

**CITY OF WEST ALLIS
ORDINANCE O-2022-0158**

ORDINANCE TO RE-ORGANIZE STANDING COMMITTEES

WHEREAS, the common council has reviewed its standing committee structure and wishes to re-organize the committees and balance workload out more evenly;

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

SECTION 1: **AMENDMENT** “1.08 Tax Collection” of the City Of West Allis Municipal Code is hereby *amended* as follows:

A M E N D M E N T

1.08 Tax Collection

1. Real Property Taxes.
 - a. Real property taxes shall be paid in one of the following ways:
 - i. In full, on or before 5:00 p.m., January 31; or,
 - ii. In installments under paragraph (b).
 - b. Real property taxes may be paid in three (3) installments. On any installment date, a taxpayer may pay the balance of the real property taxes due. Each installment is due on or before 5:00 p.m. on the last day of the following designated months:
 - i. The first installment - January; one-third (1/3) of the aggregate real property tax levied and due shall be paid on or before 5:00 p.m. on the last day of January.
 - ii. The second installment - March; one-third (1/3) of the aggregate real property tax levied and due shall be paid on or before 5:00 p.m. on the last day of March.
 - iii. The third installment - May; one-third (1/3) of the aggregate real property tax levied and due shall be paid on or before 5:00 p.m. on the last day of May.
 - c. The minimum payment amount for installments is one hundred dollars (\$100) and the taxpayer may pay the remaining unpaid balance on any installment date.
2. Special Assessments, Special Charges and Other Taxes.
 - a. All special assessments, special charges and special taxes that are placed on the tax roll shall be paid in full on or before 5:00 p.m. on January 31 and any amounts unpaid as of that time and date are delinquent as of February 1.
 - b. All taxes on personal property shall be paid in full on or before 5:00 p.m. on January 31 and any amounts unpaid as of that time and date are delinquent as

of February 1.

- c. If any special assessments, special charges or special taxes are entered in the tax roll as charges against a parcel of real property and are delinquent under paragraph (a), the entire annual amount of real property taxes on that parcel which is unpaid is delinquent as of February 1.
- d. The due date for the payment of the manufactured/mobile home community/municipal monthly permit fee shall be the 10th of the month following the month for which the monthly permit fee is due, except for the January payment, which shall be due on February 25 of each year. **[Ord. O-2010-0019, 6/1/2010]**

3. Delinquent Installment.

- a. Delinquent First Installments. If the first installment of real property taxes is not paid on or before 5:00 p.m. on January 31, the entire amount of the remaining unpaid taxes on that parcel is delinquent as of February 1.
- b. Delinquent Second or Subsequent Installments. If the second or any subsequent installment payment of real property taxes is not paid by 5:00 p.m. of the due date, specified in subparagraph (1)(b), the entire amount of the taxes that remain unpaid on that parcel is delinquent as of February 1.

4. Delinquent Payments with Interest and Penalty; To Whom Paid.

- a. All real property taxes, special assessments, special charges and special taxes that become delinquent and are paid on or before 5:00 p.m. on July 31, and all delinquent personal property taxes, whenever paid, shall be paid together with interest and penalties charges from the preceding February 1, to the City Treasurer.
- b. All real property taxes, special assessments, special charges and special taxes that become delinquent and are not paid under paragraph (a) shall be paid, together with interest and penalties charged from the preceding February 1 to the County Treasurer.

5. Payment Priority.

- a. If the City Treasurer receives a payment from a taxpayer which is not sufficient to pay all amounts due, the Treasurer shall apply the payment to the amounts due, including interest and penalties in the following order:
 - i. Personal Property Taxes.
 - ii. Delinquent Utility Charges.
 - iii. Special Charges.
 - iv. Special Assessments.
 - v. Special Taxes.
 - vi. Real Property Taxes.
- b. The allocation under paragraphs (a)(i) to (vi) is conclusive for purposes of settlement, under secs. 74.25 to 74.31 of the Wisconsin Statutes, and for determining delinquencies under this section.

6. Delinquent Taxes Returned; Collection by County. The City Treasurer shall retain the tax roll and make collections through July 31. On or before August 15, the City Treasurer shall return the real estate tax roll to the County Treasurer. The County Treasurer shall collect all returned delinquent real property taxes, special assessments, special charges and special taxes, together with interest and penalty assessed from the

previous February 1, as provided under sec. 74.47 of the Wisconsin Statutes.

7. Interest and Penalty on Delinquent Amounts.

- a. An interest rate of one percent (1%) per month or a fraction of a month shall be charged on delinquent real estate property taxes, personal property taxes, special charges, special assessments and special taxes.
- b. A penalty of one-half percent (0.5%) per month or fraction of a month, in addition to the interest rate specified in paragraph (a) is imposed on all real estate property taxes, personal property taxes, special charges, special assessments and special taxes.
- c. The City Treasurer is hereby authorized to waive the interest and/or penalty on delinquent real estate accounts based on certain unique circumstances involving missing the five-day grace period. **[Ord. O-2008-0042, 10/21/2008 (repealed); Ord. O-2012-0025, 9/4/2012]**

8. Twenty-Four-Hour Depository.

- a. The City Treasurer shall maintain a twenty-four-hour depository located on the south side of City Hall immediately east of the main level entrance. The purpose of the depository is to receive any correspondence or payments, including but not limited to, real property taxes, personal property taxes, special assessments, special charges, and other taxes or payments. The depository may also be used for the receipt of any correspondence with respect to City Hall business.
- b. The City Hall depository is to be available for use twenty-four (24) hours a day, seven (7) days a week, subject to conditions beyond reasonable control. The Treasurer's Office shall remove deposited items at 8:00 a.m. and 5:00 p.m. each business day. The two (2) stated times are a minimum requirement and, at the discretion of the Treasurer's Office, items may be removed at any other time.
- c. The twenty-four-hour City Hall depository is deemed under the control of the City Treasurer's Office, and the City Treasurer or Deputy City Treasurer shall have final determination of acceptability and timing of deposited items.

9. Licenses and Permits to be Withheld for Non-Payment. **[Ord. O-2008-0042, 10/21/2008; Ord. O-2014-0046, 8/5/2014]**

- a. No City license or permit shall be issued unless the applicant shall first have paid the appropriate fee for said license or permit or any delinquent real, personal property, or room tax obligation owed to the City at the time the license or permit is to be issued.
- b. No City license or permit shall be issued unless the applicant shall first have paid any outstanding forfeiture or civil judgment or any delinquent utility charge, false alarm charges, ambulance fee, inspection fee, special assessment or charge owed to the City at the time the license or permit is to be issued. **[Ord. O-2018-0015, 4/4/2018]**
- c. Real estate taxes will not be considered to be delinquent under Subsection (a) until such time as they are forwarded to Milwaukee County and are paid by the County under Section 74.29 of the Wisconsin Statutes.
- d. Subsections (a) and (b) notwithstanding, the ~~License and Health~~ Committee

designated to hear a license or permit application is authorized to approve payment plans that will pay off the outstanding amount owed to the City during ~~the~~that license or permit year for which application is being made. Failure to abide by such payment plan shall be grounds for suspension, revocation or nonrenewal of the license or permit.

- e. Failure to pay the license or permit fee shall result in the immediate cessation of the licensed or permitted occupation. Failure to pay shall include payment that is returned as "insufficient funds" or through some other cause that results in nonpayment to the City. Renewal applicants who have not been issued a license or permit for reasons other than nonpayment of the fee shall be permitted to continue operating under their license or permit until afforded a hearing as provided in Section 9.51 of the Revised Municipal Code.

~~{Ord. 6063, 12/7/1993}~~

SECTION 2: **AMENDMENT** "1.12 Hotel And Motel Room Tax" of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

1.12 Hotel And Motel Room Tax

1. Imposition; Rate; Definitions. For the privilege of furnishing at retail, rooms or lodging to transients by hotel keepers, motel operators or other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for use of the accommodations, a tax of the gross receipts from the lease or rental of such accommodations, imposed upon the retailers at the rate of six percent (6%) until December 31, 2018; seven percent (7%) from January 1, 2019 to December 31, 2019; and eight percent (8%) commencing January 1, 2020 and thereafter.
2. Monthly Report of Gross Receipts. Each retailer engaged in furnishing such accommodations, rooms or lodging, as defined in this Chapter, shall submit a monthly report to the City of West Allis Finance Division showing the gross receipts from furnishing such accommodations, rooms or lodging, along with a copy of the corresponding monthly State of Wisconsin sales tax report for the business, along with the tax of six percent (6%) until December 31, 2018, seven percent (7%) from January 1, 2019 to December 31, 2019, and eight percent (8%) commencing January 1, 2020, from the gross receipts as reported, by no later than twenty-five (25) days from the end of each calendar month for the receipts of the past calendar month.
3. Exemption from Selective Sales Tax. Any tax imposed, as provided in Section 1.08, shall not be subject to the selective sales tax proposed by Sec. 77.52(2)(a)1 of the Wisconsin Statutes.
4. Unpaid Tax; Interest Rate; Late Filing Penalty. All unpaid taxes shall bear interest at the rate of twelve percent (12%) per annum from the due date of the return. Failure to pay the taxes, or delinquent payment of such taxes, shall be subject to a late filing

penalty of ten dollars (\$10) in addition to the interest imposed in this section. Furthermore, any payment not received on or before the 25th of the preceding month shall be deemed as delinquent. The City may suspend, revoke or not renew any permits or licenses issued to the establishments defined herein for any delinquent balance on their room tax account after notice of the charges to the license/permit holder and an opportunity to be heard before the ~~License and Health~~Economic Development Committee.

5. Penalty Assessment. If any person fails to timely file a return, as required by this code, the Finance Division shall make an estimate of the amount of the gross receipts upon which the tax is determined. Such estimate shall be made for the period for which such person failed to make a return and shall be based upon any information that is in the Finance Division's possession or may come into its possession or such other information as may have a bearing upon the determination of gross receipts. On the basis of this estimate, the Finance Division shall compute and determine the amount required to be paid to the City, adding to the sum thus arrived at a penalty equal to ten percent (10%) thereof. Such determination may be made for each month period for which no return is filed. Such penalty shall be due upon written notice to the business entity or person owing the tax and shall not be in lieu of the tax due hereunder.
6. Liability for Unpaid Tax. The room tax imposed hereunder shall be a continuing liability upon the business entity or person upon whom it is imposed until paid in full.
7. False or Fraudulent Return; Penalty. If a false or fraudulent return is filed with the intent in either case to defeat or evade the tax imposed by this Chapter, a penalty of fifty percent (50%) of the tax due shall be paid in addition to the tax interest and late filing penalty. Such conduct shall also constitute grounds for the suspension, revocation or nonrenewal of any license or permit held by the establishment.
8. Confidentiality. The reports and information submitted by retailers in compliance with Subsection (3) are confidential and shall not be released or disclosed to any person, except those using the information in the discharge of duties imposed by law or the duties of their office or by order of the court. Statistics or other information published by the City relating to hotel and motel room taxes will not disclose the identity of particular returns.
9. Penalty. Any violation of, or noncompliance with, any of the provisions of this code for which a penalty has not been prescribed herein shall subject the violator to a forfeiture of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), together with the costs of prosecution and, in default of payment thereof, to imprisonment in the county jail until such forfeiture has been paid, but not to exceed fifteen (15) days. Each day of violation or noncompliance shall constitute a separate offense.

[Ord. 6637, 11/4/2002; Ord. O-2010-0009, 2/2/2010; Ord. O-2018-0041, 11/5/2018]

SECTION 3: **AMENDMENT** “2.38 City Plan Commission” of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

2.38 City Plan Commission

1. How Constituted. The City Plan Commission shall consist of the Mayor and seven (7) citizens, who do not hold any City office or employment. The Mayor may also appoint up to two (2) additional citizens as alternates to the Commission who shall serve for a period of three (3) years in instances when regular members are unable to attend Plan Commission meetings. The citizen members shall be persons having an interest in and an understanding of the duties and responsibilities of the Plan Commission. They shall receive such compensation as the Common Council may provide. The City Engineer, Code Enforcement Director, City Planner and chair of the Public Safety Committee~~Chairman of the Safety and Development Committee of the Common Council~~ shall be advisors to the Commission but shall have no voting power. **[Ord. O-2018-0035, 8/7/2018]**
2. Appointment and Terms of Office. The citizen members shall be appointed by the Mayor, subject to confirmation by the Common Council. In making such appointments, the Mayor shall, insofar as practicable, make such appointments from a list of applicants who have submitted their qualifications to fill such positions. Appointment shall be for a term of three (3) years and made initially in such manner that the terms of not more than two (2) members expire in any one year. A vacancy in the membership shall be filled for the unexpired term. Terms for the citizen members shall commence on the first day of May. The term of the Mayor shall be for the term of his office as Mayor.
3. Organization and Procedure.
 - a. The Mayor shall serve as Chairman of the Plan Commission. The Mayor shall not be counted toward determining the quorum. The Mayor shall have no voting power except in the case of a tie vote among citizen members, when he/she shall cast the deciding votes. A citizen member shall be designated as Vice-Chairperson by the Plan Commission. **[Ord. O-2008-0039, 9/2/2008]**
 - b. Meetings shall be held regularly at least once a month and additionally as required at the call of the Chairman or a majority of the entire Commission. Meetings shall be held at a time and place specified by the Commission with advance notice to the City Clerk and shall be open to the public.
 - c. A quorum shall be four (4) members, not including the Mayor, and all official actions shall require a majority vote. **[Ord. O-2008-0039, 9/2/2008]**
 - d. The Chairman shall designate one of the members as Secretary. The Commission may delegate the responsibility of taking and maintaining the minutes and records of the Commission to the City Planner.
 - e. Written minutes shall be kept showing all actions taken, resolutions, findings, determinations, transactions and recommendations made; a copy of such minutes shall be filed with the City Clerk.
 - f. The Commission may adopt additional rules not inconsistent herewith, for the transaction of its business.
 - g. All Plan Commission decisions shall be appealed to the Common Council. **[Ord. O-2010-0047, 11/16/2010]**

4. Powers. The Commission shall have such powers as provided by state law and as may be necessary to enable it to perform its functions and duties and to promote municipal planning. Such powers shall include the following:
 - a. To employ experts and a staff, and to pay for their services and such other expenses as may be necessary and proper, not exceeding, in all, the appropriation that may be made for such Commission by the Common Council, or placed at its disposal through gift, and subject to any ordinance or resolution enacted by the governing body.
 - b. To make reports and recommendations relating to the plan and development of the municipality to public officials, agencies, utilities and other organizations and citizens.
 - c. To recommend public improvement programs and financing thereof to the Common Council.
 - d. To request available information from any public official to be furnished within a reasonable time as it may require for its work.
 - e. The Commission, its members and employees, in the performance of its functions, may enter upon any land, make examinations and surveys and place and maintain necessary monuments and marks thereon.
5. Duties. The Commission shall have the following functions and duties:
 - a. Make and adopt a master plan for the physical development of the City and such other functions and duties in relation thereto, in accordance with Sec. 62.23(2) and (3) of the Wisconsin Statutes.
 - b. Recommend an official map to the Common Council and such other functions and duties in relation thereto, in accordance with Sec. 62.23(6) of the Wisconsin Statutes.
 - c. Recommend a zoning district plan and regulations to the Common Council, in accordance with sec. 62.23(7) of the Wisconsin Statutes.
 - d. Recommend land division regulations to the Common Council, in accordance with sec. 236.45 of the Wisconsin Statutes.
 - e. Recommend changes to the master plan, official map, zoning, land division and fire prevention ordinances that it deems necessary or desirable.
 - f. Consider and report or recommend on all matters referred to it.
6. Referrals. The Common Council or other public body or officer of the City having final authority thereon shall refer to the Commission, for its consideration and report before final action is taken, the following matters:
 - a. Location and architectural design of any public building, statue or other memorial.
 - b. Location, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition or lease of land for any street, alley or other public way, park, playground, airport, parking area or other memorial or public grounds.
 - c. Location, extension, abandonment or authorization for any public utility, whether publicly or privately owned.
 - d. Location, character and extent, or acquisition, leasing or sale of lands for public or semipublic housing, slum clearance, relief of congestion or vacation camps for children.

- e. Proposed fire limits and fire prevention regulations.
 - f. All annexations, incorporations or consolidations affecting the City.
 - g. All divisions of lands within the City's platting jurisdiction.
 - h. All proposed or requested changes and amendments to the masterplan, official map, zoning, land division and fire prevention ordinances.
7. Additional Powers and Duties. The Commission shall have all additional powers and duties granted or assigned to it by the Common Council. All the powers and duties granted or assigned by the Wisconsin Statutes to City Plan Commissions are hereby granted or assigned to the Commission.

SECTION 4: **AMENDMENT** “2.415 Public Beautification Committee” of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

2.415 Public Beautification Committee

1. The Public Beautification Committee shall consist of the Forestry and Grounds Maintenance Superintendent, as Chair~~man~~, and ten (10) citizens to be appointed by the Mayor and confirmed by the Common Council. Of the ten (10) citizen members, two (2) selected from each Ward, in such manner that the initial term of five (5) members shall be one (1) year and the remaining five (5) members shall be for two (2) years. All future appointments shall be for a term of two (2) years. Term of the Forestry and Grounds Maintenance Superintendent shall be indefinite; all others shall terminate on December 31 of each year following their appointment. The Committee shall meet at least once a month and report periodically to the Public Works Committee~~Advisory Committee of the Common Council~~ and to the Mayor.
2. The Public Beautification Committee shall:
 - a. Study and analyze conditions, needs and problems in West Allis and recommend improvements in the quality or urban environment.
 - b. Help unite citizens toward a common goal of civic pride.
 - c. Prepare a program to continually improve the attractiveness of our City, thus encouraging the kind of neighborhood and community pride that is the best defense against blight and decay. [Ord. 6264, 10/29/1996; Ord. 6265, 10/29/1996]

SECTION 5: **AMENDMENT** “2.49 Capital Improvement Committee” of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

2.49 Capital Improvement Committee

1. Establishment. The Capital Improvement Committee is created to recommend, review and update a capital improvement program for the City.
2. How Constituted.
 - a. The Capital Improvement Committee shall consist of the following members.
 - i. The Mayor.
 - ii. A member of the ~~Board of Public Works~~ Public Works Committee.
 - iii. A member of the Administration ~~and Finance~~ Committee.
 - iv. A member of the Plan Commission.
 - v. Two (2) citizen members.
 - vi. The City Administrator.
 - vii. The Finance Director/Comptroller and Treasurer or their designees.
 - viii. The Director of Public Works or designee.
 - ix. The ~~Director of Development~~ Executive Director or designee.
 - x. The City Engineer or designee.
 - b. The member of the ~~Board of~~ Public Works Committee, the member of the Administration ~~and Finance~~ Committee, the member of the Plan Commission, and the two (2) citizen members shall be appointed by the Mayor. The member of the Administration ~~and Finance~~ Committee and the member of the ~~Board of~~ Public Works Committee shall be appointed annually. The citizen members shall be appointed for terms of three (3) years each. All appointments by the Mayor are subject to the confirmation of the Common Council.
3. Organization and Procedure.
 - a. The Chairman of the Committee shall be designated by the Mayor.
 - b. Meetings shall be held biannually in conjunction with the budget process, or more frequently, as necessary, at the call of the Chairman or a majority of the entire Committee. The meetings shall be held at a time and place specified by the Committee and shall be open to the public.
 - c. A quorum shall consist of six (6) members, and all official actions shall require a majority vote.
 - d. Written minutes shall be kept showing all action taken and recommendations made; the City Clerk shall provide staff for the Committee.
 - e. The Committee may adopt additional rules, not inconsistent herewith, for the transaction of its business.
4. Definitions.
 - a. "Capital Assets" are known as fixed assets and include - land, land improvements, easements, buildings and improvements, equipment, technological software, capital leases, technology equipment, recycling and waste management equipment, parks and open spaces, infrastructure (streets, roads, alleys, bridges; tunnels; water, drainage and sewer systems; lighting systems, traffic control, underground conduit and wired communications), and other similar items that the Common Council may from time to time require.
 - b. "Capital Equipment" means any single asset/single piece of equipment.
 - c. "Capital Improvement Plan" or "Capital Improvement Program" means a

plan/prioritization of capital projects and capital equipment, their costs, and methods of financing.

