

**CITY OF WEST ALLIS
ORDINANCE O-2021-0065**

**ORDINANCE TO UPDATE NEWSPAPER DISTRIBUTION BOX REGULATIONS TO
COMPORT WITH STATE LAW**

AMENDING SECTION 11.035 AND REPEALING SECTION 13.185

WHEREAS, WAMC 11.035 was not in compliance with the requirements of Wis. Stat. 66.0425;

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

SECTION 1: **AMENDMENT** “11.035 Regulation Of Newspaper Distribution Boxes” of the City Of West Allis Municipal Code is hereby *amended* as follows:

A M E N D M E N T

11.035 Regulation Of Newspaper Distribution Boxes

1. Purpose. The purpose of the following is to promote the public health, safety and welfare through the regulation of placement, appearance, servicing and insuring of newspaper distribution boxes on public rights-of-way so as to:
 - a. Provide for pedestrian and driving safety and convenience;
 - b. Restrict unreasonable interference with the flow of pedestrian or vehicular traffic, including ingress or egress from any residence or place of business, or from the street to the sidewalk by persons entering or exiting parked or standing vehicles;
 - c. Provide reasonable access for the use and maintenance of sidewalks, poles, posts, traffic signs or signals, benches, hydrants, mailboxes and access to locations used for public transportation purposes;
 - d. Relocate and/or replace newspaper distribution boxes which result in a visual blight and/or excessive space allocation on the public rights-of-way or which unreasonably detract from the aesthetics of store window displays, adjacent landscaping and other improvements, as well as to have abandoned newspaper distribution boxes removed;
 - e. Maintain and protect the values of surrounding properties;
 - f. Reduce unnecessary exposure to the public to personal injury or property damage;
 - g. Treat all newspapers equally regardless of their size, content, circulation or frequency of publication;
 - h. Maintain and preserve freedom of the press.
2. Definitions.
 - a. "Newspaper Distribution Box" shall mean any type of unmanned device for

the vending or free distribution of newspapers, news periodicals or written materials, including circulars, pamphlets, papers, booklets and any other printed or otherwise reproduced written material which advertises for sale any merchandise, product, commodity or thing or which attracts attention to any business, commercial establishment or other activity for the purpose of directly promoting the interest thereof by sales, private gain or profit.

- b. "Public Right-of-Way" means all of the area dedicated to public use existing between property lines adjacent thereto and is intended to include, but not limited to, roadways, streets, parkways, alleys and sidewalks.
- c. "Block" means both sides of any street in a public right-of-way which exists between two consecutive intersecting streets and is intended to include, but not limited to, the roadways, streets, parkways, alleys and sidewalks within that right-of-way.

3. Applications.

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

4. ~~Appeals. Any person or entity aggrieved by a finding, determination, notice, order or action taken under the provisions of this article may appeal pursuant to West Allis City Ordinance Section 2.48(Reserved).~~

5. Fees.

- a. If such application is approved by the ~~Department of Public Works~~ City Engineer, the permit privilege shall be issued upon payment of fees by the applicant in the amount of thirty dollars (\$30.00) per box per year for a new installation, and twenty-five dollars (\$25.00) per box per year for a renewal.

Additional locations may be added to such ~~permit privilege during the permit year~~, upon approval of the ~~Department of Public Works~~ City Engineer and payment of the required fees.

- b. All such ~~permits-privileges~~ shall ~~commence on December 1 and shall~~ expire on November 30.
 - c. The fee specified herein has been determined to be the equivalent to be the minimum of processing issuance of such ~~permits-privileges~~ and necessary inspections.
6. Bond. No ~~permit privilege~~ shall be issued until the applicant files a bond in the amount of ten thousand dollars (\$10,000.00) running to the City and to such parties as may be injured because of installation or maintenance of such newspaper distribution boxes within the public right-of-way or upon City property. There shall be one bond per applicant.
7. Conditions of ~~Permit Privilege~~.
- a. All such ~~permits-privileges~~ shall be granted only upon the condition that by acceptance of such ~~permit privilege~~, the applicant:
 - i. Shall become primarily liable for damages to person or property by reason of the granting of the privilege;
 - ii. Shall be obligated to remove any such newspaper distribution box within ten (10) days' notice by the State of Wisconsin or by the City;
 - iii. Shall waive its right to contest in any manner the validity of Sec. 66.0425 of the Wisconsin Statutes, or of this section.
 - b. It shall be a further condition of any such ~~permit privilege~~ that the City shall not be responsible for any damage to such box or boxes because of snowplowing or removal operations or any other municipal maintenance function.
 - c. The holder of any such ~~permit privilege~~ shall be entitled to no damages for the removal of any such newspaper distribution box and, if such holder shall not remove the same upon due notice, it shall be removed by the City at the holder's expense.
 - d. Third parties whose rights are interfered with by the granting of such ~~permit privilege~~ shall have a right of action against the holder of the ~~permit privilege~~ only.
 - e. Written notice by the City to the person designated in Subsection (3)(b)2 shall constitute proper notice.
8. Placement Generally.
- a. In any one block, there shall be no more than twenty-four (24) newspaper distribution boxes of which no more than four (4) newspaper distribution boxes dispensing any one publication. There shall be no more than twelve (12) newspaper distribution boxes of which no more than two (2) newspaper distribution boxes dispensing any one publication on one side of any street between two intersecting streets.
 - b. Newspaper distribution boxes between intersecting streets may be placed together in groups consisting of one to eight (1 to 8) newspaper distribution boxes. Each group shall be separated by a distance not less than one hundred (100) feet. Each newspaper distribution box within a group shall be separated

