

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO REPEAL AND RECREATE  
SECTION 2.76 OF THE CITY OF WEST ALLIS REVISED MUNICIPAL CODE

By Administration and Finance Committee

The Common Council of the City of West Allis do ordain as follows:

PART I. The City of West Allis Civil Service Commission is hereby abolished.

PART II. Section 2.76 of the Revised Municipal Code of the City of West Allis is hereby repealed and recreated to read:

2.76 **Civil Service, Wages, Hours and Conditions of Employment.**

(1) Civil Service Commission **Abolished.** **Appointment.** **The Civil Service Commission is hereby abolished.**

~~(a) The Civil Service Commission shall consist of five (5) members, all of whom shall be legal residents of the City. No person holding any elective or appointed public position or office of any sort in said City government shall be appointed thereon.~~

~~(b) The Mayor shall, subject to confirmation of the Common Council, between the 15th day of April and the first day of May of each year immediately preceding the expiration of the term of office of any such Commissioner, appoint one (1) member of the Commission to hold office for a term of five (5) years from the first day of May next succeeding his appointment and until his successor is appointed and qualifies.~~

~~(c) Any vacancy in the office of Commissioner during the term shall be filled for the unexpired term by appointment by the Mayor, subject to the confirmation of the Council.~~

~~(d) Every member of the Commission shall take and file the official oath.~~

(2) **Civil Service Commission Organization and Officers.** **Intentionally left blank**

~~(a) The Commissioners shall appoint one of their number Chairperson and another Secretary.~~

~~(b) The Commission shall keep, supervise and preserve the records of all examinations, hearings, minutes and other records of its own proceedings.~~

(3) **Civil Service Commission Rules and Regulations.** **The Commissioners shall prepare and adopt such rules and regulations to carry out the provisions of this section as, in their judgment, shall be necessary to secure the best service for the City and each department affected thereby, and shall expedite the elimination of all unnecessary formalities in making appointments.** **Intentionally left blank**

(4) **Classification Categories** of Employees. All offices and positions in the public service shall **be divided into two (2) classes, namely, the classified and the unclassified services.** **consist of the following categories:**

~~(a) Unclassified Service. The unclassified service shall be organized and consist of the following:~~

~~1.~~ (a) **All** Elected officials.

2. (b) **All** Members of boards and commissions.
  3. (c) **All** Employees not under regular tenure [e.g., probationary, provisional, temporary, special, part-time less than 0.5 budgeted FTE (full-time equivalent)].
  4. (d) **All** Employees of the Police and Fire Departments.
  5. (e) The Executive, **and** Managerial and Deputy Services. **NOTE: Although civilian employees of the Police and Fire Departments and Managerial and Deputy Service employees are in the unclassified service, they have access to the grievance procedure.**
- a. 1. The Executive Service: Those individuals who have direct authority and responsibility over one (1) or more major functional and/or operational areas of City government and who, as a result of this authority and responsibility, can commit and allocate resources within the limits of the approved budgets. These individuals participate in the formulation, determination and implementation of management policy and have discretion to allocate and use resources in the administration of their functions. These individuals are department heads and officers of the City. Those positions within the Executive Service and their respective appointing authorities are:

|     | <b>Position</b>  | <b>Appointing Authority</b>   |
|-----|--|---|
| 1.  | City Administrator   | Mayoral appointment/Common Council approval                                       |
| 2.  | Director of Public Works                                   | <b>Mayoral</b> <b>City Administrator</b> appointment*<br>/Common Council approval |
| 3.  | City Engineer  | <b>Mayoral</b> <b>City Administrator</b> appointment*<br>/Common Council approval |
| 4.  | Police Chief   | Board of Police and Fire Commissioners  |
| 5.  | Fire Chief   | Board of Police and Fire Commissioners  |
| 6.  | Health Commissioner/City Sealer                            | <b>Mayoral</b> <b>City Administrator</b> appointment*<br>/Common Council approval |
| 7.  | Library Director   | Library Board   |
| 8.  | Director of Building Inspections and Neighborhood Services | <b>Mayoral</b> <b>City Administrator</b> appointment*<br>/Common Council approval |
| 9.  | Director of Development                                    | <b>Mayoral</b> <b>City Administrator</b> appointment*<br>/Common Council approval |
| 10. | City Clerk   | City Administrator appointment*<br>/Common Council approval                       |
| 11. | Finance Director/City Comptroller/ City Treasurer          | City Administrator appointment*<br>/Common Council approval                       |
| 12. | City Assessor  | City Administrator appointment**<br>/Common Council approval                      |