- d. "Capital Project" is a project for the construction, transformation, or renovation of permanent infrastructure.
- e. "Capital Outlay" means money spent to fund a capital project, also known as capital expenditures. It does not include incidental repair or maintenance of a capital asset.

5. Duties and Responsibilities. The Committee shall:

- a. Annually, prior to September 1, develop and recommend a five-year capital improvement plan for submittal to the Common Council for action. The plan shall be based on capital project requests submitted by City departments and shall include items described under (5) below.
- b. Establish criteria to determine the priority of requests including, but not limited to:
 - i. Risk to health, safety and environment and regulatory or mandated requirement.
 - ii. Existing asset condition, recurring maintenance and repair costs, and expected lifecycle.
 - iii. The effect of the request on the achievement of any goal in the City's strategic plan, comprehensive plan or other plans the Common Council has approved.
 - iv. The interrelationship of each capital program/project with other capital projects.
 - v. The capacity of the request to fit within funding and debt service targets as determined by the City's fiscal policies.
 - vi. Impact on City operational finances, including operational costs savings, revenue generation, etc. due to program or project completion and economic sustainability of the program or project.
 - vii. Purpose/reason for the program or project.
 - viii. Program or project encourages economic development/maintains or grows tax base.
 - ix. Program or project maintains or increases the level of efficiency of City services.
 - x. Environmental sustainability of the program or project.
- c. Consider and report or recommend on such other matters as may be referred to it from time to time by the Common Council.
- d. Oversee a park subcommittee for parks and open spaces within the City as follows:
 - i. The parks subcommittee shall investigate and make recommendations to the Capital Improvements Committee and/or the appropriate Common Council Committee concerning city parks and open spaces relating to administrative operation policies; rental programs, contracts, memorandums of understandings, guidelines, and fees; budget allocations, capital improvements, maintenance, repairs and construction; work with the various departments of the city and with

the various state and federal agencies dealing with parks; and to make recommendations concerning the programs that it administers as they relate to this committee.

- ii. The parks subcommittee shall consist of the following members:
 - (1) Chair of Public Works Committee or member of Public Works Committee.
 - (2) City of West Allis Public Works Director or designee, who shall also serve as Chair (indefinite term as ex officio).
 - (3) One (1) representative of the West Allis West Milwaukee School District Recreation Department (indefinite term as ex officio).
 - (4) One (1) Member of the Capital Improvement Committee (whose term shall coincide with their Capital Improvement Committee Term).
 - (5) One (1) representative of the West Allis community (two-year term).
 - (6) The Mayor, or their designee (indefinite term as ex officio).
 - (7) The City Administrator, or their designee (indefinite term as ex officio).
 - iii. The parks subcommittee may recommend to the Common Council or one of its committees adjustments to the fees and rates for use or rental of all or portions of parks and open spaces through a resolution to update the Fee Schedule.
6. Authority. The Capital Improvement Program shall include requests for capital assets, equipment and projects having a useful life of more than one year; and a cost of at least ten thousand dollars (\$10,000).
7. Reports.
- a. Prepare status reports of the status of approved capital projects for submission to the Common Council as requested.
8. Committee Requests. All City departments and agencies shall cooperate with the Committee and provide assistance whenever the Committee so requests.

[Ord. O-2016-0019, 4/4/2016; Ord. O-2018-0024, 5/15/2018]

SECTION 6: **AMENDMENT** “2.54 Legislative Committee” of the City Of West Allis Municipal Code is hereby *amended* as follows:

A M E N D M E N T

2.54 Legislative Committee

- 1. Purposes. The Committee shall have the following purposes:
 - a. To review and prepare recommendations relative to the City's official position on state and federal legislation, as well as state and federal administrative rules

and policies.

- b. To coordinate and monitor all City Department activities with respect to state and federal legislation, as well as administrative rules and regulations.
2. How Constituted. The Committee shall consist of five (5) members as follows: **[Ord. O-2005-0010, 2/1/2005]**
 - a. The Mayor, who shall serve as Chair.
 - b. The Chairperson of the ~~Advisory~~ Administration Committee, or his/her designee ~~of another member of the Advisory Committee~~, who shall serve as Vice Chairperson. **[Ord. O-2012-0018, 6/5/2012]**
 - c. The City Administrator.
 - d. The City Attorney.
 - e. The Finance Director/Comptroller.
3. Appointments and Terms of Office. Appointments and terms of office are indefinite and follow the incumbency for the positions.
4. Organization and Procedure.
 - a. The City Administrator ~~ive Officer~~ shall serve as Secretary to the Committee, being responsible for minutes, referrals, and communications.
 - b. The meetings shall be held regularly during State legislative sessions, at the call of the Chair or majority of the Committee.
 - c. A quorum shall consist of three (3) members and all official actions shall require a majority vote.
 - d. The Mayor, as Chair, shall be the official spokesperson on all state and federal legislation and rulemaking. The Mayor is authorized to testify and send written communications on behalf of the City, consistent with the official position of the Legislative Committee and/or Common Council.
 - e. Only upon specific delegation of such authority by the Mayor, Departments and Divisions of the City may testify and send written communications on behalf of the City, consistent with the official position of the Legislative Committee and/or the Common Council.
 - f. The Legislative Committee, in the conduct of its routine review of legislative and rulemaking matters, shall concentrate its focus on those items that are of significance to City policy and operations. **[Ord. O-2015-0024, 4/7/2015]**
 - g. When the City has no official position, when the City's official position is unclear, or when time is of the essence, the Mayor shall confer with the Common Council President, or President's designee, and the Chair of the appropriate Common Council policy committee, and then testify and send written communications on legislation and rulemaking. The Mayor shall file a report with the Common Council monthly on such activity.
 - h. The City Administrator shall provide a copy of the minutes of each Legislative Committee session to each Alderperson, but the minutes shall not be referred to the Common Council for action. Any Alderperson who wishes to take a stance differing from that taken by the Legislative Committee may do so. **[Ord. O-2015-0024, 4/7/2015]**
 - i. The Committee may adopt additional rules, not inconsistent herewith, for the transaction of its business.

~~{Ord. 6277, 12/3/1996}~~

SECTION 7: **AMENDMENT** “2.67 Purchasing Procedures” of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

2.67 Purchasing Procedures

1. Purchase Orders and Separate Written Contracts.
 - a. Except as may be permitted by Office rule, purchases must be completed on a preprinted purchase order form or by separate written contract. All such order forms and contracts, with the exception of contracts for professional services, must be signed by the Purchasing Office Supervisor or designee. Professional services contracts shall be signed by the department head charged with the responsibility for administration of any such contract.
 - b. All order forms and contracts shall be countersigned by the City Comptroller and approved as to form by the City Attorney. The Comptroller's signature certifies sufficient funds have been budgeted and are available for the purchase. A facsimile of the signatures of the City Comptroller and Attorney, adopted by such persons and approved by the Common Council, may be used in lieu of their personal signatures on preprinted order forms.
2. Compliance With Laws. In addition to the requirements of this section, the Office shall comply with all applicable federal, state and local laws, statutes, ordinances, rules, regulations and policies.
3. Payments. All payments for purchases shall be made in accordance with Sec. 2.65 of the RMC.
4. Records. The Office shall keep a complete and detailed record of all purchases, including orders issued, quotations received, basis for award and any and all information required for audit purposes. All such records shall be open to public inspection and retained by the Office as required by law.
5. Written Specifications. When appropriate, the Office shall prepare, in consultation with the appropriate agency, written standards and specifications for the purchase of equipment, material, supplies and services. All such standards and specifications shall permit competition whenever practicable.
6. Amount of Purchase.
 - a. Purchases Under Five Thousand Dollars (\$5,000). Purchases of equipment, materials, supplies and services under five thousand dollars (\$5,000) shall be made pursuant to Office rules.
 - b. Purchases Over Five Thousand Dollars (\$5,000) But Less Than Twenty-Five Thousand Dollars (\$25,000). Purchases of equipment, materials, supplies and services that cost more than five thousand dollars (\$5,000) but less than twenty-five thousand dollars (\$25,000), shall be made by written, electronic or

oral proposal, pursuant to Office rules. The award shall be made by the Office to the party who has submitted the lowest responsible and responsive proposal that is determined to be in the best interest of the City by the Office.

- c. Purchases Twenty-Five Thousand Dollars (\$25,000) and Over. Purchases of equipment, materials, supplies and services that cost twenty-five thousand dollars (\$25,000) and over shall be made by written or electronic competitive bid or request for proposals. Requirements of the competitive process include:
 - i. Issuance of an invitation for bids or request for proposals with written standards and specifications and all contractual terms and conditions applicable to the purchase. All such invitations shall be approved as to form by the City Attorney.
 - ii. Advertising a request for bids or proposals by publishing a Class I notice, pursuant to Chapter 985 of the Wisconsin Statutes.
 - iii. A public, contemporaneous opening of bids or proposals at a predesignated time and place.
 - iv. Unconditioned acceptance of a bid or proposals without alteration, conditions, exceptions or corrections.
 - v. The award shall be made by the Common Council to the party who submits a responsible and responsive bid or proposal that is determined to be in the best interest of the City by the Common Council. When an award is not made on the basis of the lowest bid or proposal submitted, a complete statement of reasons therefor shall be made a part of the bid or proposal file.
 - vi. The Common Council may reject any and all bids or proposals submitted, waive technicalities and advertise for new bids, or otherwise proceed to make the purchase if, in its sole judgment, the best interests of the City will be served or otherwise promoted thereby.
 - vii. The Office may require, in connection with any particular purchase, that the parties submitting a bid or proposal be prequalified.
 - viii. The Office may obtain all necessary equipment, materials, supplies and services from intergovernmental entities, or in cooperation with such entities or upon the same terms or conditions in other existing governmental contracts.
 - d. Separation of Bids. For purposes of this section, the dollar amount of any purchase shall be determined by the estimated price of the total purchase. Equipment, supplies, materials and services for any one purpose or project may be purchased separately or in units, as determined by the Office to be in the best interests of the City. However, such separation of purchases may not be made for the sole purpose of avoiding the public bid requirement, as set forth herein, and shall be approved by the Common Council.
7. Exceptions to the Bid and Proposal Process: Purchases Over Five Thousand Dollars (\$5,000). Those items inappropriate for bid or proposal selection due to the nature of the items, time restraint or other factors, including sole source procurements, may be purchased by other methods upon the recommendation of the Office and approval of

the Administration ~~and Finance~~ Committee of the Common Council. The Office shall conduct negotiations, as appropriate, as to price, delivery and items. The Office shall maintain as a public record a written statement of reasons for the authorization to make any purchase under this section.

SECTION 8: AMENDMENT “3.05 Rules Of Procedure For Common Council” of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

3.05 Rules Of Procedure For Common Council

1. Standing Committees. ~~{Ord. O-2006-0009, 2/7/2006; Ord. O-2007-0019, 6/5/2007; Ord. O-2013-0029, 6/18/2013; Ord. O-2014-0025, 5/20/2014; Ord. O-2018-0019, 5/15/2018}~~
 - a. Standing Committees of the Common Council, and the number of Alderpersons assigned to each Committee shall be as follows:
 - i. Public Works Committee: ~~five (5)~~ members.
 - ii. ~~Safety and Development~~ Public Safety Committee: ~~five (5)~~ members.
 - iii. ~~License and Health Committee~~ Economic Development Committee: ~~five (5)~~ members.
 - iv. Administration ~~and Finance~~ Committee: ~~five (5)~~ members.
 - v. ~~Advisory~~: ~~five (5) members~~.
 - b. Appointments to Standing Committees. Appointments shall be made according to City of West Allis Policies and Procedures Policy No. 301, Committees of the Common Council.
 - c. Functional Responsibilities. Functional responsibilities are contained in City of West Allis Policies and Procedures Policy No. 301, Committees of the Common Council.
2. Committee Of The Whole. Any member of the Council may move to go into a Committee of the Whole to consider and report on any matter pending before the Council. A majority vote of the Council shall be required to convene a Committee of the Whole. The President of the Common Council shall preside as Chair of the Committee. The Committee shall consider any matter referred to it and make written report and recommendations thereon to the Council.
3. Select Or Special Committees. Select or Special Committees may be provided for on motion or by resolution, designating the number and object and, unless otherwise ordered, shall be appointed by the Mayor or other presiding officer of the Council.
4. Decorum and Points of Order. **[Ord. O-2011-0010, 3/15/2011]**
 - a. The Mayor or other presiding officer shall preserve order and decorum, decide all questions of order and shall inform the Council, when necessary, on any point of order or practice. He/she may speak to points of order in preference to others and seek the advice of the City Attorney on such points of order or practice.
 - b. The Mayor or other presiding officer shall ensure that no signs, placards,

banners, or other similar items are displayed in the Council chambers during a Council meeting. Any person failing to remove such items shall be considered to have caused a disturbance under Subsection 3.01(9) of the West Allis Revised Municipal Code.

5. **Cameras, Sound Equipment And Lighting.** Cameras and sound recording devices may be used in the Council Chambers, but only in such a manner as will cause a minimum of interference with or disturbance of the proceedings of the Common Council. Supplemental lighting for television, cable or video shall be used only with the exercise of extreme discretion in regard to the intensity and duration of such lighting with a view to creating the least amount of disturbance to the proceedings of the Council and the least amount of discomfort to members of the public in attendance.
6. **Appealing Decisions Of Chair.** Any member shall have the right to appeal from the decision of a presiding officer. No appeal shall be debatable and the appeal shall be sustained by a majority vote of the members present, exclusive of the presiding officer.
7. **Introduction Of Matters To Council.**
 - a. **Alderspersons To Present.** No business shall be considered by the Council unless presented by a member of the Council, a Standing Committee of Council or by a City Board, Commission or Committee. All matters shall be introduced in a manner consistent with this chapter.
 - b. **Privilege Of Council Floor.** The privilege of the floor of the Council shall be limited to members of the Council, except for public hearings and statements of citizens authorized in the order of Council business. Any member of the Council may yield the privilege of the floor to a City officer or employee or to a member of a City Board, Commission or Committee. The privilege of the floor may be granted to other persons upon approval of the Council.
 - c. **New Matters.** All communications, petitions, proposed resolutions, proposed ordinances and other papers addressed to or intended for the Council shall be sent to the Clerk who shall prepare and note on the file a brief statement of their contents.
8. **Reference Of Ordinances, Resolutions, Communications, Etc.**
 - a. All communications and petitions directed to the Common Council shall be referred to the appropriate Standing Committee. However, any unsigned or anonymous correspondence or any communication that does not concern the City as a municipal corporation or the operation of the City shall not be introduced and referred. When a question arises as to whether a communication should be introduced, the Clerk, in consultation with the Council president and the City Attorney, shall determine whether a matter shall be introduced. **[Ord. O-2014-0076, 11/18/2014]**
 - b. Every ordinance, resolution, communication and every matter appropriating money or creating a charge against any City funds (excepting motions approving claims duly audited by the Comptroller) shall be referred to an appropriate Committee or Committees by the presiding officer and shall not be acted upon by the Council until reported back from the Committee. Such referral and report back may be conducted at the same Council meeting. Legal claims and process shall be referred directly to the City Attorney pursuant to

Policy No. 801.

- c. Objections To Reference. Whenever any matter is referred by the presiding officer to any Committee, any member of the Council may object to its being so referred and may make a motion for some other proper disposition thereof. Whenever any matter is referred to any Committee which required reference, any member, at the time it is so referred, may move to have such matter referred to a different Committee than the one named.

9. Reports Of Committees; Second Reading.

- a. Written Report. The Committee to whom a matter has been referred shall consider the same and submit a written report and recommendations thereon to

the Council when it has completed its consideration or when requested by the Council. Upon the submission of the Committee report to the Council, the ordinance, resolution or other matter reported on by the Committee shall be read at length, if requested by any member of the Council.

- b. Time For Report. If the matter referred is not disposed of by the Committee within a reasonable length of time, the Council may fix a time within which the committee shall make its report thereon to the Council. The City Clerk shall make a quarterly report of all matters pending before each Committee at the second regular Council meeting in January, April, July and October of each year for the preceding three (3) months.

- c. Recall To Full Council. Whenever, in the judgment of the Council, the Committee having a matter in charge has failed to report thereon with due diligence, the Council may at any meeting recall any matter referred to such Committee and refer the same to another or Special Committee or take other appropriate action. The Council may designate a time within which any Committee having a matter in charge shall report thereon and may, if the circumstances warrant such action, extend such time.

- 10. Procedure On Veto. Objections of the Mayor to any act (ordinance, resolution, motion) of the Council shall be presented to the Council attached, in the case of an ordinance or resolution, to the act of the Council to which objection is made. The written objections of the Mayor shall be treated as a communication. For the act of the Council to which such objections have been made to become effective, a vote by seven (7) members of the Council shall be required in favor of a motion that the act be made effective, notwithstanding the objections of the Mayor.

11. Council Agenda.

- a. Regular Agenda. The City Clerk shall prepare a written agenda in advance of each meeting of the Common Council. This regular agenda shall contain an itemized listing, in the form provided herein, of all new matters to be introduced and all Committee reports to be acted upon by the Common Council. The regular agenda for each scheduled meeting of the Common Council shall be closed at 5:00 p.m. on the third working day prior to the day of the meeting. The agenda shall be available to the entire Council, staff, the press and the public forty-eight (48) hours in advance of each Council meeting.
- b. Supplemental Agenda. Following preparation of the regular agenda, additions

to it may be prepared as a supplemental agenda. No supplemental agenda for any meeting of the Common Council shall be prepared by the City Clerk unless authorized by the Mayor or an Alderperson. The supplemental agenda, when authorized, shall be in the form of the original Council agenda. A twenty-four-hour notice shall be given for supplemental agendas. However, if twenty-four (24) hours is impossible due to an emergency situation or impractical due to some overwhelming consideration, a minimum of at least two (2) hours must be given. Proper notice of all supplemental agendas must be provided to the City's official newspaper and any news media requesting it, as well as Alderpersons and appropriate City officials.

c. New Matters.

- i. New matters shall be placed on the agenda by listing the summary statements attached to each item with notations for the proposed reference thereof. All or any of such items may, upon adoption of a motion to approve the proposed reference or upon order of the presiding officer in the absence of such motion, be referred as indicated upon such agenda without separate reading of each item, in full or by summary, by the Clerk
- ii. Any member of the Common Council, upon request and without motion, shall obtain separate consideration of one or more new items upon such agenda for the purpose of having such items read at length by the City Clerk or his/her designee or to request or move for a different referral or to put any motion relating thereto authorized by the rules of the Council.

d. Committee Reports.

- i. The reports and recommendations of each Committee on all items upon which it has completed its consideration, and which are to be included on the agenda, shall be prepared in cumulative written form and submitted to the Clerk in advance of the next succeeding meeting of the Council. All such written reports shall contain an itemized summary of each matter to be reported on, shall contain the Committee's recommendation thereon and shall show, for each matter, the Committee vote thereon. Reports and recommendations of the Committees shall be signed by the Chair on behalf of the Committee's action or, in the absence of the Chair, the Vice Chair or Acting Chair shall sign. Official voting shall be recorded.
- ii. The Council may act upon the entire Committee report upon motion to adopt, or at the request of any member, without motion, shall separately consider any item. Upon consideration of such written committee report by the Council, a motion to adopt any or all of the items upon such report within the scope of the motion, including the passage of an ordinance or the adoption of a resolution, and also including any amendments or substitutions to such ordinance or resolution recommended by the committee and contained upon such report.