no more than two (2) feet from each other.

- c. Newspaper distribution boxes shall be placed parallel to and not less than twelve (12) inches nor more than twenty-four (24) inches from the face of the curb. Newspaper distribution boxes placed near the wall of a building must be placed parallel to and not more than six (6) inches from the wall.

9. Prohibitions. No newspaper distribution box shall be located:

- a. Within ten (10) feet of any marked crosswalk or the curb return of any unmarked crosswalk;
- b. Within ten (10) feet of any fire hydrant, fire call box, police call box or other emergency facility;
- c. Within five (5) feet of any driveway or alley;
- d. Within five (5) feet ahead of and fifteen (15) feet to the rear of any sign marking a designated bus stop measured along the curb of the street;
- e. Within five (5) feet of any access ramp for disabled persons;
- f. Within the sight triangles of street intersections;
- g. Within six (6) feet of a display window or building entrance;
- h. At any location where the clear space for the passage way of pedestrians would be reduced to less than five (5) feet by its placement.

10. Maintenance and Repair.

- a. Newspaper distribution boxes shall be maintained in good working order at all time, freshly painted, with unbroken hoods.
- b. The name, address and telephone number of a person responsible for the newspaper distribution box who may be contacted at any time concerning such box shall be displayed on the hood of the box in such a manner as to be readily visible and readable to a prospective customer thereof. Any newspaper distribution box stand without the necessary identifying information, shall be immediately removed.
- c. Each newspaper distribution box shall be maintained in accordance with the terms of this article and the approved permit privilege.

11. Violations. Any person who violates this section may be required to forfeit not less than \$25 nor more than \$500.

- a. ~~Upon determination by the Director of Public Works, or the Director's designee, that a newspaper distribution box has been installed, used or maintained in violation of the provisions of this section, an order to correct the offending condition shall be issued by posting a copy upon the newspaper distribution box itself and mailing a copy of the order by certified mail to the owner or owner's representative. The order shall specifically describe the offending condition and provide information on the right to appeal. Within fifteen (15) days of the issuance of the order, the owner shall: If after fifteen (15) days the owner of the newspaper distribution box has not taken any action as prescribed within this section, the offending newspaper distribution box may be removed from the public right-of-way. Notice shall be sent to the owner or owner's representative advising that the newspaper distribution box has been removed and that a fee for this removal shall be assessed against the owner of each newspaper distribution box removed by the City under this section. Upon determination by the Director of Public Works, or the Director's~~

~~designee, that a newspaper distribution box has been installed, used, or maintained in violation of the provisions of this section, and such conditions constitute a great and immediate danger to the public health and safety, the same shall be considered a public nuisance and shall be abated as such pursuant to Chapter 18 of the West Allis Revised Municipal Code. Correct the offending condition; or Remove the newspaper distribution box from the public right-of-way; or Appeal the determination pursuant to (Section 9; Appeals). [Ord. O-2004-0016 (added), 5/4/2004]~~

SECTION 2: **REPEAL** “13.185 Newspaper Distribution Offices” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

R E P E A L

~~13.185 Newspaper Distribution Offices~~ (*Repealed*)

~~All new and existing newspaper distribution offices, in addition to having an occupancy permit issued pursuant to Section 12.44 of the Revised Municipal Code, shall comply with the following:~~

- ~~1. All newspaper distribution substations shall be equipped with one water closet and one lavatory, with faucets to supply hot and cold water.~~
- ~~2. The roofs of all newspaper distribution substations shall be provided with approved water tight gutters and conductors for conducting water from roofs to storm sewers, in accordance with Section 16.09 of the Plumbing Code.~~
- ~~3. Every building and structure and all parts thereof shall be kept in good repair and roofs shall be maintained water tight.~~
- ~~4. Every building and structure shall be adequately lighted and shall allow a full and complete view of the interior from the outside. This view shall not be obstructed by the use of curtains, blinds, screens or in any other manner.~~

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 AUGUST 03, 2021.

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

Attest

Presiding Officer

Rebecca Grill, City Clerk, City Of West Allis

Dan Devine, Mayor City Of West Allis