|     | <b>Position</b>                    | <b>Appointing Authority</b>  |
|-----|------------------------------------|--|
| 13. | Human Resources Director           | City Administrator appointment**<br>/Common Council approval         |
| 14. | Director of Information Technology | City Administrator appointment**<br>/Common Council approval         |
| 15. | <b>Communications Director</b>     | <b>City Administrator appointment**<br/>/Common Council approval</b> |

Vacancies in the Executive Service, except for the Chief of Police, Fire Chief and Library Director\*\*, shall be governed by Section 17.23 of the Wisconsin Statutes. An individual in this service, except for the Chief of Police, Fire Chief and Library Director\*\*, may, in writing, filed in the office of the Clerk, appoint an acting department head, who shall, in his or her absence or disability, perform his or her duties. An acting department head shall be appointed from the unclassified service of the City and shall have all powers and duties of the department head, except the appointment of permanent division heads

**\*NOTE: The City Administrator appointments constitute appointments by the Common Council under Section 62.09 (3), Wis. Stats., the Common Council of the City of West Allis having delegated it power to select/appoint said positions to the City Administrator.**

**\*\*NOTE: Appointments to and/or by Executive Service positions in the Police and Fire Departments are governed by Section 62.13 of the Wisconsin Statutes, and the Rules of the Board of Police and Fire Commissioners. Appointments to and/or by the Executive Service position in the Library are governed by Section 43.58 of the Wisconsin Statutes.**

In the event a position in the Executive Service, **except the City Administrator position**, becomes vacant, the ~~Mayor or City Administrator, respectively,~~ may appoint an acting department head, pending a permanent appointment to that position by the appointing authority. ~~The appointment of an acting department head shall be made from the unclassified service of the City.~~ An acting department head shall have all powers and duties of the department head, except the appointment of permanent division heads. An acting department head shall enter upon the duties of his or her position immediately upon qualification and shall hold the position until the permanent department head is appointed and qualifies, unless removed in accordance with law.

- b.** 2. The Managerial Service: **T**hose individuals who have delegated authority and responsibility over one (1) functional and/or operational area of City government and who, as a result of this delegated authority and responsibility, can commit and allocate resources within the limits of the approved budget. These individuals work under the direction of a department head. These individuals are not officers of the City. Those positions within the Managerial Service and their respective appointing authorities are:

|    | <b>Position</b>                  | <b>Appointing Authority</b> |
|----|----------------------------------|-----------------------------|
| 1. | Manager of Community Development | Director of Development     |
| 2. | Manager of Planning and Zoning   | Director of Development     |

In the event a position in the Managerial Service becomes vacant, the appointing authority may appoint an acting division head pending a permanent appointment to that position. The appointment of an acting division head shall be made from existing City personnel.

- e.** 3. The Deputy/Assistant Service: **T**hose individuals who do not have direct authority and

responsibility over one (1) or more functional and/or operational areas of City government, but may be delegated this authority and responsibility from time to time in the absence of the Executive Manager. This service includes deputies or assistants to heads of departments and administrative divisions. These individuals do not normally have discretion to allocate and use their own time in the administration of the departmental/division/bureau functions, and any time worked outside normal working hours must be approved. Those positions within the Deputy/Assistant Service and their respective appointing authorities are:

|     | <b>Position</b>  | <b>Appointing Authority</b>                                |
|-----|--|--|
| 1.  | Assistant Fire Chief   | Fire Chief   |
| 2.  | Deputy Police Chief  | Police Chief   |
| 3.  | Deputy City Treasurer  | City Treasurer   |
| 4.  | Director of Community Health Services                                | Health Commissioner  |
| 5.  | Assistant Director of Building Inspections and Neighborhood Services | Director of Building Inspections and Neighborhood Services |
| 6.  | Principal Engineer   | City Engineer  |
| 7.  | Sanitation and Street Superintendent                                 | Director of Public Works                                   |
| 8.  | Electrical Maintenance Superintendent                                | Director of Public Works                                   |
| 9.  | Building and Sign Maintenance/ Inventory Services Superintendent     | Director of Public Works                                   |
| 10. | Forestry and Grounds Superintendent                                  | Director of Public Works                                   |
| 11. | Water System Superintendent  | Director of Public Works                                   |
| 12. | Fleet Services Superintendent  | Director of Public Works                                   |
| 13. | Assistant City Engineer  | City Engineer  |
| 14. | Senior Center Director   | Health Commissioner  |
| 15. | Assistant Director of Public Works                                   | Director of Public Works                                   |

~~(b) Classified Service. All other offices and positions shall be included in the classified service, unless otherwise determined from time to time by action of the Common Council. The classified service shall be organized and consist of the following:~~

**(f) The Supervisory, Professional and Confidential Services:**

1. Supervisor: Except with regard to the Executive and Managerial Service and the Deputy/Assistant Service, those positions which, in the interest of the City, have authority to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees, or to adjust their grievances or to effectively recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent

judgment.

2. Professional: Those positions whose work is predominantly intellectual and varied in character, are involved in consistent exercise of discretion and judgment in work performance, are involved in nonstandardized products or outputs and require knowledge of an advanced type in a field of science or learning customarily acquired by prolonged course of specialized intellectual instruction.

3. Confidential: Those positions who have sufficient access to, knowledge of or participation in confidential matters relating to labor relations. {Per the Wisconsin Statutes [Sec. 111.70(1)(i), Wis. Stats.]: For information to be confidential in the labor relations context, it must (a) deal with the employer's strategy or position in collective bargaining, contract administration, litigation or other similar matters pertaining to labor relations and grievance handling between the bargaining representative and the employer, and (b) be information which is not available to the bargaining representative or its agents. Notwithstanding the actual amount of confidential work conducted, but assuming good faith on the part of the employer, an employee may be found to be confidential where the person in question is the only one available to perform legitimate confidential work, and similarly, where a management employee has significant labor relations responsibility, the clerical employee assigned as his or her secretary may be found to be confidential, even if the actual amount of confidential work is not significant, where the confidential work cannot be assigned to another employee without undue disruption of the employer's organization. }

4. (g) The Municipal Employee Service: Any person employed by the City of West Allis, other than an independent contractor, an employee within the Executive Service, and Managerial Service, Deputy/Assistant Service, Supervisory Service, Professional Service or Confidential Service.

(e) 4.5) Employee Status Categories. It is the policy of the City of West Allis to utilize the following categories of employee status set forth in Rule VIII of the Civil Service Commission Rules and Regulations for all City employees: regardless of their position within the classified or unclassified service.

(a) Regular Appointment: An employee who is hired to work the normal schedule of forty (40) or more hours per week on a continuing basis. Such employee fills a regularly constituted position established by the Common Council. An employee in this category receives a biweekly salary and may be in a probationary status. A regular employee is entitled to all employee benefits provided by law, to include, but not be limited to, those specified within this Section 2.76 and elsewhere in the City of West Allis Revised Municipal Code.

(b) Provisional Appointment: An employee who is hired to fill a regularly constituted vacant position on an interim basis pending the establishment of an eligible register, when the position cannot be temporarily filled by existing personnel. A provisional employee is rare and when an appointment is made in this status category, it general does not exceed a period of ninety (90) days. The appointment is made on an emergency basis in those instances where a department is unable to wait for an appointment to be made through normal channels. A provisional employee is compensated on a biweekly basis and is entitled to all the employee benefits provided by law, to include, but not limited to, those specified within this Section 2.76 and elsewhere in the City of West Allis Revised Municipal Code.