- iii. No Committee shall be precluded from orally presenting any or all of its report and recommendations to the Council on any matters.
 - iv. The Committee may act on any of the Council agenda items during the recess meetings and report them out as a recess meeting Standing Committee report.
 - e. Items on the regular and supplemental agenda may be deleted or corrected upon motion and action by the Council prior to and/or as a part of the approval to establish the agenda for that meeting.
- 12. Comments From Members Of Committees. In case all the members of any Committee required or entitled to report on any subject referred to them cannot agree upon a report, any member of the Committee may express his/her views accordingly.
- 13. Roll Call Vote.
 - a. On Ordinances And Appropriations. On adoption of all ordinances and those resolutions, reports of Committees, regulations or other matters, appropriating moneys or creating any charge against any of the funds of the City, renewing taxes, renewing the appropriation of moneys or releasing, discharging or commuting a claim or demand of the City, the question shall be taken by call of the roll and shall be passed or adopted by a majority vote of all members of the Council.
 - b. On City Officers. When voting for any City officer or on the confirmation of an appointment, the voting shall be by call of the roll.
 - c. On Other Matters. On any other matter, it shall be in order to call for the ayes and noes, unless a roll call be requested by a member of the Council.
 - d. Vote To Be Recorded. All roll call votes shall be duly entered in the journal by the Clerk or his/her designee.
 - e. Call Of The Vote. The Clerk or his/her designee shall call the roll at each meeting in a descending alphabetical sequence commencing in order and continuing at each subsequent meeting with the next name in such order and ending with the name of the member who voted first at the preceding meeting.
- 14. Members Who Shall Vote. Every member, when a question is put, shall vote, unless the Council shall, for special cause, excuse him/her; but, it shall not be in order for a member to be excused after the Council has commenced voting.
- 15. Tie Vote; Mayor To Vote. The Mayor shall not vote, except in the case of a tie vote in the Council, when he/she shall cast the deciding vote.
- 16. Stating Of Motions Before Debate. When a motion is made, it shall be stated by the presiding officer or read by the Clerk or his/her designee, previous to debate, upon request of any member.
- 17. Recognition For Debate. Whenever a member is to speak in debate or deliver any matter to the Council, he/she shall address himself/herself to the presiding officer and confine his/her remarks to the question under debate and avoid personalities.
- 18. Presiding Officer To Name First To Speak. When two (2) or more members seek recognition at the same time, the presiding officer shall name the member who is first to speak.
- 19. Member May Speak Twice. No member shall speak more than twice on any question,

except by leave of the Council.

20. Motions In Order During Debate. When a question is under debate, no motion shall be received except:
- a. To adjourn.
 - b. To lay on the table.
 - c. For the previous question.
 - d. To postpone to a certain day.
 - e. To commit to a Standing Committee.
 - f. To commit to Select Committee.
- g. To amend.
- h. To postpone indefinitely.

These several motions shall have precedence in the order in which they stand in this rule.

21. Motions To Adjourn; Lay On Table. A motion to adjourn shall always be in order; and, a motion to adjourn, to lay on the table and call for the previous question shall be decided without debate.
22. Motion For Reconsideration. It shall be in order for any member voting in the majority to move for a reconsideration of the vote on any question at the same or next succeeding meeting. A motion to reconsider being put and lost shall not be renewed.
23. Division Of The Question. Any member may call for a division of the question when the same can be separated into two (2) or more distinct propositions.
24. Moving Previous Question. Any member desirous of terminating the debate may call the previous question, when the question to be announced by the presiding officer shall be: "Shall the main question now be put?" Such motion shall be decided without debate. If a majority of the members present vote in the affirmative, the main question shall be taken without further debate and its effect shall be to put an end to all debate and bring the Council to a direct vote, first upon the pending amendment, if any, and then upon the main question.
25. Accounts To Be Audited And Verified. Every account presented to the Council to be audited shall be verified, as provided by law, and shall not be allowed or directed to be passed until it shall have been examined and certified as correct by the Committee on Administration & Finance, which shall be composed of five (5) members, and reported and audited by the Council.
26. Call Of The House.
- a. When Made. Any three (3) members of the Common Council may make a call of the house and require absent members to be sent for. A call of the house may only be used to establish a quorum.
 - b. Putting Question On Call Of House. On a call of the house being moved, the presiding officer shall say: "It requires three (3) members to order the call of the house," and if three (3) or more shall agree, the call shall thereby be ordered.
 - c. Doors To Be Closed. The officer acting as sergeant-at-arms shall close the doors and no member shall be allowed to leave the room.
 - d. Absentees, How Brought In. The Clerk or his/her designee shall immediately

call the roll and shall furnish a list of the absentees without leave to the sergeant-at-arms, who shall forthwith proceed to find and bring in such absentees.

- e. Procedure While Under Call. While the Council is under call, no business shall be transacted except to receive and act on the report of the sergeant-at-arms, and no other motion shall be in order except to adjourn and motion to suspend further proceedings under the call, which motions shall be determined by ayes and noes and the motion to suspend further proceedings under the call shall not be adopted unless a majority of the members elect to vote in favor thereof, but a majority of those present may adjourn.
- f. Call Raised When Absentees Present. When the sergeant-at-arms shall report that all who were absent without leave are present, the call shall be at an end and the business or motion pending at the time the call was made shall be proceeded with.

- 27. Quorum. The quorum for the Council shall be seven (7) Alderpersons.
- 28. Voting. A simple majority of those present constituting a quorum shall be necessary to take action. A minimum of seven (7) members voting aye or nay is required for official action. A member voting present on any action shall not be included when counting a quorum for that item.
- 29. Suspension Of Rules. These rules may be suspended by a vote of not less than seven (7) members of the Council. Unless unanimous consent is given, the vote on suspension shall be by vote on call of the roll.
- 30. Robert's Rules Of Order. The rules of parliamentary practice set forth in Robert's Rules of Order Newly Revised shall be the standard in all cases, to which they are applicable, and in which they are not inconsistent with these rules.
- 31. Motion to Place on File. Such a motion shall mean to take no action on the matter (other than that which may be appended to the motion) and to remove the matter from the Common Council agenda permanently. [Ord. O-2016-0015, 3/1/2016]
- 32. Exclusion of Certain Members from Certain Closed Session Committee Meetings. Pursuant to the authority set forth in Section 19.89, Wis. Stat., no member who has a claim or pending/threatened litigation against the City, or a pending quasi-judicial matter to be decided by the City may appear at a closed session of the Standing Committee, Committee of the Whole, or other select or special committee where the member's claim, pending/threatened litigation, or matter will be discussed. If more than one matter is being discussed during a closed session, this exclusion applies only to the portion of the closed session related to the discussion of the member's claim, pending/threatened litigation, or matter. '
- 33. Appearing Remotely. With the consent of the presiding officer of any governmental body subject to open meetings laws, an official may attend a meeting of that governmental body using telephonic or video conferencing. The type of technology used shall display or project the official's voice and image, if any, so any person who wishes to observe the proceedings is reasonably able to do so. The official appearing under this provision may participate to the same extent as though the official was appearing in person.

SECTION 9: **AMENDMENT** “3.4 Financial Disclosure” of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

3.4 Financial Disclosure

1. Officials. A statement of economic interest shall be filed with the Board by each official and individual who is a candidate for any elective City office, unless that person is required to file a statement of economic interests under Wis. Stat. 19.44(1).
2. Spouses. Any official or candidate required to file a statement of economic interest by subsection (a) shall also file a statement of economic interest on behalf of his or her spouse, to the best of the official's or candidate's knowledge, information and belief.
3. Filing requirements. Officials and candidates required to file under subsection (a) shall file statements of economic interest with the Board as follows:
 - a. Any candidate for elective City office shall file a statement of economic interest at the time of filing nomination papers. The information contained on the statement shall be current as of the date of filing nomination papers.
 - b. Any newly appointed or employed City official shall file a statement of economic interest within thirty (30) days after the commencement of appointment or employment. The information on the statement shall be current as of the date he or she assumes office or commences employment.
 - c. Each individual who, in January of any year, is an official required to file, shall file a statement of economic interest no later than April 30 of that year. The information contained on such statement shall be current as of the preceding December 31.
 - d. If an individual required to file has failed to file a statement of economic interest within the required time, no salary or compensation may be paid to such official until he or she files the required statement. The Board shall officially inform the Finance Director/Comptroller~~Director of Administration and Finance~~ when it has determined that an official's salary or compensation should be withheld.
 - e. If a candidate for elective City office fails to file a statement of economic interest within the required time, the candidate's name shall be omitted from the election ballot.
 - f. The Board may, for good cause, grant to an official an extension of time to file a statement of economic interest not to exceed sixty (60) days from and after the filing date. An extension of time to file may only be considered upon application made to the Board prior to the filing date.
4. Disclosure. Whenever a dollar amount is required to be reported on a statement of economic interest, it shall be sufficient to report whether the amount is not more than fifty thousand dollars (\$50,000) or more than fifty thousand dollars (\$50,000).

SECTION 10: **AMENDMENT** "3.01 Council Meetings" of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

3.01 Council Meetings

1. Regular Meetings. Regular meetings of the Common Council of the City of West Allis shall be held at the Council Chambers in the City Hall or such other place as the Common Council may designate on the first and third Tuesdays of each month or such other days that the Common Council may agree upon. The time of the Common Council meeting shall be established by the Common Council at its convenience. Public hearings may be taken up out of the regular order of business. Following a regular City election, the new Council shall first meet on the third Tuesday of April.
2. Special Meetings. Special meetings of the Common Council may be called by the Mayor (or in his/her absence, by the President of the Council), at such time as he/she may appoint, by written notice of the purpose and time thereof, to each member delivered to him/her personally or left at his/her usual abode, at least six (6) hours before the meeting. Upon petition of five (5) or more members of the Council, the Mayor (or in his/her absence, the President of the Council) shall call a special meeting of the Common Council. No other business shall be considered or transacted at any special meeting other than that for which the special meeting was called.
3. Adjournments. Any regular or special meeting may be adjourned by a majority of the members present.
4. Meetings Shall Be Public. All meetings of the Council shall be open and public and all of its procedure shall be recorded by the City Clerk, or under his/her authorization, in record books kept for that purpose.
5. Call To Order. "The Mayor or President or Acting President of the Council (as the case may be) shall promptly call each meeting of the Council to order at the hour fixed for the holding of such meeting."

The direct line of succession and order shall be as follows: Chairpersons of the Administration-~~& Finance~~ Committee Chairpersons of the ~~Board of~~ Public Works Committee Chairpersons of the Public Safety ~~& Development~~ Committee Chairpersons of the Economic Development~~License & Health~~ Committee ~~Chairpersons of the Advisory Committee~~

6. Roll Calls And Quorum. Before proceeding to business, the roll of the members of the Council shall be called alphabetically, and the names of those present and those absent shall be recorded in the proceedings of the Council. Seven (7) members of the Council, or any greater number, shall constitute a quorum for transaction of business; but, a lesser number can adjourn and shall have the power to compel the attendance of absent members. The Mayor shall not be counted in determining whether a quorum is present.
7. Attendance; Leave Of Absence. No member of the Council, the City Clerk or his/her

designee, or other City official, Chief of Police or police officer, whose duty it shall be to attend, shall absent himself/herself from the meetings of the Council, unless for illness or other good cause.

8. Committee Members To Remain At Meeting. No members of any Committee shall, during a meeting of the Council, have the privilege of absenting themselves from such meeting by reason of membership in such Committee, except by special leave then given.
9. Disturbance; How Suppressed. Whenever any disturbance or disorderly conduct shall occur in the Council Chambers or rooms or halls adjacent thereto, the Mayor or other presiding officer of the Council shall have power and authority, with the aid of the Chief of Police, or other police officer in attendance upon the meeting of the Council, to cause the same to be cleared of those persons, as required or authorized by law.
10. Notice Of Meetings. Notice of meetings of the Common Council shall be given in accordance with the Open Meetings Law, Subchapter V, Chapter 19, Wisconsin Statutes.

[Ord. 6386, 2/17/1998; Ord. 6527, 8/1/2000; Ord. O-2003-0039, 6/3/2003; Ord. O-2003-0071, 11/18/2003]

SECTION 11: AMENDMENT “3.015 Council President” of the City Of West Allis Municipal Code is hereby *amended* as follows:

A M E N D M E N T

3.015 Council President

1. Selection And Duties. The Council, at its first meeting subsequent to the regular election and qualification of new members, shall, after organization, choose from its members a President who, in the absence of the Mayor, shall preside at meetings of the Council and, during the absence or inability of the Mayor, shall have the power and duties of the Mayor, except that he shall not have power to approve an act of the Council which the Mayor has disapproved by filing objections with the Clerk. He shall, when so officiating, be styled "Acting Mayor."
2. Successor In Office. In the event the President of the Common Council is unable to act or perform any of his duties because of illness, other disability or absence from the City, by a direct line of succession and in the order herein set forth, the persons elected or appointed to the following offices or positions shall act as President of the Common Council and have and exercise the powers and discharge all of the duties of the President of the Common Council, until such time as the President of the Common Council shall resume his duties and, while so acting as President of the Common Council, such person shall be styled as "Acting President of the Common Council"; provided, that if any person lower on the list of succession or order, as herein set forth, shall be exercising such powers and discharging such duties and a person higher on the list of succession or order shall become available to serve, such powers and duties

are forthwith vested in the person higher on the list or order. "The direct line of succession and order shall be as follows: ~~{Ord. 6527, amend, 8/1/2000}~~

Chairpersons of the Administration ~~& Finance~~ Committee Chairpersons of the ~~Board of Public Works~~ Committee Chairpersons of the Public Safety ~~& Development~~ Committee Chairpersons of the Economic Development ~~License & Health~~ Committee ~~Chairpersons of the Advisory Committee"~~

3. Vacancy. In the event of the death or resignation of the President of the Common Council, or his succession to the office of the Mayor in the case of a vacancy in the office of the Mayor, the Common Council shall, at the next meeting after the occurrence of such event, elect a successor to fill the office of President of the Common Council, who shall preside over their meetings for the remainder of the term of office to which members of the Common Council were elected.
4. Vacancy In The Office Of The Mayor. In the event of a vacancy in the office of the Mayor, as set forth in sec. 17.03 of the Wisconsin Statutes, the President of the Common Council shall succeed to the office of the Mayor until a new Mayor is elected and qualified. A new Mayor shall be elected for the residue of the unexpired term on the first Tuesday of April next after the vacancy happens, in case it happens no later than December 1, preceding the first Tuesday in April; but, if the vacancy happens after December 1, preceding the first Tuesday in April, before such date, then the successor shall be elected on the first Tuesday in April of the next ensuing year, but no election to fill a vacancy in such office may be held at the time of holding the regular election for that office. The provisions of this subsection are subject to sec. 9.10 of the Wisconsin Statutes.
5. Selection of Council President. Following the election of a new Common Council and in the event of a vacancy in the office of Council President, the following procedure shall be used to select the Council President: **[Ord. O-2016-0026; 5/3/2016]**
 - a. The Common Council shall meet as a Committee of the Whole to select the Council President.
 - b. The meeting shall be open.
 - c. The City Clerk or his/her designee shall chair the meeting but shall not vote and shall be governed by a majority vote of the Committee of the Whole on all procedural matters.
 - d. The City Clerk shall ask for nominations and after alderpersons cease putting forth nominations, shall ask one time if there are any other nominations. Alderpersons may then make any further nominations and upon no additional response, nominations shall be closed.
 - e. Balloting shall be open unless it is moved and seconded that balloting be by secret ballot pursuant to Section 19.88(1) of the Wisconsin Statutes and a majority vote to have secret balloting.
 - f. A majority of all members shall be required to elect the Council President. In case of a tie vote or where a member fails to attain a majority vote, voting shall continue until a member attains a majority.

SECTION 12: **AMENDMENT** “7.035 Noise Control Regulations” of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

7.035 Noise Control Regulations

1. Statement of Purpose. The City of West Allis recognizes that excessive noise and vibration are serious threats to the public health and welfare, public safety, quality of life and property values. Current science and technology permit abatement of noise and vibration sources which were not available in the past. Therefore, it is the policy of the City to prevent and abate excessive noise and vibration which may jeopardize the public health, safety or welfare or which would cause harm to property values or which would impair the quality of life within the City.
2. Definitions. All terminology used in this section, not defined below or elsewhere within the West Allis Revised Municipal Code, shall be given the definitions provided by applicable publications of the American National Standards Institute (hereinafter "ANSI") or its successor body.
 - a. "A-Weighted Sound Level" means the sound pressure level in decibels as measured on a sound level meter using the "A" weighting network. The level so read is designated as db(A) or dB(A).
 - b. "Ambient Noise" means the sound level of the all-encompassing sound associated with a given environment, being usually a composite of sounds from many sources from near and far.
 - c. "Authorized Emergency Vehicle" means the definition of this term as set forth in Sec. 340.01(3), Wis. Stats., and any subsequent modification, revision, or amendment of that term as set forth in that section of the Wisconsin Statutes.
 - d. "Commercial District" means any area of the City designated on the official West Allis Zoning Map, pursuant to Chapter 12 of this Code, as C-1, C-2, C-3, C-4, or PDD-2.
 - e. "Construction" means any activity necessary or incidental to the erection, demolition, assembling, altering, installing, repairing or equipping of buildings, roadways, or utilities, including land clearing, grading, excavating and filling.
 - f. "Day" means the hours between 7:00 a.m. and 9:59 p.m.
 - g. "dB(A)" means the symbol designation of a noise level, reported in decibels, using the A-weighting network of a sound level meter, as defined in ANSI S1.4, Specification for Sound Level Meters. For example, noise will be reported as seventy-two (72) dB(A). For purposes of this section, the noise shall be measured using the slow exponential time weighting characteristic of the sound level meter unless otherwise noted.
 - h. "Decibel" means a unit of measure of the volume of a sound.
 - i. "Emergency Work" means short-term operations which are necessary to protect the public health, safety and welfare of the citizens, including emergency utility and public works operations.

- j. "Impulse Noise" means any sound of short duration, usually less than one (1) second, with an abrupt increase, rapid decay, and a peak value that exceeds the ambient noise level by more than ten (10) dB(A). Examples of sources of impulse noise include explosions, drop forge impacts, and the discharge of firearms.
- k. "Manufacturing District" means any area of the City designated on the official West Allis Zoning Map, pursuant to Chapter **12** of this Code, as M-1.
- l. "Maximum Sound Level" (hereinafter "Lmax") means the maximum sound level over a measurement interval determined by using a sound level meter set to "fast" response time.
- m. "Motor Vehicle" means any vehicle, including a combination of two (2) or more vehicles or an articulated vehicle, that is self-propelled, except a vehicle operated exclusively on a rail.
- n. "Night" means the hours between 10:00 p.m. and 6:59 a.m.
- o. "Noise Disturbance" means any sound or vibration which:
 - i. May disturb or annoy reasonable persons of normal sensitivities; or
 - ii. Causes, or tends to cause, an adverse effect on the public health and welfare; or
 - iii. Endangers or injures people; or
 - iv. Endangers or injures personal or real property.
- p. "Person" means any individual, association, partnership, joint venture, company, or corporation.
- q. "Place of Public Entertainment" means any building that is open to the public for entertainment purposes.
- r. "Plainly Audible Sound" means any sound for which the information content is unambiguously communicated to the listener, such as, but not limited to, understandable speech, comprehension of whether a voice is raised or normal, repetitive bass sounds, or comprehension of musical rhythms, without the aid of any listening device.
- s. "Power Tool" means any device powered mechanically, by electricity, by gasoline, by diesel fuel, or by any other fuel, which is intended to be used, or is actually used for, but shall not be limited to, the performance of such functions as cutting, nailing, stapling, sawing, vacuuming or drilling.
- t. "Real Property Boundary" means an imaginary line along the ground surface and its vertical extension which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.
- u. "Residential District" means any area of the City, designated on the official West Allis Zoning Map, pursuant to Chapter **12** of this Code, as RE, RA-1, RA-2, RA-3, RA-4, RB-1, RB-2, RC-1, RC-2, or PDD-1.
- v. "Root Mean Square" (hereinafter "RMS") means the square root of the mean-square value of an oscillating waveform, where the mean-square value is obtained by squaring the value of amplitudes at each instant of time and then averaging these values over the sample time.
- w. "Sound" means a temporal and spatial oscillation in pressure, or other physical

quantity, in a medium resulting in compression and rarefaction of that medium and which propagates at finite speed to distant locations. The description of sound may include any characteristics of such sound, including duration, intensity, and frequency.

