first report to the main office so that the building principal may determine whether the individual has the authority to enter or remain in the building.
 - i. Exceptions. This subsection shall not apply to any individual listed in Subsection (3)(a)-(f).
- e. Penalties.
 - i. Any person violating this section shall be required to forfeit not less than two hundred fifty dollars (\$250.00) nor more than one thousand dollars (\$1,000.00). The person shall be required to pay the costs of prosecution. In default of payment thereof, the person shall be imprisoned in the Milwaukee County House of Correction until such forfeiture and costs are paid, but not more than the number of days set forth in sec. 800.095(1)(b)1 of the Wisconsin Statutes, or by suspension of the defendant's operating privilege, pursuant to secs.

343.30 and 345.47 of the Wisconsin Statutes. Each and every day that an offense continues constitutes a separate offense.

SECTION 3: AMENDMENT “9.60 Alcohol Beverage” of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

9.60 Alcohol Beverage

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

Safety Committee may require either for all applicants or in a particular case

- iii. A completed plan of operation for the business, which shall include as applicable:
 - (1) The hours of operation for the premises
 - (2) The legal capacity of the premises
 - (3) Methods for maintaining the appearance and operation of the premises with respect to noise and litter
 - (4) Any other business that will be conducted in connection with the premises.
 - (5) Any other licenses and permits sought for the premises.
 - (6) The number of security personnel expected to be on the premises, their responsibilities, and the equipment they will use in carrying out their duties.
 - (7) Any other reasonable information the Public Safety Committee may require either for all applicants or in a particular case.
- c. Time of Filing and Issuance. Pursuant to [Wis. Stat. 125.04\(3\)\(f\)2.](#), an application for a license to sell alcohol beverages and a request for a fixed full-service retail outlet shall be filed with the city clerk at least 15 days prior to the granting of the license or approval, except an application for a license issued under [Wis. Stat. 125.26\(6\)](#) or [125.51\(10\)](#) or a request for approval of an unlimited transfer full-service retail outlet shall be filed at least 5 business days prior to the granting of the license or approval.
- d. Restrictions on Issuance. No license may be issued to any person in violation of the provisions below. Any license issued in violation of a provision below is void.
 - i. Liquor Sales at Fuel Stations. No "Class A" license may be granted for any premises where gasoline or diesel fuel is sold at retail in connection with the premises, except that this restriction does not apply if any of the following applies:
 - (1) The "Class A" license contains the condition that retail sales of intoxicating liquor are limited to cider
 - (2) 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.
 - ii. Overlapping Premises. No retail alcohol license may be issued to any person if the premises overlaps with another retail alcohol license.
 - iii. Premises Includes Right-of-Way. No retail alcohol license may be issued to any person if the permanent premises overlaps with a right-of-way. A temporary extension of premises may extend into the right-of-way if approved under this section.
- e. Extension of Premises Application
 - i. Temporary Extension

- (1) A licensee may apply for a temporary extension of premises by submitting a request to the city clerk in a form approved by the clerk and paying the fee listed on the [Fee Schedule](#).
 - (2) Each licensee shall provide a description of the temporary premises and any other information required by the city clerk. The seasonal term shall commence on the Friday preceding Memorial Day and expire on the Tuesday after Labor Day. The common council shall establish the term for any non-seasonal extension of premises.
 - (3) The common council shall determine whether to grant a request for temporary extension of premises under the same standards as a new license application. A temporary extension of premises creates a property interest only for the dates and times approved by the common council. Upon expiration of a temporary extension of premises, the temporary premises ceases to exist. Approval of a temporary extension of premises does not create a right to future approval.
- ii. Permanent Extension. A licensee requesting a permanent extension shall pay the fee listed in the [Fee Schedule](#) at the time of the request. The council shall determine whether to grant the request for permanent extension of premises under the same standards as a new license application.
4. Regulations. The regulations in [Wis. Stat. Ch. 125](#) are adopted, except as modified below:
 - a. "Class B" Authorizations. Pursuant to [Wis. Stat. 125.51\(3\)\(b\)](#), a retail "Class B" license authorizes the sale of intoxicating liquor to be consumed by the glass on the premises where sold or off the premises if the licensee seals the container of intoxicating liquor with a tamper-evident seal before the intoxicating liquor is removed from the premises. The "Class B" license also authorizes the sale of intoxicating liquor in the original package or container, in any quantity, to be consumed off the premises where sold.
 - b. Outdoor Premises
 - i. Containers. No licensee may allow glass beverage containers in an outdoor premises.
 - ii. Noise Limit. No outdoor premises may be the source of sound that measures over 100 decibels (A-weighted) within 100 feet from the outdoor premises. The common council may set different noise limits for a particular outdoor premises if the licensee agrees to those alternate noise limits.
 - iii. Bordering. The border of any outdoor premises shall be physically marked with fencing, vegetation, barriers, or other objects or markings accurately indicating the limits of the outdoor premises.
 - iv. Lighting. Any lighting for an outdoor premises may not project directly to an area beyond the indoor and outdoor premises.
 - v. Closing Hours. No outdoor premises may remain open between the

hours of 8 p.m. and 10 a.m. from Sunday through Thursday. No outdoor premises may remain open between the hours of 10 p.m. and 10 a.m. on Fridays and Saturdays. The common council may set different closing hours for a particular outdoor premises if the licensee agrees to those alternate closing hours.