(c) Part-Time Appointment: An employee who is hired to work regular work hours which are distinctly shorter than the normal schedule of forty (40) hours per week. Such employment is steady and continuing. It may consist of either: 1) partial-day employment, or 2) full day, partial-week or partial-month employment. This employee is compensated on an hourly basis and holds a non-competitive appointment of indefinite duration. Employment status in this category may or may not confer the privilege of promotion, transfer or reinstatement. An employee in this status category who works a minimum of half-time (0.5 budgeted FTE) is entitled to the same employee benefits as a regular employee, except that there is a pro-ration of benefits based on budgeted FTE.

(d) Temporary Appointment: An employee who is hired for a limited time to meet a peak demand.

Such increased demand may be occasioned by sporadic seasonal or special needs. An employee in this status category is compensated on an hourly basis only. Such employee is not eligible for benefits and may be terminated without notice when the purpose for which the employee was hired has been accomplished. Employment may be either full-time temporary or part-time temporary. Employment in this category does not confer the privilege of promotion, transfer, or reinstatement.

(e) Special Appointment: An employee who is hired for a specified duration or limited term under special agreement with some other agency of government such as County, State, or Federal governments or by the City itself on a special project basis. Generally the compensation is totally or partially subsidized by the sponsoring agency. Employment does not confer the privilege of reinstatement. Pay and benefits entitlement is based on the agreement with the governmental agency or the circumstances of the City's special project.

- (5) Creating and Filling Positions, Reductions in Force and Recall Procedures. The City shall fill regular positions, make reductions in force and recall individuals in accordance with the procedures set forth in Policy 1402 in the City of West Allis Policies and Procedures Manual. The City shall fill non-permanent positions in accordance with the procedures set forth in Policy 1408 in the City of West Allis Policies and Procedures Manual.
- (6) Voluntary Benefit Programs. The City offers voluntary benefit programs as set forth in Policy 1483 in the City of West Allis Policies and Procedures Manual.
- (7) Discipline and Grievance Procedure.

(a) Discipline.

1. Department heads/appointing authorities have the authority to discipline their employees. Whenever a department head/appointing authority believes an employee, except those employees in the Executive Service/City Officers and protective service employees as noted in Subdivisions 2 and 3 below, has acted in such a manner to have merited discipline, the department head/appointing authority shall seek procedural advice from the City Attorney's Office and the Human Resources Director. Disciplinary action may include, but is not limited to, a verbal warning, written warning, suspension, demotion, termination, or a combination of the above if applicable. Upon determining an appropriate discipline, if any, the department head/appointing authority shall provide the employee with written notification of the disciplinary action being imposed and the reasons therefor, and a copy of the same shall be placed in the employee's official personnel file.

2. The discipline, removal and suspension of Executive Service employees/City Officers shall be governed by the provisions of Policy 405 in the City of West Allis Policies and Procedures Manual, Section 2.02 of this chapter, and Secs. 17.12 and 17.16, Wis. Stats.

3. The discipline of protective service employees under the jurisdiction of the Police and Fire Commission shall be governed by the provisions of Sec. 62.13, Wis. Stats.

(b) Grievance Procedure. This grievance procedure, which addresses issues concerning workplace safety, discipline and termination, applies to all City employees except for those protective service employees under the jurisdiction of the Police and Fire Commission (covered by Section 62.13 Wis. Stats.)\*, Executive Service employees, statutorily appointed employees identified specifically in statute as serving at the pleasure of an appointing authority and elected officials (covered by Sections 17.12 and 17.16 Wis. Stats. and/or Policy 405 in the City of West Allis Policies and Procedures Manual and/or covered by Section 2.02 of the Revised Municipal Code), and employees not under regular tenure (e.g., probationary, provisional, temporary, special, part-time less than 0.5 budgeted FTE). This procedure does not create a legally binding contract. The City reserves all rights and this procedure does not create a contract of employment. Employees of the City of West Allis are employed at-will and may resign with or without reason. The City may terminate the employment relationship at any time with or without reason and without violation of applicable law.