- x. "Sound Level Meter" means an instrument, either Type I or Type II, as defined by the most current ANSI specifications. A sound level meter for purposes of this section shall contain at least an A-scale and both fast and slow response.
 - y. "Sound Pressure" means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space as produced by sound energy.
 - z. "Sound Reproduction Device" means any device, instrument, mechanism, equipment or apparatus for the amplification of any sounds from any radio, computer, stereo, CD player, musical instrument, television, loudspeaker or other sound-making or sound-producing device or any device or apparatus for the reproduction or amplification of the human voice or other sound.
 - aa. "Stationary Noise" means noise the source of which is either affixed to or operated upon a fixed point of land, building, or other real property.
 - ab. "VdB" means the vibration level as measured in decibels. The reference velocity in the United States is one (1) micro-inch per second. It is calculated as $VdB = 20 \times \log_{10}(v / (1 \times 10^{-6} \text{ in./sec.}))$, where "v" is the RMS velocity amplitude, calculated as the average of the squared amplitude of the vibration, measured in inches per second.
 - ac. "Vibration" means a temporal and spatial oscillation of displacement, velocity, and acceleration in a solid material.
 - ad. "Vibration Velocity Level" (hereinafter "Lv") means ten (10) times the common logarithm of the ratio of the square of the amplitude of the RMS vibration velocity to the square of the amplitude of the reference RMS vibration velocity.
3. Scope and Enforcement. This section, in addition to other ordinances and statutes, shall apply to the control of noise and vibration originating within the City of West Allis. The West Allis Health Department is the primary agency responsible for the enforcement of this section, and the West Allis Police Department may also enforce the provisions of this section. The City of West Allis's policy is to comply with this section in its own operations and in the operations of its contractors and subcontractors.
4. Determining Sound Levels. Sound levels shall be measured using the following procedures:
- a. All persons conducting sound measurements to assess compliance with this section must be trained in the current techniques and principles of sound measurement equipment and instrumentation.
 - b. Sound level shall be measured with a Type 1 or Type 2 sound level meter that shall, as a minimum standard, conform to the specifications of ANSI S1.4-1983 (Revised 2001) with Amendments S1.4A-1995 for Type 1 or Type 2 sound level meters and be capable of both fast and slow meter response.
 - c. The following steps must be followed when preparing to take sound level

measurements:

- i. The sound level meter manufacturer's specific instructions for preparation and use of the sound level meter shall be followed.
- ii. The sound level meter shall be calibrated periodically, in accordance with the manufacturer's instructions.
- iii. When outdoor measurements are taken, a windscreen shall be placed over the microphone of the sound level meter in accordance with the manufacturer's instructions.
- iv. The sound level meter shall be placed at an angle to the sound source, as specified by the manufacturer's instructions, and placed at least four (4) feet above the ground. The meter shall be placed so as not to be interfered with during the taking of sound measurements.
- v. Impulsive noise shall be measured with the sound level meter set for fast meter response; all other noise shall be measured with the sound level meter set for slow meter response.
- vi. All sound level measurements shall be made using an "A" weighted network of the sound level meter.

5. Determining Vibration Levels. Vibration levels shall be measured using the following procedures:

- a. All persons conducting vibration measurements to assess compliance with this section must be trained in the current techniques and principles of vibration measurement equipment and instrumentation.
- b. The instrument manufacturer's specific instructions for preparation and use of the instrument shall be followed.

6. Maximum Permissible Sound Levels.

- a. General Limitations. Except as enumerated in Subsection (8) of this section below, in the following zoning districts, the noise emitted from any source of stationary noise shall not exceed the following dB(A) limits at any point beyond one hundred twenty-five (125) feet outside of the real property boundary of the source of the stationary noise or beyond one hundred twenty-five (125) feet of the noise source on public property:

Sound Pressure Level		
Zone	Time	Decibel (dB(A) Level
Residential, Park District	10:00 p.m. to 6:59 a.m.	55 dB(A)
	7:00 a.m. to 9:59 p.m.	65 dB(A)
Commercial, Manufacturing	10:00 p.m. to 6:59 a.m.	60 dB(A)
	7:00 a.m. to 9:59 p.m.	70 dB(A)

- b. A reduction of five (5) dB(A) will apply to each of the limitations set forth

under Subsection (6)(a) for all impulse noises.

- c. When the ambient level is two (2) dB(A) or more above a noise limitation, a source may add no more than three (3) dB(A) to the ambient level.
- 7. Public Nuisance. Excessive noise and vibration, as defined in this section, is hereby deemed and declared to be a public nuisance and may be subject to summary abatement procedures, as provided in Section 7.03(3) and Section 18.04 of this Code. Such abatement shall be in addition to administrative proceedings, forfeitures, and penalties provided in this section.
- 8. Noise Disturbance Prohibited. No person shall make, continue, or cause to be made or continued, any noise disturbance. No person shall make, continue, or cause to be made or continued any noise which exceeds the noise limitations as set forth in this section.

Unamplified, noncommercial public speaking and public assembly activities conducted at conversational voice levels on any public property or public right-of-way shall be exempt from the operation of this article if such sound is not plainly audible beyond one hundred fifty (150) feet or does not infringe on the legitimate rights of others.

- a. Sound Reproduction Devices. No person shall operate, play, or permit the operation of or playing of any sound reproduction device at night that is plainly audible across a real property boundary. No person shall operate, play, or permit the operation of or playing of any sound reproduction device during the day that is plainly audible from one hundred fifty (150) feet beyond the real property line of the premises from which it emanates or from the source if located in a public street, public park, or other public place.
- b. Sound Amplification Device. No person shall use or operate any sound amplification device, loudspeaker, public address system, or similar device at night that is plainly audible across a real property boundary. No person shall use or operate any sound amplification device, loudspeaker, public address system, or similar device during the day that is plainly audible at a distance of one hundred fifty (150) feet.
- c. Loading and Unloading. No person shall load, unload, open, close, or otherwise handle boxes, crates, containers, building materials, garbage cans, or similar objects at night, in a manner that is plainly audible across a real property boundary.
- d. Domestic Power Tools. No person shall operate or permit the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, leaf blower, or similar device at night.
 - i. This subsection does not apply to snowblowers being used to remove snow that has fallen within the past twenty-four (24) hours.
- e. Tampering. No person shall remove or render inoperative any noise control device, element of design, or noise label of any product other than for the purpose of maintenance, repair, or replacement; no person shall modify or replace any noise control device to increase the sound pressure level of the device.
- f. Multifamily dwellings. No person shall make, continue, or cause to be made or continued any noise disturbance at night that is plainly audible in another

occupied space within any multifamily dwelling within the real property boundary.

- g. Places of Public Entertainment. No person shall operate, play or permit the operation or playing of any sound reproduction device, sound amplifier, or similar device, or any combination thereof, which produces, reproduces, or amplifies sound in any place of public entertainment at a sound level greater than one hundred (100) dB(A), as read by the slow response on a sound level meter at any point that is normally occupied by a customer, unless a conspicuous and legible sign which is at least two hundred twenty-five (225) square inches in area is placed outside such place, near each public entrance, stating: "WARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT."
- h. Train Warning Devices. No person owning or operating any railroad, or any of its agents and employees, shall cause the ringing of any bell or the blowing of any whistle or horn within the City limits on any locomotive under his/her control, except in the event of an emergency to avoid an impending accident or where otherwise permitted by state or federal law.
- i. Motor Vehicles.
 - i. Light Motor Vehicles. No person shall create or cause or permit noise levels from the operation of any motor vehicle of ten thousand (10,000) pounds' gross vehicle weight rating or less, including but not limited to passenger automobiles, light trucks or motorcycles, in excess of eighty (80) dB(A) at any location within the corporate limits of the City of West Allis. Measurement shall be made at a distance of fifteen (15) feet or more from the closest approach of the vehicle.
 - ii. Heavy Motor Vehicles. No person shall create or cause or permit noise levels from the operation of any motor vehicle of more than ten thousand (10,000) pounds' gross vehicle weight rating in excess of eighty-six (86) dB(A) in a zone with a speed limit of more than thirty-five (35) miles per hour. Measurement shall be made at a distance of fifty (50) feet from the closest approach of the vehicle in use.
- iii. Stationary Testing.
 - (1) Light Motor Vehicles. Motor vehicles of ten thousand (10,000) pounds' gross vehicle weight rating or less shall not exceed ninety-five (95) dB(A) at twenty (20) inches in a stationary run-up test. Such tests shall conform to the Society of Automotive Engineers Recommended Practices SAE J1169, a copy of which is on file in the office of the Health Commissioner.
 - (2) Heavy Motor Vehicles. Motor vehicles of more than ten thousand (10,000) pounds' gross vehicle weight rating shall not exceed eighty-eight (88) dB(A) measured at fifty (50) feet in a stationary run-up test. Stationary run-up tests shall conform to the Society of Automotive Engineers SAE Standard J366b, a copy of which is on file in the office of the

Health Commissioner.

j. Refuse Collection Vehicles and Compacting Equipment.

- i. No person shall collect refuse or permit the collection of refuse with a refuse collection truck at night.
- ii. No person shall operate or permit the operation of the compacting equipment mechanism of any motor vehicle which compacts refuse at night.

k. Vibration. No person shall operate or permit the operation of any device or combination of devices that creates vibration which exceeds the amounts listed in the table below, as measured at or across a real property boundary of the premises from which it emanates or from the source if located in a public street, public park, or other public place.

Event Frequency	L _v (VdB)
Frequent (more than 70 events per day)	72
Occasional	75
Infrequent (less than 30 events per day)	80

9. Exemptions. The provisions of this section shall not apply to the following:

- a. The emission of sound for the purpose of alerting persons to the existence of an emergency, or the emission of sound in the performance of emergency work, or the emission of sound brought about by emergency conditions where such sound is a byproduct of activities necessary for the preservation of public safety or the protection of the health, safety and welfare of any person or property.
- b. Warning devices necessary for the protection of public safety, the emission of any noise necessary for the protection of the health, safety, or welfare of person or property or to any noise which is either necessary or required by law.
- c. The operation of authorized emergency vehicles.
- d. Public works projects, at or adjacent to the construction site, as authorized by the United States government, the State of Wisconsin, and/or other political subdivisions.
- e. Limited Exemptions for Construction Noise. The provisions of this section shall not apply to equipment used in commercial construction activities when such equipment has sound control devices no less effective than those provided in the original equipment, a muffled exhaust, and are in compliance with the pertinent standards of the United States Environmental Protection Agency.
 - i. No person shall operate or permit the operation of any equipment used in construction work at night or on Sunday.
 - (1) Emergency Work. The hour limitations in this subsection shall

not apply to emergency work.

- f. Special events permitted under section 6.032 of this Code.
- g. Aircraft operations.
- h. Any fireworks display permitted under and operated in compliance with Wis. Stat. Section 167.10.
- i. Any bells or chimes of any building clock, public or private school building, church, synagogue, or other place of religious worship.

10. Notice of Violation.

- a. When the ambient noise or vibration level of a noise producing device equals or exceeds the decibel limits provided in this section, the Health Commissioner or his/her designee shall serve a notice, by first-class mail, on the owner and occupant of the premises that is creating or maintaining the noise. The notice shall be dated, contain a description of the violation, require the person to remove or abate the condition described in the order within the time specified therein, and advise such person of the right to apply for a variance permit and the office or person to whom the variance permit application shall be filed.
- b. For violations of Subsection (8)(a) through (g), officers of the West Allis Police Department may issue a citation without prior notice of the violation.

11. Variance.

- a. Application for Variance Permit. The owner or occupant of the premises may seek a variance from the regulations under this section. A new or renewal application for a variance shall be filed with the clerk along with payment of the fee listed on the Fee Schedule. The proper filing of an application shall toll all penalties provided in this section for any such violation until a final decision has been issued on the merits of such application. Such application shall specify the grounds upon which the variance permit is sought and the date by which the source of any excess noise or vibration for which the variance is sought shall be brought into compliance with this section.
- b. Public Hearing. Upon receiving an application under this subsection, the clerk shall schedule the matter for a public hearing before the common council. The clerk shall notify the variance applicant by mail or email of the hearing at least 10 days before the hearing. The clerk shall notify any property owners within 200 feet of the subject property by mail or email at least 10 days before the hearing.
- c. Procedure at Hearing
 - i. The mayor or a designee shall describe the variance sought. Then, the variance applicant may provide comments to the council.
 - ii. After the variance applicant has an opportunity to comment, any member of the public may provide comments to the council.
 - iii. Any city staff may provide comments to the common council in writing prior to the public hearing, verbally during the beginning of the hearing as the mayor's designee, or verbally during the public comment portion of the hearing.
 - iv. (Reserved).

- v. The amount of time for comments by the applicant and the public shall be set by the mayor prior to the beginning of the hearing.
 - vi. (Reserved).
 - vii. (Reserved)
- d. Recommendation to the Common Council.
 - i. After the close of the hearing, the ~~license & health committee~~Public Safety Committee shall recommend to the council whether a variance permit should be issued and, if issued, impose any conditions necessary to protect the public health, safety and welfare, including a schedule for achieving compliance with any noise and vibration limitations and an expiration date for the permit. In deciding whether to recommend granting the permit, the ~~e~~Committee shall balance the hardship to the applicant, the community, and other persons; the impact on the health, safety, and welfare of the community; the effect on the property in the area; and any other impact that the granting of the variance may have.
- e. Common Council Determination.
 - i. (Reserved).
 - ii. (Reserved).
 - iii. The Common Council shall determine whether to adopt the recommendation of the Committee or make such modification as is deemed appropriate.
- f. Revocation. Noncompliance with any conditions imposed on the variance shall be grounds to revoke the permit using the same procedure to revoke a license under WAMC 9.51.
- g. Extension and Modification. Application for extension of time limits or modification of other conditions specified in the variance permit shall be treated like an application for an initial variance.
- 12. Penalties. Any person violating any provision of this section shall, upon conviction, be subject to a forfeiture of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each offense, together with 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 Section 800.095(1)(b)1 of the Wisconsin Statutes. Each day that any violation continues shall be considered a separate offense.
- 13. Severability. If any provision, clause, sentence, paragraph, or phrase of this section or the application thereof to any person or circumstances is held, for any reason, by a court of competent jurisdiction, to be invalid or unconstitutional, such decision shall not affect the validity of other provisions or applications of the provisions of this section which can be given effect without the invalid provision or application, and to this end, the provisions of this section are declared to be severable.

~~{Ord. 6225, 4-11-1996; Ord. O-2006-0030, 6-6-2006; Ord. O-2013-0047, 11-19-2013}~~

SECTION 13: **AMENDMENT** “7.12 Animals, Fowls And Birds” of the City Of West Allis Municipal Code is hereby *amended* as follows:

A M E N D M E N T

7.12 Animals, Fowls And Birds

1. Keeping of Certain Animals Prohibited. [**Ord. 6158, 4/18/1995; Ord. O-2015-0014, 2/17/2015**]

a. Definitions.

- i. Wild Animal. Those species of animal that are not typically domesticated by humans and usually live in nature. Wild animals include, but are not limited to, animals belonging to any or all of the following orders and families.

(1) Class Mammalia.

(A) Order Chiroptera (bats).

(B) Order Artiodactyla (e.g., hippopotamuses, giraffes, camels, deer, cattle, swine, sheep, goats, alpaca, and llama).

(C) Order Carnivora.

(a) Family Felidae (e.g., lions, tigers, cougars, leopards, ocelots, servals), but not domestic cats.

(b) Family Canidae (e.g., wolves, wolf-dog hybrids, coyotes, foxes, jackals), but not domestic dogs.

(c) Family Ursidae (e.g., bears).

(d) Family Mustelidae (e.g., weasels, skunks, martens, minks, wild ferrets), but not the domestic ferret species, *Mustela putorius furo*.

(e) Family Procyonidae (e.g., raccoons, coatis).

(f) Family Hyaenidae (e.g., hyenas).

(g) Family Viverridae (e.g., civets, genets).

(h) Family Mephitidae (e.g., skunks).

(i) Family Herpestidae (e.g., mongooses).

(D) Order Edentata (e.g., anteaters, armadillos, sloths).

(E) Order Marsupialia (e.g., opossums, kangaroos, wallabies), except sugar gliders.

(F) Order Perissodactyla (e.g., rhinoceroses, tapirs, horses, donkeys).

(G) Order Primates (e.g., lemurs, monkeys, chimpanzees, gorillas), except humans.

(H) Order Proboscidea (e.g., elephants).

(I) Order Rodentia (e.g., squirrels, beavers, porcupines, prairie dogs), but not guinea pigs, rats, mice, gerbils

and hamsters.

(2) Class Reptilia.

(A) Order Squamata.

- (a) Family Helodermatidae (e.g., Gila Monsters and Mexican beaded lizards).
- (b) Family Varanidae (e.g., monitor lizard).
- (c) Family Elapidae (e.g., coral snakes, cobras, mambas).
- (d) Family Viperidae (e.g., copperheads, cottonmouths, rattlesnakes).
- (e) Subfamily Atractaspidinae (e.g., burrowing asps).

(B) Order Crocodilia (e.g., crocodiles, alligators, caimans, gavials).

(C) Any constricting snake greater than four (4) feet in length or twenty (20) pounds in weight.

(D) Any venomous snake.

(3) Class Aves.

(A) Order Falconiformes (e.g., eagles, hawks, vultures).

(B) Order Rheiformes (e.g., rheas).

(C) Order Struthioniformes (e.g., ostriches).

(D) Order Casuariiformes (e.g., cassowaries and emus).

(E) Order Strigiformes (e.g., owls).

(F) Order Galliformes (e.g., turkeys, chickens).

(G) Order Anseriformes (e.g., ducks, geese).

(4) Class Arachnida.

(A) Order Scorpiones.

(B) Any of the following members of Order Araneae, Family Therididae:

- (a) Argentina red widow spider: *Latrodectus coralinus*.
- (b) Brown widow spider: *Latrodectus geometricus*.
- (c) Red-black widow: *Latrodectus hasselti*.
- (d) Red widow spider: *Latrodectus bishop*.
- (e) Black widow spider: *Latrodectus mactans*.
- (f) Western widow: *Latrodectus Hesperus*.

(C) Brown recluse spider: *Loxosceles reclusa*.

(5) Class Chilopoda.

(A) Any of the following members of Order Scolopendromorpha, Family Scolopendridae:

- (a) Amazon giant banded centipede: *Scolopendra giganea*.
- (b) Arizona Tiger Centipede: *Scolopendra viridis*.

(c) Florida keys centipede: Scolopendra alternans.

(B) Any other venomous chilopoda that is not native to Wisconsin.

(6) Any species of the class Insecta that is not native to Wisconsin.

(7) Any federal or state endangered or threatened species.

- ii. Person. Any person, firm, partnership, association, corporation, company, or organization of any kind.
 - iii. Possess. To own, possess, keep, harbor, or have custody or control of an animal.
- b. Intent. It is the intent of the City of West Allis to protect the public against health and safety risks that wild animals pose to the community. By their very nature, wild animals are potentially dangerous and do not adjust well to a captive environment.
- c. Possession of Wild Animals. No person shall possess a wild animal.
- i. Exceptions. This subsection shall not apply to institutions accredited by the American Zoo and Aquarium Association, licensed veterinarians, licensed veterinary hospitals or clinics, licensed circuses, licensed or accredited research or medical institutions, licensed or accredited educational institutions, an animal certified as having been specially trained to assist an individual with a disability, any government-owned or -operated facility, volunteers working on behalf of a government-owned or -operated facility, a person with a valid federal permit to possess a particular wild animal, or a person temporarily transporting a wild animal through the City if the transit time is not more than twenty-four (24) hours and the wild animal is at all times maintained within a confinement sufficient to prevent the wild animal from escaping.
 - ii. Registration. Any person that meets the exceptions listed in Subsection (1)(c) 1 shall register each wild animal that he/she possesses and is kept within the City of West Allis with the Health Commissioner.
 - iii. Escape. If a wild animal escapes the possession of a person, the person shall notify the West Allis Police Department immediately of the following information: the type of wild animal; a description of the wild animal, including size, color, and name of the animal; the nature of how the wild animal escaped; the name and address of the wild animal's owner or custodian; and the location and time where the wild animal was last observed. If the wild animal returns to the possession of a person after notification to the West Allis Police Department, the person shall notify the West Allis Police Department immediately that the wild animal has returned to the person's possession.
- (1) Costs. Upon the escape of a wild animal, any person possessing such wild animal shall be responsible for the costs of the capture or destruction of the wild animal and any City

response to the report of escape.