- c. Conditions Specific to Licensee. The common council may impose the following conditions upon a particular new retail alcohol license at the time the license is granted or impose the following conditions upon a particular existing retail alcohol licensee only with the licensee's consent. No licensee may violate any condition specifically imposed upon that retail alcohol license.
 - i. The licensee shall conduct a principal business on the premises particularly described by the common council. Examples include those types of businesses described in [Wis. Stat. 125.32\(3m\)](#).
 - ii. The licensee shall maintain the property and premises so it is consistent with the landscaping and architectural design plans approved by the common council.
 - iii. The licensee shall video record all activities taking place on the premises, except within bathrooms and areas inaccessible to customers, and retain a copy of that video for at least 7 days. The video resolution must have at least 640 pixels horizontally and 480 pixels vertically. The licensee shall provide a copy of any video recording in the licensee's possession within 48 hours after receiving a request for video from a law enforcement officer.
 - iv. The licensee shall maintain certain security measures particularly described by the common council. Examples include lighting requirements, staffing minimums, and photographic identification scanners.
 - v. The licensee may not promote or conduct certain activities particularly described by the common council. Examples include live music and drink specials.
- d. Hours of Sale Limited. Between 9:00 p.m. and 8:00 a.m., no person may do any of the following:
 - i. Sell alcohol beverages on a Class "A" or "Class A" premises.
 - ii. Sell alcohol beverages on a Class "B" or "Class B" premises in an original unopened package, container, or bottle.
 - iii. Sell alcohol beverages on a Class "B" or "Class B" premises for consumption off the premises.
- e. Presence After Hours. No licensee may allow any person to enter or remain on a premises licensed for retail alcohol sales during hours when the premises are not open for business, unless that person is the licensee, employees of the licensee, salespersons for the licensee, or service personnel for the licensee if those persons are performing job-related activities.
- f. Underage Persons on Premises
 - i. No licensee may allow underage person to enter or remain on Class

- “B” or “Class B” premises under [Wis. Stat. 125.07\(3\)\(a\)10](#), unless the licensee has notified the police chief at least 7 days in advance of the times underage persons will be allowed on the premises.
- ii. A licensee may allow an underage person to enter or remain on a temporary Class "B" premises under [Wis. Stat. 125.26\(6\)](#).
 - iii. A licensee may allow an underage person to enter or remain on a temporary "Class B" premises under [Wis. Stat. 125.51\(10\)](#) only for the purpose of acting as a designated driver and only if the licensee requires the underage person to display a means of identification, such as a wrist band, to identify underage persons as designated drivers.
- g. Full-Service Retail Outlets. Unless specifically excepted, all regulations applicable to Class "B" premises shall be applicable to all full-service retail outlets that are approved to sell fermented malt beverages, all regulations applicable to "Class B" premises shall be applicable to all full-service retail outlets that are approved to sell intoxicating liquor, and all regulations applicable to "Class C" premises shall be applicable to all full-service retail outlets that are approved to sell wine.
5. Discipline Process. [Wis. Stat. 125.12](#) is adopted. In addition and to the extent allowed by law, the disciplinary events in [WAMC 9.51\(1\)\(a\)-\(e\)](#) are adopted under [Wis. Stat. 125.10](#) and shall be grounds for revocation, suspension, or nonrenewal of a license under [Wis. Stat. 125.12\(2\)\(ag\)1](#).

SECTION 4: AMENDMENT “9.69 Fitness Center” of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

9.69 Fitness Center

1. License Required. No person may conduct a business that provides services or facilities that are purported to assist patrons in physical exercise, in weight control, or in figure development without first obtaining a fitness center license.
2. Exceptions. No license is required under this section if any of the following applies:
 - a. ~~The facility~~ The organization solely offers training ~~in~~ or facilities ~~for~~ in an individual sport ~~or activity~~.
 - b. ~~The facility~~ The establishment provides as its primary purpose instruction, supervision, or counseling for diet or weight loss or maintenance, ~~if~~ but no physical exercise services are not provided on the premises.
3. Application Process. The application process in [WAMC 9.50](#) is adopted.
4. Regulations.
 - a. CPR Training. [Wis. Stat. 100.178](#) is adopted.
 - b. Sanitary Conditions. Equipment, furniture, linens, or other materials that are

subject to bodily contact by users shall be disposed of after a single use, manufactured in a manner that deters bacterial growth, or washed in a manner to insure adequate hygiene between users.

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

5. Discipline Process. The discipline process in [WAMC 9.51](#) is adopted.

SECTION 5: **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 COMMON COUNCIL

	AYE	NAY	ABSENT	ABSTAIN
Ald. Ray Turner	_____	_____	_____	_____
Ald. Kimberlee Grob	_____	_____	_____	_____
Ald. Chad Halvorsen	_____	_____	_____	_____
Ald. Marissa Nowling	_____	_____	_____	_____
Ald. Suzzette Grisham	_____	_____	_____	_____
Ald. Danna Kuehn	_____	_____	_____	_____
Ald. Dan Roadt	_____	_____	_____	_____
Ald. Patty Novak	_____	_____	_____	_____
Ald. Kevin Haass	_____	_____	_____	_____
Ald. Marty Weigel	_____	_____	_____	_____

Attest

Presiding Officer

Tracey Uttke, City Clerk, City Of
West Allis

Dan Devine, Mayor, City Of West
Allis