**\*NOTE: Civilian employees of the Police and Fire Departments have access to this Grievance Procedure.**

1. Workplace Safety. "Workplace safety" means the conditions of employment related to physical health and safety of employees. Only those acts or omissions that involve a violation of state and/or federal regulations or laws on health and safety in the workplace will constitute a workplace safety violation. Any grievance filed alleging a workplace safety violation must be personal to the employee filing the grievance; no class actions or complaints on behalf of another may be filed under this procedure.

2. Discipline. Disciplinary action may include a verbal warning, written warning, suspension (with or without pay), demotion or termination, for rule or policy violations, poor performance or other acts of misconduct. The City reserves the management right, in its sole discretion, to impose the disciplinary action it deems appropriate to the particular circumstances. The following actions shall not be considered "discipline" under the terms of this grievance procedure:

- Layoffs or workforce reduction activities;
- Performance evaluations or reviews;
- Actions taken to address work performance, including use of a performance improvement plan or job targets;
- Nondisciplinary demotion due to medical condition, lack of qualification or license, or other inability to perform job duties;
- Documentation of employee acts and/or omissions in an employment file;
- Actions taken pursuant to an ethics ordinance created under Sec. 19.59(1m) Wis. Stats.;
- Nondisciplinary wage, benefit or salary adjustments;
- Transfer, change in assignment or assignment location;
- Placing an employee on paid administrative leave pending an internal investigation;
- Counselings, meetings or other predisciplinary actions.

3. Termination. "Termination" is **greatly generally** defined as a discharge from employment for rule or policy violations, poor performance or other acts of misconduct. The following actions shall not be considered a "termination" under the terms of this grievance procedure:

- Voluntary quit, resignation, retirement or other separation initiated by the employee;
- Workforce reduction activities, layoff or failure to be recalled from layoff at the expiration of the recall period;
- Job abandonment, "no-call, no-show," or other failure to report to work;
- **Termination of Nondisciplinary separation from** employment due to medical condition, lack of qualification or license, or other inability to perform job duties;

- Job transfer or demotion;
- Action taken pursuant to an ethics ordinance created under Sec. 19.59(1m), Wis. Stats.; or
- End of employment and/or completion of assignment of a temporary, seasonal, contract or part-time employee.

#### 4. Steps in Grievance Procedure.

a. Step 1. If an employee has a grievance, he/she shall first present and discuss the grievance orally with his/her immediate supervisor within two (2) workdays of knowledge of the issue/circumstances causing the grievance. The supervisor will reach a decision and communicate it orally to the employee within two (2) workdays.

b. Step 2. If the grievance is not settled at Step 1, the employee shall reduce the grievance to writing and present it to the department head/appointing authority within five (5) workdays after receiving communication of the supervisor's decision. The written grievance shall contain a clear and concise statement of the relevant facts, the date(s) the event occurred, the identities of the persons involved, documentation related to the grievance in possession of the employee, the actions taken to informally resolve the grievance, the reasons why the disciplinary action should be overturned, if applicable, and the remedy requested. A grievance alleging a workplace safety issue shall also identify the regulations or laws allegedly violated, if applicable. Within five (5) workdays, the department head shall furnish the employee with a written response to the grievance.

c. Step 3. If the grievance is not settled at Step 2, the employee may submit a written appeal to the ~~Civil Service Commission~~ **Human Resources Director** within five (5) workdays. The ~~Commission~~ **Human Resources Director, with the assistance of the City Attorney's Office,** shall schedule the matter **before an impartial hearing officer** for a hearing as soon as practicable.

d. The failure of the employee to comply with the time limits prescribed in this grievance procedure shall be deemed a waiver of his/her right to proceed with the grievance and shall be a bar to judicial review. The employee may advance a grievance to the next step if a response is not provided within the designated timeframe. Any time limit prescribed herein may be extended by mutual written consent of the parties. The ~~Commission~~ **impartial hearing officer** has the sole authority to determine whether a matter should be dismissed on procedural grounds, including failure to comply with a time limit prescribed herein.