- d. Keeping of Ferrets. All domestic ferrets kept or harbored in the City of West Allis shall be vaccinated against rabies in compliance with the Compendium of Animal Rabies Control of the National Association of State Public Health Veterinarians. Upon request by a law enforcement officer or employee of the West Allis Health Department, the person owning or keeping the ferret shall demonstrate proof of vaccination.

2. Keeping of Rabbits. **[Ord. 6158, 4/18/95; Ord. O-2015-0014, 2/17/2015]**

- a. Rabbits shall be kept in compliance with the provisions of this subsection. The keeping of more than two (2) adult rabbits in any outside or yard area of any dwelling or any building structure accessory thereto is prohibited. For purposes of this ordinance rabbits shall not be considered adults until they have reached the age of five (5) months.
- b. The Health Commissioner may grant exceptions to the number of rabbits allowed in Subsection (2)(a) on a case-by-case basis upon written application. The Health Commissioner's decision to grant or deny an exception shall be based upon the number of rabbits to be kept; the reason(s) for the request; an informal survey of neighborhood residents; and any other factors the Health Commissioner deems relevant.

- c. Persons to whom an exception is granted are required to obtain a rabbit permit from the Health Department. The cost shall be listed in the Fee Schedule, and the permit shall be for one (1) calendar year. Permits may be revoked or denied renewal for cause. The revocation procedure shall be the same as set forth in Section 9.51 of this Code. Any permittee or applicant that requires a reinspection during the licensing year due to the Health Department finding a

violation of this section, or state statute or state regulation relating to rabbit health or sanitation, or finding a health nuisance, as defined in Section 7.03 of the Revised Municipal Code, shall pay the fee listed in the Fee Schedule.

- d. Appeals of the decision of the Health Commissioner shall be submitted in writing to the ~~License and Health~~Public Safety Committee of the Common Council within thirty (30) days of notification of the Health Commissioner's decision. The ~~License and Health~~Public Safety Committee shall schedule a hearing on the matter within thirty (30) days of receiving the appeal. The hearing shall be conducted as set forth in Wis. Stat. Section 68.11. The ~~License and Health~~Public Safety Committee shall issue a written decision within twenty (20) days of completion of the hearing, and a copy of the decision shall be mailed to the appellant. The ~~License and Health~~Public Safety Committee's decision shall be the final determination.

3. Cruelty to Animals Prohibited.

- a. Cruelty Prohibited. No person shall cruelly beat, frighten, overburden or abuse any animal or bird, or use any device or chemical substance, except in connection with efforts to control species determined by the Health Commissioner to be a public health hazard or nuisance, if pain, suffering or death may be caused. Reasonable force, however, may be used to drive off vicious or trespassing animals.

- b. Improper Transport, Abandonment Prohibited. No person shall carry or transport in any vehicle or over any street, alley, sidewalk or public ground in the City any animal or bird so tied and placed as to inflict torture thereto, nor shall animals be abandoned for any reason within the City.
 - c. Food and Water. No person owning or having custody of any animal or bird shall neglect or fail to provide it with necessary nourishing food at least once daily and provide a constant supply of clean water to sustain the animal or bird in good health.
 - d. Proper Shelter Required. No person shall fail to provide any animal or bird in his charge with shelter from inclement weather to insure the protection and comfort of the animal or bird. When sunlight is likely to cause overheating or discomfort to any animal or bird, shade shall be provided by natural or artificial means to allow protection from the direct rays of the sun. Dogs and cats kept outdoors for more than one hour at a time must be provided with moisture-proof and windproof shelter of a size which allows the animal to turn freely and to easily sit, stand and lie in a normal position and to keep the animal clean, dry and comfortable. Automobiles or garages shall not be used as animal shelters, except that during winter months a dog house may be placed inside a garage for shelter. Whenever the outdoor temperature is below 40° Fahrenheit, clean bedding material shall be provided in such shelters for insulation and to retain the body heat of the animal.
 - e. Leashes. Chains, ropes or leashes shall be so placed or attached that they cannot be entangled with another animal or object, and shall be of sufficient length in proportion to the size of the animal to allow the animal proper exercise and convenient access to food, water and shelter. Such leash shall be located so as not to allow such animal to trespass on public property or private property belonging to others nor in such a manner as to cause harm or danger to persons or other animals.
 - f. Enforcement. This section and sections 7.121 (Dogs and Dog Licenses), 7.122 (Cats and Cat Licenses), 7.123 (Animal Fancier Permit), and 9.61 (Animal Sales and Services License) may be enforced by the Health Commissioner, law enforcement (police) officers, or the Animal Control Officers of the Milwaukee Area Animal Domestic Control Corporation. **[Ord. O-2003-0055, 8/5/2003]**
4. Waste Products and Fecal Accumulations. The owner or person in charge of any animal shall not permit solid fecal matter of such animal to be deposited on any street, alley or other public or private property, unless such fecal matter is immediately removed therefrom by said owner or person in charge. At all times when an animal is exercised away from the premises of the owner or person in charge, that individual shall have available for use, and prominently displayed, an appropriate device for removing, containing and transporting feces which may be deposited, until such feces can be properly disposed of by wrapping and placing them into an appropriate refuse container. The owner or person in charge of any private property shall not permit solid fecal matter of animals to accumulate on such property, including the space between the street or curb and the sidewalk adjacent to such property, for a period in excess of

twenty-four (24) hours.

5. Animal Bites.

- a. Whenever a dog, cat or other domesticated animal, or wild animal held captive, bites a person within the City of West Allis, and such bite penetrates or lacerates the skin of the person bitten, such dog, cat, other domesticated animal or wild animal held captive, shall be restricted to the premises of its owner, if within the City, or to a veterinarian's care within Milwaukee County, as a suspect rabies case for a period of ten (10) days.
- b. If during the restricted time, said animal shows signs of illness, lameness or paralysis, the owner or veterinarian shall immediately report such condition to the West Allis Health Department.
- c. During the restricted period, said animal shall not be removed from the restricted premises except to be placed under a veterinarian's care. No such animal shall be placed back into community living before it has been inspected and released by the West Allis Health Department. If the animal has spent the ten (10) day confinement period in the care of a veterinarian, upon its release, a veterinarian's report regarding the disposition of said dog shall be made to the West Allis Health Department.
- d. In the case of an animal bite, the Health Commissioner may issue such other rules and orders which, in his judgment, are necessary to safeguard the health and welfare of any person suffering an animal bite.

6. Elimination of Pigeon Harborages.

- a. Homeless pigeon harborages are hereby declared to constitute a public nuisance.
- b. Homeless pigeon harborages shall mean any place where pigeons, which do not wear any type of ownership identification tag or band, or are not confined in an escape proof cage or pen, are permitted to live, gather or nest.
- c. It shall be the duty of the owner of any premises in the City, or his agent, to make such premises reasonably pigeon proof to prevent such premises from being a homeless pigeon harorage.
- d. In all cases where the Health Commissioner finds a homeless pigeon harorage existing, he shall serve upon the owner of such premises, or his agent, an order requiring such owner or agent, within ten (10) days of receipt of said order, to eliminate such harorage and to take whatever steps are deemed necessary by the Health Commissioner to prevent its recurrence, including the covering of openings, eaves or other places in any building with appropriate wire screenings or other suitable material to prevent pigeons from entering into such building or gathering or nesting thereon. In the event such owner or agent shall neglect or refuse to comply with such order to the satisfaction of the Health Commissioner, such owner or agent shall be subject to the penalties provided for violation of this section; and, in addition, the Health Commissioner may cause the elimination work to be done and the cost thereof shall be assessed against the real estate involved as a special tax and collected as are other special taxes.

7. Pigeon Keeping. **[Ord. 6171, 6/20/1995]**

a. Definitions. As used in this ordinance, the following terms shall have the following meanings, unless the context clearly indicates a different meaning is intended:

- i. "Pigeon" means a member of the family Columbidae, and shall include "Racing Pigeons," "Fancy Pigeons" and "Sporting Pigeons," as defined in this section.
- ii. "Racing Pigeon" means a pigeon which, through selective breeding, has developed the distinctive characteristics as to enable it to return to its home after having been released a considerable distance therefrom, and which is accepted as such by the American Racing Pigeon Union, Inc., or the International Federation of Racing Pigeon Fanciers. Also, commonly known as Racing Homer, Homing Pigeon or Carrier Pigeon.
- iii. "Fancy Pigeon" means a pigeon which, through selective breeding, has developed certain distinctive physical and performing characteristics as to be clearly identified and accepted as such by the National Pigeon Association, the American Pigeon Club or the Rare Breeds Pigeon Club. Examples: Fantails, Pouters, Trumpeters.
- iv. "Sporting Pigeon" means a pigeon which, through selective breeding, has developed the ability to fly in a distinctive manner, such as aerial acrobatics or endurance flying. Examples: Rollers, Tipplers.
- v. "Loft" means a structure for the keeping or housing of pigeons which is located inside a house or garage.
- vi. "Mature Pigeon" means a pigeon aged six (6) months or older.
- vii. "Owner" means the person who keeps or has the care, custody or control of a pigeon or pigeons.

b. Conditions for Keeping of Pigeons. The keeping, breeding, maintenance and flying of pigeons shall be permitted, on the following conditions:

- i. The loft shall be of such sufficient size and design and constructed of such material, that it can be maintained in a clean and sanitary condition.
- ii. There shall be at least one (1) square foot of floor space in any loft for each mature pigeon kept therein.
- iii. The construction and location of the loft shall not conflict with the requirements of any Building Code or Zoning Code of the City.
- iv. All feed for said pigeons shall be stored in such containers as to protect against intrusion by rodents and other vermin.
- v. The loft shall be maintained in a sanitary condition and in compliance with all applicable health regulations of the City.
- vi. All pigeons shall be confined to the loft, except for limited periods necessary for exercise, training and competition; and, at no time shall pigeons be allowed to perch or linger on the buildings or property of others.
- vii. All pigeons shall be fed within the confines of the loft.

- viii. No one shall release pigeons to fly for exercise, training or competition, except in compliance with the following rules:
 - (1) The owner of the pigeons must be a member in good standing of an organized pigeon club, such as the American Racing Pigeon Union, Inc., the International Federation of Racing Pigeon Fanciers, the National Pigeon Association, the American Tippler Society, the International Roller Association, the Rare Breeds Pigeon Club, or a local club which has rules that will help preserve the peace and tranquility of the neighborhood.
 - (2) Pigeons will not be released for flying within four (4) hours of feeding.
 - ix. No owner may have more than twenty-five (25) pigeons in a residentially zoned area.
 - x. No person may own any type of pigeon other than those defined in sec. 7.12(7)(a).
 - c. Pigeon Permit. Any person owning a pigeon in the City of West Allis shall first obtain a permit. The Health Commissioner may issue an original or renewal pigeon permit upon submission of a completed application, payment of a fee listed in the Fee Schedule and inspection and approval of the premises for which the permit is to be issued. As part of the inspection process, the Health Commissioner shall conduct an informal survey of neighborhood residents to determine their concerns, if any, regarding pigeons being kept in the area. All permits shall expire on March 31, following the date of issuance, unless sooner revoked for cause. permit may be issued for any premises upon which three (3) or more dwelling units are located. Any permittee or applicant that requires a reinspection during the licensing year due to the Health Department finding a violation of this section, or state statute or state regulation relating to bird health or sanitation, or finding a health nuisance, as defined in Section 7.03 of the Revised Municipal Code, shall pay a reinspection fee listed in the Fee Schedule.
 - d. Right of Entry for Inspection. The Health Commissioner or his designee may enter and inspect any property or loft at any reasonable time for the purpose of investigating either an actual or suspected violation or to ascertain compliance or noncompliance with this ordinance.
 - e. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of this ordinance.
- 8. Feeding of Wild Animals. **[Ord. O-2010-0017, 5/18/2010; Ord. O-2011-0080, 2/21/2012]**
 - a. Definitions.
 - i. As used in this section, "feeding" means to place any material to feed or attract animals in or from the wild.
 - ii. As used in this section, "wild animal" is defined as any

nondomesticated animal that lives in nature, including, but not limited to squirrels, raccoons, and deer.

- b. The feeding of wild animals is prohibited in the City of West Allis.
- c. This subsection shall not apply to wild birds. Feeding of wild birds shall be done in a manner to ensure that other wild animals are unable to access the bird feed. Premises upon which bird feed is provided shall be cleaned at least once during each twenty-four-hour period to remove food material that has fallen to the ground. The Health Commissioner or his/her designee may order a property owner/occupant to cease the feeding of wild birds if an inspection reveals that evidence of rat activity is present on the property where bird feeding is occurring or on an adjacent property within three hundred (300) feet of the property line where rat activity is present. Such order shall be mailed or served in person to the property owner(s) of the affected properties and posted in a conspicuous place on the affected properties. Any person who continues to feed wild birds after receiving such an order shall be subject to the penalties in Section 7.16. Any person affected by the order may petition the Health Commissioner to lift the order if sixty (60) days have passed since the issuance of the order and the person can demonstrate to the Health Commissioner or his/her designee that no rat activity exists on the property. **[Ord. O-2014-0020, 4/1/2014]**
- d. This subsection shall not apply to feeding a cat by a person who relinquished possession of that cat in accordance with WAMC 7.122(1)(a), but only if the feeding takes place under direct observation of the person feeding the cat between the hours of sunrise and sunset.

9. Dogs Prohibited at Rogers Playground. **[Ord. O-2011-0015; 5/17/2011]**

- a. No person shall allow any dog to enter or remain at the Rogers Playground, located at South 56th Street and West Rogers Street in the City of West Allis.

SECTION 14: **AMENDMENT** “7.159 Appeal By Operator” of the City Of West Allis Municipal Code is hereby *amended* as follows:

A M E N D M E N T

7.159 Appeal By Operator

Any establishment operator aggrieved by an order of the Department may make appeal to the ~~License and Health~~**Public Safety** Committee of the Common Council within thirty (30) days after issuance of the order. A written request for appeal, briefly stating the basis upon which it is requested, shall be submitted to the Health Commissioner, who shall notify the Committee of the appeal and schedule a hearing at which the operator has the option of appearing. The Health Commissioner, or a representative, shall attend the hearing but shall have no vote. The findings of the Committee to reaffirm, set aside or modify the order shall be conveyed to the

appellant by the Health Commissioner, in writing, within fifteen (15) working days of the hearing.

SECTION 15: **AMENDMENT** “8.13 Permits” of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

8.13 Permits

1. Permit Required. No person shall operate or utilize a weight and measuring device or system, including a pricing system and timing device, or any accessories relating thereto, which are used commercially within the City in determining the weight, measure, or count of commodities or items sold or purchased or offered or exposed for sale on the basis of weight, measure, or count without first obtaining a Weighing/Measuring Equipment Operation Permit from the West Allis Health Commissioner. Each device requires its own permit. Only a person who complies with the requirements of this section shall be entitled to receive and retain a permit. Permits shall be issued only in the name of the operator of the weight and measuring devices and shall not be transferable.
2. Permit Application. A written application for the permit(s) required by this section shall be filed with the Health Commissioner upon forms provided by the Health Commissioner. Initial permit fees shall be paid at the time the application is filed. Renewal permit fees shall be paid prior to the expiration of a permit, and no person shall operate any weights and measuring device until all renewal fees have been paid. Any renewal permit fee paid on July 1 or later shall be subject to a late fee as listed in the Fee Schedule . A permittee or applicant shall notify the Health Commissioner in writing if any information listed in the application form has changed within ten (10) days of such change. **[Ord. O-2017-0018, 4/18/2017]**
 - a. All matters submitted in writing to the City by any applicant or permittee pertaining to any permit issued under this section shall be true.
3. Permit Expiration. All permits shall expire on June 30.
4. Permit Fees. All permittees shall pay an annual fee for each weights and measuring device as listed in the Fee Schedule.
5. Conditions of Permit.
 - a. Every applicant procuring a permit thereby consents to the entry of the Health Department, police or other duly authorized representatives of the City at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of City ordinances or state laws.
 - b. The permittee and/or employees and agents of the permittee shall cooperate with the Health Department and police investigations. "Cooperate," as used in this subsection, shall mean calling the police when a disturbance of the peace or other violation occurs on the permitted premises and providing complete

and truthful responses to police and Health Department inquiries. A permittee shall also appear before the ~~License and Health~~Public Safety Committee when requested to do so and shall otherwise follow the lawful directives of the ~~License and Health~~Public Safety Committee.

- c. The permittee shall comply with all other provisions of this section and all other ordinances of the City of West Allis and the laws of the State of Wisconsin.

~~{Ord. O-2015-0021, 4/7/2015}~~

SECTION 16: **AMENDMENT** “8.14 Suspension, Revocation, And Nonrenewal Of Permit” of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

8.14 Suspension, Revocation, And Nonrenewal Of Permit

1. Revocation of Permit.

- a. Any permit issued under this section may be suspended, revoked, or nonrenewed for cause by the Common Council after notice to the permittee and a hearing. Permits may be suspended, revoked, or not renewed for the following causes:
 - i. The making of any material false statement in any application for a permit.
 - ii. The violation of any of the applicable provisions of Chapter 8 of the West Allis Revised Municipal Code.
 - iii. The violation of any of the applicable provisions of Wisconsin Statutes Chapter 98, ATCP Chapters 90, 91, and 92 of the Wisconsin Administrative Code, or the National Institute of Standards and Technology Handbook, as related to weights and measures.
 - iv. The failure to pay any of the items listed in Section 1.08(9)(a) and (b) of this Code.
- b. Commencement of Proceedings. Suspension, revocation, or nonrenewal proceedings may be instituted by the ~~License and Health~~Public Safety Committee of the Common Council upon its own motion or upon sworn written charges made and filed with the City Clerk by the Health Commissioner.
- c. Procedure.
 - i. Upon receipt of a sworn complaint, either from the Health Commissioner or upon directive of the Committee, the ~~License and Health~~Public Safety Committee shall direct the City Attorney to prepare a summons and have the summons and complaint served upon the permittee pursuant to § 801.11 of the Wisconsin Statutes.

- ii. The summons and complaint shall contain the date and time for appearance by the permittee; a statement of the Common Council's intention to suspend, revoke, or not renew the permit in the event any of the allegations are found to be true; a statement of the reasons for suspension, revocation, or nonrenewal; notification to the permittee of an opportunity to be heard, respond to and challenge the reasons for suspension, revocation, or nonrenewal and to present and cross examine witnesses under oath; and notification to the permittee of the right to be represented by counsel of the permittee's choice and at the permittee's expense.
- iii. If the permittee fails to appear on the date and time designated in the summons, the ~~License and Health~~Public Safety Committee may enter a default judgment and take the allegations of the complaint to be true. The ~~License and Health~~Public Safety Committee shall then deliberate on what sanction, if any, to impose.
- iv. If the permittee appears before the ~~License and Health~~Public Safety Committee at the date and time designated in the summons and denies the material charges contained in the complaint, an evidentiary hearing shall be scheduled. If the permittee does not appear or appears but does not deny the material charges contained in the complaint, the complaint may be taken as true and the Committee shall hear the arguments of the complainant and, if applicable, the permittee in connection with whether to nonrenew, revoke, or suspend the permit and the length of the suspension.
- v. If the matter proceeds to hearing before the Committee, the following procedures shall apply:
 - (1) The complainant shall first present evidence in support of the complaint.
 - (2) After the complainant rests, the permittee may present evidence in opposition to the charges.
 - (3) The complainant and permittee may subpoena and present witnesses. All witnesses shall testify under oath or affirmation and shall be subject to cross examination.
 - (4) The complainant and permittee shall each be limited to one (1) hour for testimony unless the Chair, subject to approval of the Committee, extends the time to assure a full and fair presentation.
 - (5) Questions by Committee members or the advising City Attorney, and answers to such questions, shall not be counted against the time limitations.
 - (6) At the close of testimony, the complainant and permittee shall be given a reasonable time to make arguments upon the evidence produced at hearing.

d. Miscellaneous Procedural Matters.

