

**CITY OF WEST ALLIS
RESOLUTION R-2022-0873**

RESOLUTION TO APPROVE A PRIVILEGE AGREEMENT BETWEEN THE CITY OF WEST ALLIS, AND WALTER HOLTZ OF THE DECO AT 7140 W. GREENFIELD AVE. FOR USE OF A DESIGNATED A PORTION OF S. 72ND ST. AS A PEDESTRIAN MALL.

WHEREAS, the West Allis Common Council has designated a portion of South 72nd Street as a pedestrian mall under Wis. Stat. § 66.0905 and prohibited vehicular traffic in that pedestrian mall; and

WHEREAS, Holtz owns The Deco, which is located east of and adjacent to that pedestrian mall at 7140 West Greenfield Avenue; and

WHEREAS, the Parties desire to allow Holtz to use the pedestrian mall for private events hosted at The Deco in exchange for Holtz providing amenities to the pedestrian mall for others to use when no private events are occurring;

NOW THEREFORE, BE IT RESOLVED by the Common Council of the City of West Allis that the Privilege Agreement between the City of West Allis, and Walter Holtz of the Deco at 7140 West Greenfield Avenue, for use of a designated a portion of South 72nd Street as a pedestrian mall, a copy of which is attached hereto and made a part hereof, be and is hereby approved.

BE IT FURTHER RESOLVED that the City Attorney, or his designee, be and is hereby authorized to execute and deliver the aforesaid Contract on behalf of the City.

BE IT FURTHER RESOLVED that the City Attorney be and is hereby authorized to make such non-substantive changes, modifications, additions and deletions to and from the various provisions of the contract, including any and all attachments, exhibits, addendums and amendments, as may be necessary and proper to correct inconsistencies, eliminate ambiguity and otherwise clarify and supplement said provisions to preserve and maintain the general intent thereof, and to prepare and deliver such other and further documents as may be reasonably necessary to complete the transactions contemplated therein.

SECTION 1: **ADOPTION** “R-2022-0873” of the City Of West Allis Municipal Resolutions is hereby *added* as follows:

ADOPTION

R-2022-0873(*Added*)

PASSED AND ADOPTED BY THE CITY OF WEST ALLIS COUNCIL DECEMBER 13, 2022.

	AYE	NAY	ABSENT	ABSTAIN
Ald. Vince Vitale	<u>X</u>	_____	_____	_____
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



This Privilege Agreement ("Agreement") is made as of December 13, 2022, between the City of West Allis, having a mailing address of 7525 West Greenfield Avenue, West Allis, WI 53214 (the "City"), and Walter Holtz, an individual resident of Wisconsin, with a mailing address of 7140 West Greenfield Avenue, West Allis, WI 53214 ("Holtz"). The City and Holtz are collectively referred to as "Parties" and individually as "Party."

WHEREAS, the West Allis Common Council has designated a portion of South 72nd Street as a pedestrian mall under Wis. Stat. § 66.0905 and prohibited vehicular traffic in that pedestrian mall; and

WHEREAS, Holtz owns The Deco, which is located east of and adjacent to that pedestrian mall at 7140 West Greenfield Avenue; and

WHEREAS, the Parties desire to allow Holtz to use the pedestrian mall for private events hosted at The Deco in exchange for Holtz providing amenities to the pedestrian mall for others to use when no private events are occurring;

For good and valuable consideration, the parties agree to the following:

1. The term of this Agreement shall commence on May 1, 2023 and end on October 31, 2023 ("Term").
2. Between the date of this Agreement and the beginning of the Term, Holtz shall provide improvements to the pedestrian mall by installing seating, tables, decorations, umbrellas and lighting ("Amenities") in a manner consistent with the diagram attached and marked as **Exhibit A**.
3. During the Term, Holtz shall maintain the pedestrian mall and all Amenities by fixing or replacing damaged or non-functioning Amenities, removing refuse, cleaning, storing or securing items that are not permanently affixed to the ground, removal of ice and snow, and keeping the space tidy and available for use by the public.
4. During the Term, Holtz shall cause barriers to be installed at the north and south ends of the pedestrian mall of a type approved by the City's engineer as the engineer's discretion.
5. Holtz may apply for an appropriate license to serve alcohol at the pedestrian mall. Holtz may only serve alcohol at the pedestrian mall to the extent authorized under an issued alcohol license.
6. During the Term, Holtz may utilize the pedestrian mall for private events that exclude the general public ("Special Event") under the following conditions:
 - a. The private event is held in conjunction with an event held at The Deco.
 - b. Holtz has obtained a special event permit for the date and time of the event that lists the pedestrian mall as the premises for that permit.
 - c. Holtz has commercially reasonable general liability insurance coverage that extends to the pedestrian mall.
 - d. The events are held on Fridays or Saturdays.
 - e. The events may not start prior to 8 a.m. and must end by 10 p.m.
7. When Holtz is not utilizing the pedestrian mall for a Special Event, the pedestrian mall and all Amenities shall remain open for use by:
 - a. The general public
 - b. City-sponsored events, and/or

- c. The West Allis Downtown Business Improvement District
- 8. Termination
 - a. The City may terminate this Agreement only upon approval of the West Allis Board of Public Works and the West Allis Common Council. If the City terminates this Agreement:
 - i. The City shall provide notice to Holtz that the Agreement has been terminated.
 - ii. Holtz shall remove all Amenities provided by him to the pedestrian mall within 10 days after the date of notice.
 - b. Holtz may terminate this Agreement at any time. If Holtz terminates this Agreement:
 - i. Holtz shall provide notice to the City that the Agreement has been terminated.
 - ii. Holtz shall remove all Amenities provided by him to the pedestrian mall within 10 days after the date of notice.
- 9. The Parties acknowledge that this agreement constitutes a privilege under Wis. Stat. § 66.0425, and consequentially:
 - a. Holtz assumes primary liability for damages to person or property by reason of the granting of the privilege.
 - b. The provision in this Agreement constitute the conditions on the privilege imposed by the common council.
 - c. Holtz is not entitled to damages for removal of Amenities, and if Holtz does not remove the Amenities upon due notice, they shall be removed at the Holtz's expense and the cost thereof shall be imposed upon The Deco as a special charge.
 - d. Third parties whose rights are interfered with by the granting of a privilege have a right of action against Holtz only.

By signing below, the Parties agree to the terms above.

CITY OF WEST ALLIS

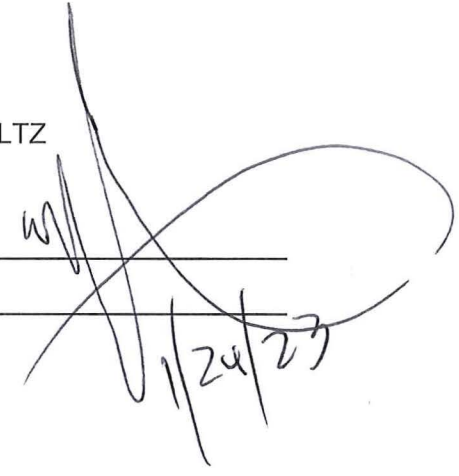
- see following page for signature

Name: _____

Title: _____

Date: _____

WALTER HOLTZ



Date: _____

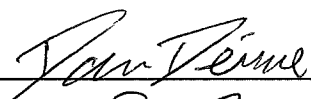
11/24/23

- c. The West Allis Downtown Business Improvement District
8. Termination
- a. The City may terminate this Agreement only upon approval of the West Allis Board of Public Works and the West Allis Common Council. If the City terminates this Agreement:
 - i. The City shall provide notice to Holtz that the Agreement has been terminated.
 - ii. Holtz shall remove all Amenities provided by him to the pedestrian mall within 10 days after the date of notice.
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By signing below, the Parties agree to the terms above.

CITY OF WEST ALLIS

WALTER HOLTZ


 Name: Dan Devine
 Title: Mayor
 Date: 1/26/23

 Date: _____

Exhibit A