#### 5. ~~Civil Service Commission~~ Hearing.

a. The ~~Commission~~ **impartial hearing officer** shall appoint a time and place for hearing the appeal and shall notify the department head/appointing authority and the affected employee of the time and place of such hearing. This time period may be changed by mutual agreement of the parties and the ~~Commission~~ **impartial hearing officer**. The ~~Commission~~ **impartial hearing officer** may, in ~~its~~ **their** discretion, have the hearing transcribed. A copy shall be made available to the employee at his/her expense. The employee may be represented at the hearing by an attorney at the employee's own expense.

b. Subject to the ~~Commission's~~ **impartial hearing officer's** discretion, witnesses may appear at the hearing and present information under oath or affirmation. Written documents may be submitted. The rules of evidence may be used as a guideline but shall not be binding upon the ~~Commission~~ **impartial hearing officer**. The appealing party carries the burden of production of evidence and the burden of proof. In disciplinary matters, the sole issue before the ~~Commission~~ **impartial hearing officer** shall be: Based on the preponderance of the evidence presented, has the employee proven the disciplinary action was arbitrary and capricious? An action will be deemed arbitrary and capricious



if it is unreasonable or without a rational basis (i.e., if any reasonable view of the evidence sustains the action, it may not be disturbed). In making such determination, the **Commission impartial hearing officer** shall accord the decision of the department head/appointing authority a presumption of correctness and validity. In matters involving allegations of workplace safety violations, the sole issue before the **Commission impartial hearing officer** shall be: Based on the preponderance of the evidence presented, has the employee proven there was a violation of state and/or federal regulations or laws on health and safety in the workplace?

c. If the **Commission impartial hearing officer** determines the discipline or termination was arbitrary and capricious or that there was a workplace safety violation, it shall, in its sole discretion, determine what action shall be taken under the circumstances and as its rules may provide. The decision of the **Commission impartial hearing officer** shall be a "final determination" as defined in Sec. 68.12, Wis. Stats. The decision shall be in writing, mailed to the department head/appointing authority and the affected employee, and shall contain notice that any appeal to the Circuit Court of Milwaukee County must be commenced within thirty (30) days of receipt thereof.

(7.5) Discipline, Removal and Suspension of City Officers.

(a) The discipline, removal and suspension of municipal officers (Executive Service/Department Heads) shall be governed by the provisions of Policy 405 in the City of West Allis Policies and Procedures Manual and Secs. 17.12 and 17.16, Wis. Stats.

(b) The discipline, removal and suspension of officers or employees within the unclassified service, who are sworn officers of the Police and Fire Departments, shall be governed by the applicable provisions of Sec. 62.13, Wis. Stats.

(8) Prohibited Influences and Practices.

(a) Except as provided otherwise in these enactments, no factor of influence other than the fitness and ability of a person to perform the duties of the position in which he or she is acting or employed, or to which he or she is seeking appointment, shall affect in any detrimental way the appointment, promotion, transfer, suspension or termination of a person with respect to any employment within the scope of these enactments.

(b) The following practices are forbidden: Pernicious political activity by any City officer or employee; the giving of any consideration, whether financial or otherwise, in return for appointment to an office or position in the service of the City; the obstruction or deceiving of any person desiring to make an examination under the provisions of these enactments or desiring to secure information concerning any such examination; the deliberate mismarking or miscalculation of grades of any applicant taking an examination; the impersonation by any person of any other person in connection with the holding of an examination; and, the giving to or receiving by examination candidates, information or assistance enabling such candidates to obtain an unfair or improper advantage over other candidates for the same examination.

(9) Work Hours and Schedules. All officers and employees of the City, except elected officials and employees under the jurisdiction of the Police and Fire Commission, are subject to the work hours and scheduling provisions set forth in Policy 1454 in the City of West Policies and Procedures Manual.