- i. At all stages of the proceedings, the permittee shall be entitled to

- appear in person or by an attorney at his or her own expense.
- ii. If the complaint is in the name of the Committee or is brought by a City official in his/her official capacity, the complainant shall be represented by a prosecuting City Attorney.
 - iii. The Committee shall be, when required, advised by an advisory City Attorney who shall not be the same individual as the prosecuting City Attorney.
 - iv. The Chair of the ~~License and Health~~Public Safety Committee shall be the presiding officer. The Chair shall direct that oaths and affirmations be administered and subpoenas issued upon request of either side. The Chair shall ensure that an orderly hearing is conducted in accordance with the provisions of this section. The Chair shall rule on objections to the admissibility of evidence. Any ruling of the Chair shall be final unless appealed to the Committee and a majority vote of those members present and voting reverses such ruling.
 - v. An audio recording or stenographic record shall be made of all proceedings at the hearing. Any interested party may obtain a copy of the recording or transcript at his or her own expense.
- e. Findings and Recommendations.
- i. After the close of the hearing, the Committee shall deliberate and reach a decision. The Committee shall prepare findings on factual matters, conclusions of law, and a recommendation on what action, if any, should be taken with regard to the permit(s) at issue. The report shall be filed with the City Clerk, with a copy to the permittee and complainant. The findings and recommendations shall be distributed to each member of the Common Council.
 - ii. The permittee and complainant may file a written statement or response to the findings and recommendations, including objections, exceptions, and arguments of fact and law. A written statement must be filed with the City Clerk before the close of business on a day that is at least three (3) working days prior to the date set for determination by the Common Council. Copies of written statements shall be provided to each member of the Common Council at least twenty-four (24) hours before any vote on the matter is scheduled before the Common Council.
- f. Common Council Action.
- i. Not less than five (5) working days prior to the matter being scheduled before the Common Council, the City Clerk shall notify the permittee and complainant by United States first-class mail, postage prepaid, sent to the last known address, that the Common Council will convene to determine the matter.
 - ii. Unless an Alderperson states that he/she has not read the findings and recommendations and written statements, if any, the matter shall proceed to debate amongst members of the Common Council. Neither the complainant nor the permittee shall be permitted to make oral

arguments.

- iii. The Common Council shall determine by a majority vote of those in attendance and voting whether to adopt the recommendation of the Committee or make such modification as is deemed appropriate. Such vote shall be a roll call vote. Upon an affirmative vote suspending, revoking, or not renewing the permit(s), the Clerk shall give notice to the person whose permit is affected. If the Common Council finds the complaint to be untrue or unsupported by sufficient evidence, the proceedings shall be dismissed without cost to the accused.
- g. Surrender of Permit.
 - i. A permittee may, at any time during the permit year, surrender a permit to the Health Department, along with a statement, in writing, that the permittee no longer wishes to conduct permitted activity at the permitted premises.
 - ii. Except as set forth in Subsection (g)(3) below, the surrender shall operate to extinguish any right the permittee had to the permit or to conduct permitted activity at the premises listed in the permit.
 - iii. If a summons and complaint has been issued against the permittee seeking suspension, revocation, or nonrenewal of the permit, the surrender of the permit shall be deemed a request and the matter shall be referred to the ~~License and Health~~Public Safety Committee. The Committee may approve the request or deny the request and proceed to hearing.
 - iv. Any request to have a surrendered permit returned shall be treated as a new permit application and the requestor must fill out the required applications and pay the required fees. The request shall thereafter be treated as all other new permit applications.
- h. Prohibition on Future Issuance. If a permit is revoked or not renewed due to action by the ~~License and Health~~Public Safety Committee, at least two (2) years shall elapse before another permit may be given to the same permittee.

[Ord. O-2015-0021, 4/7/2015]

SECTION 17: **AMENDMENT** “9.47 General Provisions” of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

9.47 General Provisions

1. Vicarious Liability. A licensee is liable for any violations of any provision of this chapter committed in the course of conducting the licensed activity by the licensee's employee, agent, or contractor. Each licensee has the affirmative duty to see that every regulation is obeyed by employees, agents, and contractors. The licensee may be

convicted for a violation committed by an employee, agent, or contractor only in a civil forfeiture action. None of the following are defenses to the liability imposed under this section:

- a. The licensee was deceived about or ignorant of the violation.
 - b. The licensee was absent at the time of the violation.
 - c. The licensee had prohibited employees, agents, and contractors from doing the act that resulted in a violation.
2. State Law Applicable. Any duty or authority assigned by state law to a City body, officer, or department shall be in effect unless explicitly declined or rejected in this code. Nothing in this chapter may be construed to implicitly preclude, decline, or reject any authority or duty in state law.
 3. License List. The table below indicates by type of license which city officer issues the license, whether the issuing officer may grant the license without council approval, whether a record check is required, the term of the license, and which city departments receive notification of an application for that license.

Type	Issuing Officer	Issuing Officer May Grant (a)	Record Check	Expires	Departments Notified							
					BI NS	Clerk	Engineer	Fire	Health	Planning	Police	Public Works
Adult-Oriented Entertainment	Clerk	No	Yes	June 30	X	X		X	X		X	
Alcohol Beverages												
Class "B" Beer (provisional)	Clerk	Yes(b)		60 days	X	X		X	X		X	
Class "B" Beer (regular)	Clerk	No		June 30	X	X		X	X		X	

Class "B" Beer (tempora ry)	Clerk	Yes	No	As state d on licen se		X					X	
"Class B" Liquor (provisio nal)	Clerk	Yes(b)		60 days	X	X		X	X		X	
"Class B" Liquor (regular)	Clerk	No		June 30	X	X		X	X		X	
"Class B" Wine (tempora ry)	Clerk	Yes	No	As state d on licen se		X					X	
"Class C" Wine (provisio nal)	Clerk	Yes(b)		60 days	X	X		X	X		X	
"Class C" Wine (regular)	Clerk	No		June 30	X	X		X	X		X	
Extensio n of Premises	Clerk	No		As state d on licen se	X	X			X	X	X	
Operator 's (provisio nal)	Clerk	Yes(c)		60 days		X					X	
				Ever								

[illegible]

nment Device Distribu tor	Clerk	Yes		June 30		X					X	
Escort Service	Clerk	No	Yes	June 30		X					X	
Fitness Center	Health Commi ssioner	Yes		June 30					X			
Hotel or Motel	Health Commi ssioner	Yes		June 30(e)					X			
Junk Picker	Clerk	Yes		4 mont hs		X					X	X
Lodgin g House	Health Commi ssioner	Yes		June 30	X				X			
Manufa ctured and Mobile Home Commu nity	Clerk	Yes		1 Year	X	X					X	
Nicotine Product s Retailer	Clerk	Yes		June 30	X	X			X		X	
Pawnbr oker	Clerk	No		Dec. 31		X					X	
Public Entertai nment												
Regular	Clerk	No	Yes	June 30	X	X		X	X	X	X	
Tempora ry	Clerk	No	Yes (d)	As state d on							X	

				licen se								
Public Swimmi ng Pool	Health Commi ssioner	Yes		June 30(e)					X			
Recreat ional and Educati onal Camp	Health Commi ssioner	Yes		June 30(e)					X			
Retail Food Establis hment	Health Commi ssioner	Yes		June 30(e)					X			
Second hand Article Dealer	Clerk	No		Dec. 31		X					X	
Second hand Jewelry Dealer	Clerk	No		Dec. 31		X					X	
Tattoo	Health Commi ssioner	Yes		June 30					X			
Tourist Roomin g House	Health Commi ssioner	Yes		June 30(e)	X				X			
Transie nt Mercha nt	Clerk	Yes		4 mont hs		X			X		X	

- a. The issuing officer may only grant a license to an applicant who is clearly qualified.
- b. The issuing officer shall grant a provisional retail license under [Wis. Stat. 125.185](#) only to applicants whose applications are pending before the common council and all the following applies:

- i. The ~~License & Health~~Public Safety Committee has recommended granting the license.
 - ii. The applicant has obtained all required licenses and permits.
 - iii. The applicant has passed all required inspections.
- c. The issuing officer shall grant a provisional operator's license to any applicant who meets the qualifications under [Wis. Stat. 125.17\(5\)](#).
- d. No record check is required for a temporary public entertainment license if the applicant already holds a Class "B" license.
- e. Licenses initially issued during the period beginning on April 1 and ending on June 30 expire on June 30 of the following year.
- f. The issuing officer may grant and issue a regular operator's license only if the applicant does not have any of the following:
 - i. A pending criminal charge for any offense under [Wis. Stat. 111.335\(4\)\(a\)](#)
 - ii. A conviction for an offense counted under [Wis. Stat. 343.307](#) within two years of the application date
 - iii. A second or subsequent conviction for an offense counted under [Wis. Stat. 343.307](#) within five years of the application date
 - iv. Convictions for three or more violations of [Wis. Stat. 343.44](#) within two years of the application date
 - v. A conviction for any offense under [Wis. Stat. Ch. 125](#) or any offense for which the consumption, possession, or sale of alcohol is an element within ten years of the application date, except no violation of [Wis. Stat. 125.07](#) may be considered unless the applicant has committed two or more violations within one year;
 - vi. A conviction for a felony offense where the sentence for confinement, extended supervision, or probation has ended within five years of the application date; or
 - vii. Convictions for three or more misdemeanors within five years of the application date.
- 4. Fees. An applicant for a license shall pay any applicable fees listed in the [Fee Schedule](#).

SECTION 18: **AMENDMENT** “9.51 Discipline Process” of the City Of West Allis Municipal Code is hereby *amended* as follows:

A M E N D M E N T

9.51 Discipline Process

This process only applies to a license that adopts this section.

1. Disciplinary Events. A license may be suspended for up to 60 days, revoked, or non-renewed if any of the following disciplinary events applies to the licensee or the licensee's members, shareholders, or owners:
 - a. The person is disqualified under [WAMC 9.49](#).
 - b. The person failed to maintain order on the premises.
 - c. The person has not exercised the activities authorized by the license for 30 consecutive days.
 - d. The activities on the premises have caused a public nuisance.
 - e. The licensee has not complied with the conditions under which it was granted.
2. Complaint. Based on allegations against a licensee submitted to the ~~license and health~~[Public Safety](#) ~~e~~Committee by any person, an alderperson who finds the allegations are sufficient to justify a hearing may approve the issuance and service of a summons and complaint against the identified licensee. The complaint shall contain the allegations that, if proven, would constitute at least one disciplinary event. The summons shall state the date on which and location where the licensee must appear for a preliminary hearing on the complaint. The preliminary hearing may be held before the ~~license and health~~[Public Safety](#)~~e~~Committee or the common council. The summons shall be signed by the chair of the body conducting the hearing, and the complaint shall be signed by an attorney for the City who shall prosecute the complaint and be the complainant. Service shall be in the manner provided under [Wis. Stat. Ch. 801](#) for service in civil actions in circuit court and accomplished at least 3 days prior to the preliminary hearing date.
3. Preliminary Hearing
 - a. If the licensee either does not appear as required by the summons or appears as required by the summons and admits to the allegations in the complaint, the allegations in the complaint shall be taken as true and, if the body holding the preliminary hearing finds the allegations constitute at least one disciplinary event, the license shall be suspended for up to 60 days, revoked, or non-renewed. The parties who are present shall have an opportunity to make argument prior to the body's decision. No decision by a committee is effective unless approved by the common council.
 - b. If the licensee appears as required by the summons and denies any part of the complaint, the complainant and licensee shall appear at a quasi-judicial hearing on the parts of the complaint that were denied. Any part of the complaint admitted as true shall be taken as true during the quasi-judicial hearing.
4. Quasi-Judicial Hearing
 - a. Procedure and Burden. The complainant shall enter evidence first. The licensee may enter evidence after the close of the complainant's evidence. The complainant and licensee may produce witnesses, cross-examine witnesses, submit evidence, and be represented by counsel. The complainant must prove by a preponderance of the evidence that a disciplinary event has occurred before the common council may suspend, revoke, or non-renew a license.
 - b. Committee Hearing. If the quasi-judicial hearing is held before a committee of the common council, the committee and common council shall follow the

process below:

- i. The committee shall determine if a disciplinary event has occurred and submit a report to the common council with findings of fact and conclusions of law. The report shall recommend dismissal of the complaint or suspension for up to 60 days, revocation, or nonrenewal of the license. The committee shall provide the complainant and the licensee with a copy of the report. The complainant or licensee may file with the clerk a written objection to the report, which shall identify any dispute with the report and legal argument in support of the objector's position. The complainant or licensee may file a response to any objection filed by the other. If any objection is filed, the common council may hear oral argument from the complainant and licensee or make a decision based on the written objection and any response.
 - ii. After considering the committee's report and any arguments presented by the complainant and the licensee, the common council shall either:
 - (1) Suspend for up to 60 days, revoke, or non-renew the license if a disciplinary event has occurred, or
 - (2) Dismiss the complaint.
 - c. Common Council Hearing. If the quasi-judicial hearing is held before the common council, the common council shall follow the process below:
 - i. The council shall determine if a disciplinary event has occurred.
 - ii. After conducting the hearing, the common council shall either:
 - (1) Suspend for up to 60 days, revoke, or non-renew the license if a disciplinary event has occurred, or
 - (2) Dismiss the complaint
 - d. Transcript. After the quasi-judicial hearing and upon request, the City shall provide a written transcript of the hearing to the licensee at the licensee's expense.
5. Surrender. A licensee may surrender a license at any time prior to the suspension, revocation, or nonrenewal of the license.
 6. Stipulation. The complainant and licensee may adjust or amend any procedural requirement by mutual agreement other than final resolution of a complaint. The complainant and licensee may, at any time, present the common council or a committee with a stipulate final resolution of the matter. The common council or committee may approve or reject the terms of that stipulation.
 7. Notice of Adverse Decision. The municipal clerk shall give notice of each suspension, revocation, or non-renewal to the person whose license is suspended, revoked, or non-renewed.
 8. Judicial Review. The suspension, revocation, or non-renewal of any license may be reviewed by writ of certiorari to the Milwaukee County Circuit Court.

SECTION 19: **AMENDMENT** “9.60 Alcohol Beverage” of the City Of West Allis Municipal Code is hereby *amended* as follows:

A M E N D M E N T

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 ~~License and Health~~[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 ~~License and Health~~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 shall be filed with the city clerk at least 15 days prior to the granting of the license, except an application for a license issued under [Wis. Stat. 125.26\(6\)](#) or [125.51\(10\)](#) shall be filed at least 5 business days prior to the granting of the license.
- d. 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:
- i. The "Class A" license contains the condition that retail sales of intoxicating liquor are limited to cider
 - ii. The premises for which the "Class A" license is issued is connected to premises where gasoline or diesel fuel is sold at retail by a secondary doorway that serves as a safety exit and is not the primary entrance to the "Class A" premises.
- 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 request shall list specific dates for which the licensee requests an extension of premises or list a range of dates not to exceed 6 months for which the licensee requests an 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 10 p.m. and 10 a.m. 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.
5. Discipline Process. [Wis. Stat. 125.12](#) is adopted.

SECTION 20: **AMENDMENT** "10.106 Residential Daytime Parking Privileges" of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

10.106 Residential Daytime Parking Privileges

1. Intent. The Common Council recognizes that certain residential premises in the City, improved prior to May 21, 1985, do not permit location of the minimum off-street parking spaces required under Section 12.20 of this Code; and, in such cases, parking time restrictions may unduly inconvenience occupants of such premises with respect to parking of their automobiles; and, a limited daytime parking privilege, as hereinafter provided for the occupants of such premises, will not adversely affect the public interest in lessening traffic congestion on City streets. **[Ord. O-2010-0053, 12/21/2010]**
2. Permit.
 - a. The permit shall permit parking of the automobile for which it is issued on the street and in the block where the permit applicant resides, regardless of posted time limits, during those hours when all night parking prohibitions are not in effect.
 - b. The City Engineer shall issue the permit upon receipt of a proper application and the required fee and verification of eligibility for the permit.
 - c. The permit shall display the number, date of issue and expiration date of the permit, the license number, make and year of the automobile for which issued and the street and block in which the permit allows parking.
3. Application. The application form shall contain the name and address of applicant, the license number, make and year of the applicant's automobile, the location where the vehicle is to be parked, the month of issuance and the date of expiration of the permit applied for and a sworn statement that the information contained in the applicant is true and correct. Falsification of any of the above information shall be grounds for the immediate revocation of the parking permit.
4. Permit Fee. Permits shall be issued for each month, calendar quarter or semiannual period. There shall be no proration or refund of the required fee. The fee shall be listed in the Fee Schedule. However, if the applicant has a valid all-night parking permit under Section 10.105 of this Code for the same month, calendar quarter or semiannual period for which application is made, the corresponding fee shall be waived. **[Ord. 6180 (repeal & recreate), 9/5/1995]**
5. Eligibility.
 - a. The permit shall be issued to an occupant of a residential lot containing not more than three (3) dwelling units, only if: **[Ord. O-2010-0053, 12/21/2010]**
 - i. The lot does not have the minimum off-street parking places required by Sec. 12.20 of this Code; and
 - ii. As a result of lot size, configuration or building improvements, the minimum number of off-street parking spaces required by Sec. 12.20 of this Code cannot be provided on the lot.
 - b. The total number of permits issued for each residential lot shall not exceed the deficiency in the number of off street parking spaces determined under subparagraph (a); however, in no event shall more than one permit be issued for any one dwelling unit.
6. No Guarantee. Permits issued under this section shall not be construed as a guarantee of a parking space, shall not be transferable and shall not be applicable to any other parking restriction exemptions.

7. Display of Permit. The permit shall be placed in the lower left hand corner of the windshield, or in such other conspicuous place as the Police Department may designate, while the motor vehicle is in a parked position. Failure to properly display the permit shall be deemed a waiver of the parking privileges conferred by the permit.
8. Temporary Contractor Permits. **[Ord. O-2014-0014, 2/18/2014]**
- a. "Contractor" means a person, business, corporation or other entity that undertakes a contract to provide materials or labor to perform a service or do a job at a location in the City.
 - b. Subsection (5) notwithstanding, a contractor is eligible for up to three (3) permits for an identified vehicle or vehicles per address per month. Such permit(s) shall be valid for one (1) month, with a one-month extension if the criteria set forth in Subsections (c) and (d) are met.
 - c. A fee listed in the Fee Schedule is paid.
 - d. The permit shall describe the block of the street for which the permit is valid, and the contractor shall be limited to parking on that block.
 - e. Any contractor wishing to extend a permit beyond the two-month period set forth in Subsection (8)(b) shall first receive the concurrence of the Alderpersons representing the district in which the block is located. Such permits may be extended by aldermanic approval for an additional two (2) months for a total of four (4) months.
 - f. Any person aggrieved by the issuance or nonissuance of a permit under this subsection may appeal to the ~~Public Works~~~~Safety and Development~~ Committee of the Common Council.

SECTION 21: AMENDMENT “10.107 Residential Parking Privileges For Commuter Impacted Areas” of the City Of West Allis Municipal Code is hereby *amended* as follows:

A M E N D M E N T

10.107 Residential Parking Privileges For Commuter Impacted Areas

1. Purpose. To reduce commuter traffic, encourage the use of mass transit facilities, reduce the hazards to health and safety associated with heavy commuter traffic and to provide parking for residents who do not have adequate off-street parking facilities available to them, it is declared necessary to establish a permit system, as hereinafter provided, whereby vehicles bearing a valid residential parking permit may park in excess of posted time limits on certain designated streets between the hours of 8:00 a.m. and 9:00 p.m. of any day. It is intended that this reduction will reduce automobile commuting and its accompanying energy waste and air pollution, reduce the total vehicle miles of travel in the affected area and alleviate traffic congestion, illegal parking and related health and safety standards. **[Ord. 6211, 3/5/1996]**
2. Definitions.