(10) Compensation, Salaries and Payroll. The compensation of all employees and elected and appointed officials shall be determined and paid as prescribed by law and in accordance with Salary Ordinances adopted by the Common Council from time to time, and Policies 1110, 1205, 1402, and 1424 in the City of West Allis Policies and Procedures Manual.

(11) Sick Leave. All officers and employees of the City, except elected officials and represented protective service employees, shall be entitled to sick leave in accordance with Policy 1430 in the

City of West Allis Policies and Procedures Manual.

(12) Health and Dental Insurance.

(a) Provisions for health and dental insurance for employees holding a minimum of a 0.5 FTE (full time equivalent) budgeted position, elected officials, and retirees shall be governed by Policy 1413 in the City of West Allis Policies and Procedures Manual.

(b) Employee Health Insurance Fund.

1. There is hereby established the Employee Health Insurance Fund as part of the Internal Service Fund of the City of West Allis for the payment of claims and other eligible costs under the health insurance program and for no other purpose.

2. The Fund shall consist of premiums paid by the City and premium contributions paid by active and retired employees for the health insurance program.

3. The Fund shall also be credited/charged with a prorata share of investment interest revenue earned/lost by the City each year. The state investment pool rate shall be used to determine the credit/charge.

4. This Subsection (b) shall not be repealed, amended or otherwise modified except upon a two-thirds-majority vote of all members of the Common Council.

(13) Vacations. Each year, all officers and employees of the City, except represented protective service employees (see RMC Sections 4.10 and 5.126) and elected officials, shall be entitled to vacation in accordance with Policy 1432 in the City of West Allis Policies and Procedures Manual. The Manager of Finance/Comptroller-City Treasurer, in checking payrolls or accounts of salaries and wages of officers or employees in the City departments, shall check and keep a record of the time allowed to officers and employees for vacations. The Fire and Police Departments of the City shall maintain the vacation records for those Departments and make them available to the Manager of Finance/Comptroller-City Treasurer as necessary. Where the vacation taken exceeds that earned, the Manager of Finance/Comptroller-City Treasurer shall withhold approval of said payroll. Represented protective service employees are governed by the provisions of their collective bargaining contract.

(14) Military Leave. It is hereby declared to be the policy of the City to grant military leave to all eligible employees and to provide for the reinstatement of said employees in accordance with the provisions set forth in Policy 1420 of the City of West Allis Policies and Procedures Manual.

(15) Unpaid Leaves of Absence.

(a) Medical Leave. Medical leave shall be granted in accordance with state and federal laws and regulations.

(b) Candidate for Public Office. Candidates for public office shall be granted leave in accordance with the provisions of the Wisconsin Statutes.

(c) Voluntary Time Off. Voluntary time off shall be granted in accordance with Policy 1469 in the City of West Allis Policies and Procedures Manual.

(16) Holidays. Each year, all officers and employees of the City, except Police and Fire Dispatchers, represented protective service employees (see RMC Sections 4.10 and 5.126) and elected officials, shall be entitled to holidays in accordance with Policy 1412 in the City of West Allis Policies and Procedures Manual. No other holidays shall be granted by any method whatsoever except by action of the Common Council. In addition, protective service employees not represented by a collective bargaining agreement shall be entitled to and shall receive a holiday payment, in an amount

determined by the Common Council through salary ordinance (such payment to be made in the month of December by separate check) and those employees working a 5-2 schedule shall be entitled to and shall receive the holiday benefits enumerated in Policy 1412. Police and Fire Dispatchers are governed by the Rules and Regulations of the Police and Fire Commission. Represented protective service employees are governed by the provisions of their collective bargaining agreement.

- (17) **Funeral Leave.** All officers and employees of the City, except represented protective service employees (see RMC Chapters 4 and 5) and elected officials shall be granted funeral leave in accordance with Policy 1409 in the City of West Allis Policies and Procedures Manual. Represented protective service employees shall be entitled to funeral leave in accordance with the terms of their collective bargaining agreement.
- (18) **Tuition Reimbursement.** In order to enable employees to continue their personal development and in turn, become increasingly more valuable to the City government, it is City policy to encourage employees to improve their educational and skill qualifications for advancement. Officers and employees of the City shall be permitted to participate in the tuition reimbursement program in accordance with Policy 1404 in the City of West Allis Policies and Procedures Manual.
- (19) **Clothing, Tool and Other Allowances.** It is the policy of the City that employees shall receive clothing, tool or other allowance in accordance with the provisions of Policy 1484 in the City of West Allis Policies and Procedures Manual.
- (20) **Vehicle Operation/Driving and Mileage Reimbursement.** It is the City's intent to establish and maintain a high level of professionalism and awareness of safety among its drivers and operators. Procedures to be followed by all City departments and employees regarding vehicle operation, driving privileges and mileage reimbursement are set forth in Policy 1468 in the City of West Allis Policies and Procedures Manual.
- (21) **Subrogation.** In the event the City makes any payment of sick leave benefits under Section 2.76(11), and/or any payment of medical expenses pursuant to the terms of any health insurance plan provided under Section 2.76(12), the City shall be subrogated to all the employee's/insured's rights of recovery therefor against any third party or his/her insurer for such payment. Should the employee/insured make a claim or maintain an action against a third party, he/she shall so notify the City and said claim or action shall include a demand for reimbursement of the sickness disability benefits and/or medical expenses paid by the City. As a condition of accepting benefits under Section 2.76(11) or 2.76(12), the employee and all eligible dependents agree to be obligated to subrogate any such claims to the City to the full and complete extent of payments made by the City, and agree to reimburse the City from the proceeds of such recovery from a third party or parties to the full extent of all monies paid by the City.
- (22) **Worker's Compensation Benefits and Alternate Duty.** Worker's compensation benefits shall be paid to all City of West Allis employees, and alternate duty will be assigned to employees in accordance with Policy 1434 in the City of West Allis Policies and Procedures Manual.
- (23) **Drug and Alcohol Free Workplace.** The City provides for a drug and alcohol free workplace as set forth in Policy 1447 in the City of West Allis Policies and Procedures Manual.
- (24) **Jury Duty.** It is the policy of the City that all employees be allowed to serve on juries. The terms and conditions of leaves of absences for jury duty are set forth in Policy 1417 in the City of West Allis Policies and Procedures Manual.
- (25) **Life Insurance.** Eligible elected officials and employees may be entitled to participate in the life insurance program in accordance with Policy 1411 in the City of West Allis Policies and Procedures Manual.
- (26) **Pension Plans.** The City of West Allis provides an integrated pension system, comprised of benefits

from Social Security (except Fire Department), and the Wisconsin Retirement System. Employees are eligible to participate immediately upon hire.

(a) Social Security. The City and the employees each contribute to Social Security based on the employee's annual earnings, up to a maximum per annum established by the Social Security Administration.

(b) Wisconsin Retirement System. Pursuant to Sec. 40.21, Wis. Stats., the City elects to include eligible City personnel under the provisions of the Wisconsin Retirement System (WRS), in accordance with the terms thereof. The City and the employees shall make contributions to the WRS as established by state law.

(27) Departmental Review of Employee Performance. It is the policy of the City that employees shall receive periodic, and at least annual, performance reviews in accordance with the provisions of Policy 1422 in the City of West Allis Policies and Procedures Manual.

(28) Appeals. Any person aggrieved by a **final** determination **of the Civil Service Commission** under **Section 68.12, Wis. Stats.**, may appeal that determination to the Circuit Court of Milwaukee County pursuant to the provisions of Section 68.13 of the Wisconsin Statutes.

PART III. All ordinances or parts of ordinances contravening the provisions of this ordinance are hereby repealed.

PART IV. This ordinance shall take effect and be in force from and after its passage and publication.

PASSED \_\_\_\_\_, 2016

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APPROVED \_\_\_\_\_, 2016

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