- a. "Residential parking area" shall mean a contiguous or nearly contiguous area containing public street(s) or portion thereof primarily abutted by residential property or residential and non-business property, such as schools, parks, churches, hospitals and nursing homes.
 - b. "Commuter vehicle" shall mean a motor vehicle parked in a residential area by a person not a resident thereof.
 - c. "Dwelling unit" shall mean one or more rooms which are arranged, designed or used as living quarters for one family only. Individual bathrooms and complete single kitchen facilities, permanently installed, shall be included with each dwelling unit.
3. Area and Street Eligibility. A residential street(s) or part(s) thereof shall be deemed eligible for designation as a residential parking area, if each of the following criteria are met:
 - a. At least one side or fifty percent (50%) of each street or portion for which residential parking is requested must be zoned residential.
 - b. On streets that have restricted parking, a majority of the on-street parking spaces must be occupied by commuter vehicles a majority of the time between 8:00 a.m. and 6:00 p.m., except Sunday and holidays.

The City Engineer, or his designee, shall prepare and file with the Common Council a written report regarding eligibility of a street(s) or portion thereof for designation as a residential parking area. No hearing shall be held and no area designated unless it is not found that the criteria set forth above are met.
4. Area and Street Designation. The Common Council shall designate residential parking areas or remove the designation in the case of an established permit parking area. Prior to designation or withdrawal of such designation once it is established, the Common Council, upon due notice, shall hold a public hearing. During such hearing, any interested person shall be entitled to appear and be heard. In determining whether an area identified as eligible for residential permit parking shall be designated, or such designation removed, as residential permit parking area, the Common Council shall consider:
 - a. The likelihood of alleviating traffic congestion, illegal parking and related health and safety hazards.
 - b. The willingness of the residents of the street or portion thereof to pay the cost for residential permit parking.
5. Issuance of Permit. Following designation of residential permit parking area, the City Engineer shall issue appropriate permits, as hereinafter provided. A permit shall be issued upon application and payment of the applicable fee, only to the owner or operator of a motor vehicle who resides on property immediately adjacent to the street(s) or portion(s) thereof within the residential permit parking area. Not more than one residential parking permit may be issued to each dwelling unit in the residential parking area. A duplicate permit shall be issued only if all or part of the original permit is produced at the time that the duplicate permit is applied for, or if proof of theft of the vehicle is demonstrated to the satisfaction of the City Engineer. A residential parking permit will not be issued to the owner or operator of a motor vehicle having an outstanding parking warrant.

6. Application. The application for a permit shall contain the name of the owner or operator of the motor vehicle, residential address, the motor vehicle's make, model, registration number and the number of the applicant's operator's permit. The motor vehicle's registration and the operator's drivers license or operator's affidavit of residence shall be required to be presented to the City Engineer at the time of making said application in order to verify that the applicant legally resides at the address for which the permit is requested. The owner or operator of any motor vehicle applying for a residential parking permit shall have valid State of Wisconsin motor vehicle license plates on the vehicle. Only one residential parking permit shall be issued per dwelling unit. The permit shall be renewed monthly upon such conditions and procedures as the City Engineer shall specify. The permit shall display the motor vehicle's license and expiration date.
7. Parking Permits. A residential parking permit is valid only when visible and properly displayed on the vehicle when parked in the designated area where the resident resides. Use of said permit shall be restricted to streets designated for residential permit parking within the designated area. While a vehicle for which a residential parking permit has been issued is so parked, such permit shall be displayed on the rear left side window of the vehicle. A residential parking permit shall not guarantee or reserve to the holder a parking space on residential streets designed for permit parking. A residential parking permit shall not authorize the holder thereof to stand or park a motor vehicle in such places or during such times as the stopping, standing or parking of motor vehicles is prohibited or set aside to specific types of vehicles, nor exempt the holder from the observance of any parking or traffic regulation other than the specified hourly parking limit. Residential parking permit privileges may be temporarily suspended by the City for snow removal, emergency or construction purposes.
8. Transferability and Violations.
 - a. Only the registered motor vehicle named on the residential parking permit shall be eligible to display the permit. Any transference of this permit to a vehicle other than that named on the permit shall constitute a violation of this section.
 - b. It shall constitute a violation of this section for any person to falsely represent himself/herself as eligible for a residential parking permit or to furnish any false information in an application to the City Engineer in order to obtain a residential parking permit.
 - c. The City Engineer is authorized and directed to revoke the residential parking permit of any permittee found to be in violation of this section and, upon written notification thereof, the permittee shall surrender such permit to the Engineer. Failure, when so requested to surrender a revoked parking permit, shall constitute a violation of this section.
 - d. It shall be a violation of this section for any person to copy, reproduce or resell a permit.
9. Permit Fees. Permits shall be issued for each month, calendar quarter or semiannual period. There shall be no proration or refund of the required fee. The fee shall be listed in the Fee Schedule. However, if the applicant has a valid all-night parking permit under Section 10.105 of this Code for the same month, calendar quarter or semiannual period for which application is made, the corresponding fee shall be waived. **[Ord.**

6180 (repeal & recreate), 9/5/1995]

10. Severability. The provisions of this section shall be severable. If any provision of this section is invalid or if the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions or application which can be given effect without the invalid provision or application. It is expressly declared that if any provision of this section is declared invalid that, notwithstanding, the Common Council would have passed the other provisions of this section.
11. Temporary Contractor Permits. **[Ord. O-2014-0014, 2/18/2014]**
 - a. "Contractor" means a person, business, corporation or other entity that undertakes a contract to provide materials or labor to perform a service or do a job at a location in the City.
 - b. Subsection (5) notwithstanding, a contractor is eligible for up to three (3) permits for an identified vehicle or vehicles per address per month. Such permit(s) shall be valid for one (1) month, with a one-month extension if the criteria set forth in Subsections **(c)** and **(d)** are met.
 - c. A fee listed in the Fee Schedule is paid.
 - d. The permit shall describe the block of the street for which the permit is valid, and the contractor shall be limited to parking on that block.
 - e. Any contractor wishing to extend a permit beyond the two-month period set forth in Subsection (11)(b) shall first receive the concurrence of the Alderpersons representing the district in which the block is located. Such permits may be extended by aldermanic approval for an additional two (2) months for a total of four (4) months.
 - f. Any person aggrieved by the issuance or nonissuance of a permit under this subsection may appeal to the ~~Safety and Development~~Public Works Committee of the Common Council.

~~{Ord. 6211, 3/5/1996}~~

SECTION 22: **AMENDMENT** "10.13 Off-Street Parking Lots" of the City Of West Allis Municipal Code is hereby *amended* as follows:

A M E N D M E N T

10.13 Off-Street Parking Lots

1. Regulation: Construction Requirements.
 - a. Definitions. Off-street parking lots are hereby defined as follows:
 - i. Vacant lots or lands upon which motor vehicles in any number, with or without fee, are habitually parked or stored.
 - ii. Residential lots or lands upon which a principal residential building is located and upon which motor vehicles in excess of three (3) are habitually parked or stored.

- iii. Commercial, business or industrial lots or lands upon which a principal building (nonresidential) is located and upon which more than three (3) motor vehicles are habitually parked or stored.
 - iv. Included in the definition of off-street parking lots are used car lots and parking or storage lots maintained in conjunction with an industrial or commercial building or business. This enumeration is not exclusive. Not included are parking lots maintained in conjunction with a church, school or playground where use is occasional rather than daily, and safety and other problems are minimized.
 - b. (Reserved).
 - c. (Reserved).
 - d. Minimum Construction and Maintenance Standards. Off-street parking lots shall be designed, constructed and maintained with macadam, concrete, sealcoat or similar suitable surface to eliminate dust, dirt and mud. Entrances and exits shall be clearly visible and marked where, in the judgment of the Building Inspector, safety requires it. The Building Inspector may impose such additional construction and maintenance requirements as are necessary to eliminate dust, mud and dirt and to safeguard the public safety. Lots and adjoining sidewalks and driveways shall be kept reasonably clean. No vehicles shall be permitted to project into the public sidewalk, alley or street, nor shall any vehicles be allowed to encroach upon abutting premises owned by others. Wheel chocks, guard rails or bumper posts, so designed and permanently constructed as to prevent the intentional or accidental movement of any automobile from the premises onto or across the public highway or public sidewalk or onto premises owned by others, shall be provided on each off-street parking lot, as herein defined.
 - e. Issuance of Permit. Upon an application properly executed and minimum construction and maintenance standards being duly met, the Code Enforcement Director shall issue an off-street parking lot license.
 - f. Exceptions.
 - i. Parking Emergencies. The Chief of Police may declare off-street parking emergencies during such times as State Fair week and similar events, during which the provisions of this subsection shall not apply.
 - ii. Churches, Schools, Playgrounds. Off-street parking lots maintained in conjunction with a church, school or playground, where the use is occasional, and dust, dirt, mud and safety and other problems are minimized, shall be exempt from the provisions of this subsection.
 - iii. Municipal Parking Lots. Off-street parking lots owned or operated by the City shall conform to minimum construction and maintenance standards, but shall not be required to be licensed.
2. Vocational School Parking Lot. No motor vehicle shall be parked in the parking lot immediately adjacent to the West Allis Vocational School, 1216 S. 71 St., and commonly known as the Vocational School parking lot, unless permission has been obtained from the Director of the Vocational School and the vehicle has been marked with an identifying tag or insignia issued for that purpose.

3. Municipal Market Site.

- a. No operator of any vehicle shall park a vehicle on the Municipal Market Site for a period of time longer than one (1) hour from May 1 to December 1 on market days only, between the hours of 1 p.m. and 9 p.m.
- b. Parking at any other time on the Municipal Market Site shall be prohibited, except at such times and under such terms and regulations as the Market Commission may establish.

4. Library Parking Lots.

- a. The following regulations are established for parking on lots operated in connection with municipal branch libraries:
 - i. Parking of vehicles shall be restricted to library patrons and employees.
 - ii. Vehicles may be parked only between the hours of 8:00 a.m. and 10:00 p.m. Parking during any other hours is prohibited.

5. Extensions.

- a. Application. The owner or owners of lots or lands ordered improved by the Code Enforcement Director to conform with the surfacing and/or drainage requirements of this section may apply to the ~~Safety & Development~~Public Safety Committee for an extension of time in which to comply with any such order. All such orders shall contain a statement regarding an owner's rights under the provisions of this subsection. Applications for an extension shall be filed with City Clerk within thirty (30) days of the date of the service of the order for improvement.
- b. Hearings. The ~~Safety & Development~~Public Safety Committee shall fix a reasonable time for a hearing of an application. Notice of hearing shall be mailed to the applicant and to the owners of the land immediately adjacent to the land included in the application extending one hundred fifty (150) feet therefrom and the owners of the land directly opposite thereto extending one hundred fifty (150) feet from the street frontage of such opposite land. In addition, notice shall be published in the official City newspaper as a Class 1 notice, pursuant to Chapter 985 of the Wisconsin Statutes. The ~~Safety & Development~~Public Safety Committee shall have the power to adjourn the hearing at the request of the applicant for good and sufficient reason. At the hearing, the applicant and any parties in interest may appear and may offer testimony which is relevant to the hearing. The proceedings at such hearing, including the findings and decision of the Committee, shall be summarized, reduced to writing and entered as a matter of public record in the office of the City Clerk.
- c. Grant of Extension. Within a reasonable time after hearing, the ~~Safety & Development~~Public Safety Committee shall grant an extension for a period not to exceed three (3) years from the date of the order for improvement, if it finds that any such extension will not have a substantial adverse effect upon the health, safety or property interests of individual persons or the public generally. In making its findings, the ~~Safety & Development~~Public Safety Committee shall consider, among other things, hazards or injury to persons or property which may result in the absence of proper drainage and/or proper

surfacing. In granting any such extension, the Committee may stipulate such conditions as may be necessary for the protection of any such health, safety or property interests. Only one extension shall be granted for any off-street parking lot. A copy of the decision of the Committee shall be mailed to or served on the applicant and other persons appearing of record at the hearing.

- d. Application Fee. A fee listed in the Fee Schedule shall accompany an application to defray a portion of the publication and administrative costs in processing the application. The fee shall not be refunded in whole or in part under any circumstances.
- e. Penalties. The proper filing of an application for extension within the time provided herein shall toll all penalties provided for any violations of the order for improvements until a final decision has been issued on the merits of such application.
- f. Exceptions. This subsection shall not apply to off-street parking lot improvements required in connection with the erection, enlargement or expansion of any building or structure.

SECTION 23: **AMENDMENT** “12.70 FC - Flood Control District” of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

12.70 FC - Flood Control District

- 1. Statutory Authorization, Finding of Fact, Statement of Purpose, Title and General Provisions.
 - a. Statutory Authorization. This ordinance is adopted pursuant to the authorization in secs. 61.35 and 62.23, for villages and cities; secs. 59.69, 59.692, and 59.694 for counties; and the requirements in sec. 87.30, Wis. Stats.
 - b. Finding of Fact. Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.
 - c. Statement of Purpose. This ordinance is intended to regulate floodplain development to:
 - i. Protect life, health and property;
 - ii. Minimize expenditures of public funds for flood control projects;
 - iii. Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
 - iv. Minimize business interruptions and other economic disruptions;
 - v. Minimize damage to public facilities in the floodplain;
 - vi. Minimize the occurrence of future flood blight areas in the floodplain;
 - vii. Discourage the victimization of unwary land and homebuyers;

- viii. Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
 - ix. Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.
- d. Title. This section shall be known as the Floodplain Zoning Ordinance for the City of West Allis, Wisconsin.
- e. General Provisions.
 - i. Areas to be Regulated. This ordinance regulates all areas that would be covered by the regional flood or base flood. Note: Base flood elevations are derived from the flood profiles in the Flood Insurance Study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A-Zones on the Flood Insurance Rate Map.
 - ii. Official Maps and Revisions. The boundaries of all floodplain districts are designated as floodplains or A Zones on the maps listed below and the revisions in the City of West Allis Floodplain Appendix. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFEs) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Engineering Department, City of West Allis. If more than one map or revision is referenced, the most restrictive information shall apply. **[Ord. O-2008-0033, 7/1/2008]**

OFFICIAL MAPS: Based on the Milwaukee County Flood Insurance Study (FIS), dated September 2008, volume numbers (55079CV001A, 55079CV002A, 55079CV003A, 55079CV004A, 55079CV005A

- (1) Milwaukee County Flood Insurance Rate Map (FIRM), panel numbers 55079C0064E, 55079C0068E, 55079C0069E, 55079C0127E, 55079C0131E, 55079C0132E and 55079C0151E, dated September 26, 2008, with corresponding profiles that are based on the FIS.

Approved by: The DNR and FEMA

- iii. Establishment of Districts. The regional floodplain areas are divided into three districts as follows:
 - (1) The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.
 - (2) The Floodfringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.
 - (3) The General Floodplain District (GFP) is those areas that have been or may be covered by floodwater during the

regional flood.

iv. Locating Floodplain Boundaries. Discrepancies between boundaries on the official Floodplain Zoning Map and actual field conditions shall be resolved using the criteria in Paragraphs a or b below. If a significant difference exists, the map shall be amended according to Subsection (8). The Zoning Administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The Zoning Administrator shall be responsible for documenting actual predevelopment field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the Zoning Administrator and an applicant over the district boundary line shall be settled according to Subsection (7)(c)(iii) and the criteria in Paragraphs a and b below.

- (1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
- (2) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the Department.

Note: Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to Subsection (8)(a)(vi).

v. Removal of Lands from Floodplain. Compliance with the provisions of this section shall not be grounds for removing land from the floodplain unless it is filled at least two (2) feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to Subsection (8).

Note: This procedure does not remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).

vi. Compliance. Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this section, and other applicable local, state, and federal regulations.

vii. Municipalities and State Agencies Regulated. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if sec. 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when sec. 30.2022, Wis. Stats., applies.

viii. Abrogation and Greater Restrictions.

- (1) This ordinance supersedes all the provisions of any municipal

zoning ordinance enacted under secs. 59.69, 59.692 or 59.694 for counties; sec. 62.23 for cities; or sec. 61.35 for villages; or sec. 87.30, Wis. Stats., which relate to floodplains. If another ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

(2) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

- ix. Interpretation. In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by Chapter NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.
- x. Warning and Disclaimer of Liability. The flood protection standards in this ordinance are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this ordinance create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.
- xi. Severability. Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.
- xii. General Development Standards. The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages, and be constructed with electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and

floodway data for any development that meets the subdivision definition of this ordinance.

2. General Standards Applicable to All Floodplain Districts.

a. Hydraulic and Hydrologic Analyses.

i. Except as allowed in Paragraph (iii) below, no floodplain development shall:

(1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other

development, increasing regional flood height; or

(2) Increase regional flood height due to floodplain storage area lost, which equals or exceeds one-tenth (one-tenth (0.01)) foot.

ii. The Zoning Administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights one-tenth (one-tenth (0.01)) foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of Paragraph (iii) are met.

iii. Obstructions or increases equal to or greater than one-tenth (0.01) foot may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Subsection (8).

Note: This section refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and the DNR.

b. Watercourse Alterations. No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, the Zoning Administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

c. Chapters 30 and 31, Wis. Stats., Development. Development which requires a permit from the Department, under Chapters 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to Subsection (8).

d. Public or Private Campgrounds. Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

- i. The campground is approved by the Department of Health and Family Services.
- ii. A land use permit for the campground is issued by the Zoning Administrator.
- iii. The character of the river system and the elevation of the campground is such that a seventy-two (72) hour warning of an impending flood can be given to all campground occupants.
- iv. There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.
- v. This agreement shall be for no more than one (1) calendar year, at which time the agreement shall be reviewed and updated, by the officials identified in Paragraph (iv), to remain in compliance with all applicable regulations, including those of the State Department of Health and Family Services and all other applicable regulations.
- vi. Only camping units are allowed.
- vii. The camping units may not occupy any site in the campground for more than one hundred eighty (180) consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of twenty-four (24) hours.
- viii. All camping units that remain on site for more than thirty (30) days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed one hundred eighty (180) days and shall ensure compliance with all the provisions of this section.
- ix. The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.
- x. All camping units that remain in place for more than one hundred eighty (180) consecutive days must meet the applicable requirements in either Subsection (3) or (4) for the floodplain district in which the structure is located.
- xi. The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.
- xii. All service facilities, including but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems

and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

3. Floodway District (FW).

a. Applicability. This subsection applies to all floodway areas on the floodplain zoning maps and those identified pursuant to Subsection (5)(d).

b. Permitted Uses. The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district, if

- they are not prohibited by any other ordinance; - they meet the standards in Subsection (3)(c) and (d); and - all permits or certificates have been issued according to Subsection (7)(a):

- i. Agricultural uses, such as farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
- ii. Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
- iii. Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of Subsection (3)(c)(iv).
- iv. Uses or structures accessory to open space uses, or classified as historic structures that comply with Subsections (3)(c) and (d).
- v. Extraction of sand, gravel or other materials that comply with Subsection (3)(c)(iv).
- vi. Functionally water dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with Chapters 30 and 31, Wis. Stats.
- vii. Public utilities, streets and bridges that comply with Subsection (3)(c)(iii).

c. Standards for Developments in Floodway Areas.

i. General.

- (1) Any development in floodway areas shall comply with Subsection (2) and have a low flood damage potential.
- (2) Applicants shall provide the following data to determine the effects of the proposal according to Subsection (2)(a):
 - (A) A cross section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
 - (B) An analysis calculating the effects of this proposal on regional flood height.
- (3) The Zoning Administrator shall deny the permit application if the project will increase flood elevations upstream or downstream one-tenth (0.01) foot or more, based on the data

submitted for Paragraph b. above.

- ii. Structures. Structures accessory to permanent open space uses, classified as historic structures, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:
 - (1) The structures are not designed for human habitation and do not have a high flood damage potential;
 - (2) The structures are constructed and placed on the building site so as to increase flood heights less than one-tenth (0.01) foot and minimally obstruct the flow of floodwaters. Structures shall be constructed with the long axis parallel to the flow of floodwaters and on the same line as adjoining structures;
 - (3) The structures are properly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river; and
 - (4) The structures have all service facilities at or above the flood protection elevation.
- iii. Public Utilities, Streets and Bridges. Public utilities, streets and bridges may be allowed by permit, if:
 - (1) Adequate floodproofing measures are provided to the flood protection elevation; and
 - (2) Construction meets the development standards of Subsection (2)(a).
- iv. Fills or Deposition of Materials. Fills or deposition of materials may be allowed by permit, if:
 - (1) The requirements of Subsection (2)(a) are met;
 - (2) No material is deposited in the navigable channel unless a permit is issued by the Department pursuant to Chapter 30, Wis. Stats., and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. § 1344 has been issued, if applicable, and the other requirements of this section are met;
 - (3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
 - (4) The fill is not classified as a solid or hazardous material.
- d. Prohibited Uses. All uses not listed as permitted uses in Subsection (3)(b) are prohibited, including the following uses:
 - i. Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
 - ii. Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
 - iii. Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
 - iv. Any private or public sewage systems, except portable latrines that are

removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and Chapter COMM 83, Wis. Adm. Code.

- v. Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and Chapters NR 811 and NR 812, Wis. Adm. Code;
- vi. Any solid or hazardous waste disposal sites;
- vii. Any wastewater treatment ponds or facilities, except those permitted under sec. NR 110.15(3)(b), Wis. Adm. Code;
- viii. Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

4. Floodfringe District (FF).

- a. Applicability. This subsection applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to Subsection (5)(d).
- b. Permitted Uses. Any structure, land use, or development is allowed in the floodfringe district if the standards in Subsection (4)(c) are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in Subsection (7)(a) have been issued.
- c. Standards for Development in Floodfringe Areas. Subsection (2)(a) shall apply in addition to the following requirements according to the use requested.
 - i. Residential Uses. Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the floodfringe area, shall meet or exceed the following standards;
 - (1) The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one (1) foot or more above the regional flood elevation extending at least fifteen (15) feet beyond the limits of the structure. The Department may authorize other floodproofing measures if the elevations of existing streets or sewer lines makes compliance with the fill standards impractical;
 - (2) The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;
 - (3) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in Paragraph d.
 - (4) In developments where existing street or sewer line elevations make compliance with Paragraph c impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:

- (A) The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
 - (B) The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the Department.
- ii. Accessory Structures or Uses. An accessory structure or use not connected to a principal structure shall be constructed with its lowest floor at or above the regional flood elevation, subject to flood velocities of no more than two (2) feet per second, and shall meet all the provisions of Subsections (3)(c)(ii)a, b, c and d and sub. (vi) below.
- iii. Commercial Uses. Any commercial structure which is erected, altered or moved into the floodfringe area shall meet the requirements of Subsection (4)(c)(i). Subject to the requirements of sub. (vi), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- iv. Manufacturing and Industrial Uses. Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other flood proofing measures in Subsection (7)(e). Subject to the requirements of sub. (vi), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- v. Storage of Materials. Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with Subsection (7)(e). Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- vi. Public Utilities, Streets and Bridges. All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and
 - (1) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with Subsection (7)(e) to the flood protection elevation;
 - (2) Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
- vii. Sewage Systems. All on site sewage disposal systems shall be

floodproofed, pursuant to Subsection (7)(e), to the flood protection elevation and shall meet the provisions of all local ordinances and Chapter COMM 83, Wis. Adm. Code.

- viii. Wells. All wells shall be floodproofed, pursuant to Subsection (7)(e), to the flood protection elevation and shall meet the provisions of Chapters NR 811 and NR 812, Wis. Adm. Code.
- ix. Solid Waste Disposal Sites. Disposal of solid or hazardous waste is prohibited in floodfringe areas.
- x. Deposition of Materials. Any deposited material must meet all the provisions of this section.
- xi. Manufactured Homes.
 - (1) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
 - (2) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 - (A) Have the lowest floor elevated to the flood protection elevation; and
 - (B) Be anchored so they do not float, collapse or move laterally during a flood.
 - (3) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in Subsection (4)(c)(i).
- xii. Mobile Recreational Vehicles. All mobile recreational vehicles that are on site for one hundred eighty (180) consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in Subsection (4)(c)(xi)bi and ii. A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

5. General Floodplain District (GFP).

- a. Applicability. The provisions for this district shall apply to all floodplains for which flood profiles are not available or where flood profiles are available but floodways have not been delineated. Floodway and floodfringe districts shall be delineated when adequate data is available.
- b. Permitted Uses. Pursuant to Subsection (5)(d), it shall be determined whether the proposed use is located within a floodway or floodfringe area.

Those uses permitted in floodway [Subsection (3)(b)] and floodfringe areas [Subsection (4)(b)] are allowed within the general floodplain district, according to the standards of Subsection (5)(c), provided that all permits or certificates required under Subsection (7)(a) have been issued.

- c. Standards for Development in the General Floodplain District. Subsection (3) applies to floodway areas, Subsection (4) applies to floodfringe areas. The rest of this section applies to either district.
- d. Determining Floodway and Floodfringe Limits. Upon receiving an application for development within the general floodplain district, the Zoning Administrator shall:

- i. Require the applicant to submit two (2) copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures;
- ii. Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
 - (1) A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross sectional area to be occupied by the proposed development, and all historic high water information;
 - (2) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
 - (3) Profile showing the slope of the bottom of the channel or flow line of the stream;
 - (4) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.
- iii. Transmit one (1) copy of the information described in Paragraphs (i) and (ii) to the Department Regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of Subsection (7)(a)(ii)c apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

6. Nonconforming Uses.

a. General.

- i. Applicability. If these standards conform with sec. 59.69(10), Wis. Stats., for counties or sec. 62.23(7)(h), Wis. Stats., for cities and

villages, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this section or any amendment thereto.

- ii. The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this section may continue subject to the following conditions:

- (1) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this section. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure.

The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

- (2) If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;
- (3) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;
- (4) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would exceed fifty percent (50%) of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this section. Contiguous dry land access must be provided for residential and commercial uses

in compliance with Subsection (4)(c)(i). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the fifty percent (50%) provisions of this paragraph;

- (5) (A) Except as provided in Paragraph 2, if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its predamaged condition exceeds fifty percent (50%) of the structure's present equalized assessed value.
- (B) For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under 44 CFR Part 60, or under the regulations promulgated thereunder.
- (6) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with Subsection (3)(c)(i), flood resistant materials are used, and construction practices and floodproofing methods that comply with Subsection (7)(e) are used.

b. Floodway Areas.

- i. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
 - (1) Has been granted a permit or variance which meets all ordinance requirements;
 - (2) Meets the requirements of Subsection (6)(a);
 - (3) Will not increase the obstruction to flood flows or regional flood height;
 - (4) Any addition to the existing structure shall be floodproofed, pursuant to Subsection (7)(e), by means other than the use of fill, to the flood protection elevation;
 - (5) The portions of the structure located below the Regional Flood Elevation must be constructed of flood resistant materials;

- (6) It must be designed to allow for the automatic entry of flood waters; and
 - (7) Its use must be limited to parking and/or limited storage.
 - ii. No new on site sewage disposal system, or addition to an existing on site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances and Chapter COMM 83, Wis. Adm. Code.
 - iii. No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and Chapters NR 811 and NR 812, Wis. Adm. Code.
- c. Floodfringe Areas.
 - i. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in Subsection (4)(c), except where Subsection (6)(c)(ii) is applicable.
 - ii. Where compliance with the provisions of Paragraph (i) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedures established in Subsection (7)(c), may grant a variance from those provisions of Paragraph (i) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - (1) No floor is allowed below the regional flood elevation for residential or commercial structures;
 - (2) Human lives are not endangered;
 - (3) Public facilities, such as water or sewer, will not be installed;
 - (4) Flood depths will not exceed two (2) feet;
 - (5) Flood velocities will not exceed two (2) feet per second; and
 - (6) The structure will not be used for storage of materials as described in Subsection (4)(c)(vi).
 - iii. If neither the provisions of Paragraph (i) or (ii) above can be met, one (1) addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:

- (1) Meets all other regulations and will be granted by permit or variance;
 - (2) Does not exceed sixty (60) square feet in area; and
 - (3) In combination with other previous modifications or additions to the building, does not exceed fifty percent (50%) of the present equalized assessed value of the building.
 - iv. All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and Chapter COMM 83, Wis. Adm. Code.
 - v. All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this section and Chapters NR 811 and NR 812, Wis. Adm. Code.
7. Administration. Where a Zoning Administrator, planning agency or a board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under sec. 59.69, 59.692 or 62.23(7), Wis. Stats., these officials shall also administer this ordinance.
- a. Zoning Administrator.
 - i. The Zoning Administrator is authorized to administer this section and shall have the following duties and powers:
 - (1) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
 - (2) Issue permits and inspect properties for compliance with provisions of this ordinance, and issue certificates of compliance where appropriate.
 - (3) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
 - (4) Keep records of all official actions such as:
 - (A) All permits issued, inspections made, and work approved;
 - (B) Documentation of certified lowest floor and regional flood elevations for floodplain development;
 - (C) Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
 - (D) All substantial damage assessment reports for floodplain structures.
 - (5) Submit copies of the following items to the Department Regional office:
 - (A) Within ten (10) days of the decision, a copy of any decisions on variances, appeals for map or text

- interpretations, and map or text amendments;
- (B) Copies of any case by case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.
- (C) Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

Note: Information on conducting substantial damage assessments is available on the DNR website - <http://dnr.wi.gov/org/water/wm/dsfm/flood/title.htm>

- (6) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
 - (7) Submit copies of text and map amendments and biennial reports to the FEMA Regional office.
- ii. Land Use Permit. A land use permit shall be obtained before any new development or any repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the Zoning Administrator shall include:
- (1) General Information.
 - (A) Name and address of the applicant, property owner and contractor;
 - (B) Legal description, proposed use, and whether it is new construction or a modification;
 - (2) Site Development Plan. A site plan drawn to scale shall be submitted with the permit application form and shall contain:
 - (A) Location, dimensions, area and elevation of the lot;
 - (B) Location of the ordinary highwater mark of any abutting navigable waterways;
 - (C) Location of any structures with distances measured from the lot lines and street center lines;
 - (D) Location of any existing or proposed on site sewage systems or private water supply systems;
 - (E) Location and elevation of existing or future access roads;
 - (F) Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
 - (G) The elevation of the lowest floor of proposed buildings and any fill using National Geodetic and Vertical Datum (NGVD);
 - (H) Data sufficient to determine the regional flood elevation in NGVD at the location of the

development and to determine whether or not the requirements of Subsections (3) or (4) are met; and

- (I) Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to Subsection (2)(a). This may include any of the information noted in Subsection (3)(c)(i).

(3) Data Requirements to Analyze Developments.

- (A) The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in sec. 236, Wis. Stats., and other proposed developments exceeding five (5) acres in area or where the estimated cost exceeds one hundred twenty-five thousand dollars (\$125,000).

The applicant shall provide:

- (a) An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
- (b) A map showing location and details of vehicular access to lands outside the floodplain; and
- (c) A surface drainage plan showing how flood damage will be minimized.

The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.

- (4) Expiration. All permits issued under the authority of this section shall expire sixty (60) days after issuance.

iii. Certificate of Compliance. No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the Zoning Administrator, except where no permit is required, subject to the following provisions:

- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
- (2) Application for such certificate shall be concurrent with the application for a permit;
- (3) If all ordinance provisions are met, the certificate of compliance shall be issued within ten (10) days after written

notification that the permitted work is completed;

- (4) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that floodproofing measures meet the requirements of Subsection (7)(e).

- iv. Other Permits. The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the United States Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. § 1344.

b. Zoning Agency.

i. The Plan Commission shall:

- (1) Oversee the functions of the office of the Zoning Administrator; and
- (2) Review and advise the governing body on all proposed amendments to this section, maps and text.

ii. This Zoning Agency shall not:

- (1) Grant variances to the terms of the ordinance in place of action by the Board of Adjustment/Appeals; or
- (2) Amend the text or zoning maps in place of official action by the Governing body.

- c. Board of Adjustment/Appeals. The Board of Adjustment/Appeals, created under sec. 59.694, Wis. Stats., for counties or sec. 62.23(7)(e), Wis. Stats., for cities or villages, is hereby authorized or shall be appointed to act for the purposes of this section. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The Zoning Administrator may not be the secretary of the Board.

i. Powers and Duties. The Board of Adjustment/Appeals shall:

- (1) Appeals - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.
- (2) Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
- (3) Variances - Hear and decide, upon appeal, variances from the ordinance standards.

ii. Appeals to the Board.

- (1) Appeals to the Board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be taken within thirty (30) days unless otherwise provided by the rules of the

Board, by filing with the official whose decision is in question, and with the Board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the Board all records regarding the matter appealed.

(2) Notice and Hearing for Appeals Including Variances.

(A) Notice - The board shall:

- (a) Fix a reasonable time for the hearing;
- (b) Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
- (c) Assure that notice shall be mailed to the parties in interest and the Department Regional office at least ten (10) days in advance of the hearing.

(B) Hearing - Any party may appear in person or by agent. The board shall:

- (a) Resolve boundary disputes according to Subsection (7)(c)(iii).
- (b) Decide variance applications according to Subsection (7)(c)(iv).
- (c) Decide appeals of permit denials according to Subsection (7)(d).

(3) Decision: The final decision regarding the appeal or variance application shall:

- (A) Be made within a reasonable time;
- (B) Be sent to the Department Regional office within ten (10) days of the decision;
- (C) Be a written determination signed by the Chairman or Secretary of the Board;
- (D) State the specific facts which are the basis for the Board's decision;
- (E) Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;
- (F) Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

iii. Boundary Disputes. The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

- (1) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles

shall prevail in locating the boundary. If none exist, other evidence may be examined.

- (2) In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board.
- (3) If the boundary is incorrectly mapped, the Board should inform the ~~zoning committee or the~~ person contesting the boundary location to petition the governing body for a map amendment according to Subsection (8).

iv. Variance.

- (1) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
 - (A) Literal enforcement of the ordinance provisions will cause unnecessary hardship;
 - (B) The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
 - (C) The variance is not contrary to the public interest; and
 - (D) The variance is consistent with the purpose of this ordinance in Subsection (1)(c).
- (2) In addition to the criteria in Paragraph a, to qualify for a variance under FEMA regulations, the following criteria must be met:
 - (A) The variance may not cause any increase in the regional flood elevation;
 - (B) Variances can only be granted for lots that are less than one-half (1/2) acre and are contiguous to existing structures constructed below the RFE;
 - (C) Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.
- (3) A variance shall not:
 - (A) Grant, extend or increase any use prohibited in the zoning district.
 - (B) Be granted for a hardship based solely on an economic gain or loss.
 - (C) Be granted for a hardship which is self created.
 - (D) Damage the rights or property values of other persons in the area.
 - (E) Allow actions without the amendments to this

ordinance or map(s) required in Subsection (8)(a).

(F) Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

(4) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.

d. To Review Appeals of Permit Denials.

i. The Zoning Agency [Subsection (7)(b)] or Board shall review all data related to the appeal. This may include:

(1) Permit application data listed in Subsection (7)(a)(ii).

(2) Floodway/floodfringe determination data in Subsection (5) (d).

(3) Data listed in Subsection (3)(c)(i)bii where the applicant has not submitted this information to the Zoning Administrator.

(4) Other data submitted with the application, or submitted to the Board with the appeal.

ii. For appeals of all denied permits the Board shall:

(1) Follow the procedures of Subsection (7)(c);

(2) Consider zoning agency recommendations; and

(3) Either uphold the denial or grant the appeal.

iii. For appeals concerning increases in regional flood elevation the Board shall:

(1) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than one-tenth (0.01) foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.

(2) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than one-tenth (0.01) foot provided no other reasons for denial exist.

e. Floodproofing.

i. No permit or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation.

ii. Floodproofing measures shall be designed to:

(1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;

(2) Protect structures to the flood protection elevation;

(3) Anchor structures to foundations to resist flotation and lateral

movement; and

- (4) Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.

iii. Floodproofing measures could include:

- (1) Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris.
- (2) Adding mass or weight to prevent flotation.
- (3) Placing essential utilities above the flood protection elevation.
- (4) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.
- (5) Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.
- (6) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

f. Public Information.

- i. Place marks on structures to show the depth of inundation during the regional flood.
- ii. All maps, engineering data and regulations shall be available and widely distributed.
- iii. All real estate transfers should show what floodplain zoning district

any real property is in.

8. Amendments.

- a. General. The governing body may change or supplement the floodplain zoning district boundaries and this section in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:
 - i. Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.
 - ii. Correction of discrepancies between the water surface profiles and floodplain zoning maps.
 - iii. Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
 - iv. Any fill or floodplain encroachment that obstructs flow, increasing regional flood height one-tenth (0.01) foot or more.
 - v. Any upgrade to a floodplain zoning ordinance text required by sec. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality.
 - vi. All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

Note: Consult the FEMA web site - www.fema.gov - for the map

change fee schedule.

- b. Procedures. Ordinance amendments may be made upon petition of any interested party according to the provisions of sec. 62.23, Wis. Stats., for cities and villages, or sec. 59.69, Wis. Stats., for counties. Such petitions shall include all necessary data required by Subsections (5)(d) and (7)(a)(ii).
 - i. The proposed amendment shall be referred to the Zoning Agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of sec. 62.23, Wis. Stats., for cities and villages or sec. 59.69, Wis. Stats., for counties.
 - ii. No amendments shall become effective until reviewed and approved by the Department.
 - iii. All persons petitioning for a map amendment that obstructs flow, increasing regional flood height one-tenth (0.01) foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.
 - iv. For amendments in areas with no water surface profiles, the Zoning Agency or Board shall consider data submitted by the Department, the Zoning Administrator's visual on site inspections and other available information. [See Subsection (1)(e)(iv).]
9. Enforcement and Penalties. Any violation of the provisions of this section by any person shall be unlawful and shall be referred to the Municipal Attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not less than one hundred dollars (\$100) and not more than five hundred dollars (\$500), together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this section is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to sec. 87.30, Wis. Stats.
10. Definitions. Unless specifically defined, words and phrases in this ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive, "shall" is mandatory and is not discretionary.
 - a. A-Zones. Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
 - b. Accessory Structure or Use. A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.
 - c. Base Flood. Means the flood having a one percent (1%) chance of being

equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

- d. Basement. Any enclosed area of a building having its floor subgrade, i.e., below ground level, on all sides.
- e. Building. See Structure.
- f. Bulkhead Line. A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to sec. 30.11, Wis. Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.
- g. Campground. Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by four (4) or more camping units, or which is advertised or represented as a camping area.
- h. Camping Unit. Any portable device, no more than four hundred (400) square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, tent or other mobile recreational vehicle.
- i. Certificate of Compliance. A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this section.
- j. Channel. A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- k. Crawlways or crawl space. An enclosed area below the first usable floor of a building, generally less than five (5) feet in height, used for access to plumbing and electrical utilities.
- l. Deck. An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.
- m. Department. The Wisconsin Department of Natural Resources.
- n. Development. Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.
- o. Dryland Access. A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
- p. Encroachment. Any fill, structure, equipment, building, use or development in the floodway.

- q. Existing Manufactured Home Park or Subdivision. A parcel of land, divided into two (2) or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this section. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.
- r. Expansion to Existing Mobile/Manufactured Home Park. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.
- s. Federal Emergency Management Agency (FEMA). The federal agency that administers the National Flood Insurance Program.
- t. Flood Insurance Rate Map (FIRM). A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
- u. Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
 - i. The overflow or rise of inland waters;
 - ii. The rapid accumulation or runoff of surface waters from any source;
 - iii. The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
 - iv. The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
- v. Flood Frequency. The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent (%) chance of occurring in any given year.
- w. Floodfringe. That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
- x. Flood Hazard Boundary Map. A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
- y. Flood Insurance Study. A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating

those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

- z. Floodplain. Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.
- aa. Floodplain Island. A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- ab. Floodplain Management. Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- ac. Flood Profile. A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
- ad. Floodproofing. Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
- ae. Flood Protection Elevation. An elevation of two (2) feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: Freeboard.)
- af. Flood Storage. Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- ag. Floodway. The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- ah. Freeboard. A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.
- ai. Habitable Structure. Any structure or portion thereof used or designed for human habitation.
- aj. Hearing Notice. Publication or posting meeting the requirements of Chapter 985, Wis. Stats. For appeals, a Class 1 notice, published once at least one (1) week [seven (7) days] before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week [seven (7) days] before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- ak. High Flood Damage Potential. Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a

structure or building and its contents.

- al. Historic Structure. Any structure that is either:
 - i. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register,
 - ii. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district,
 - iii. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or
 - iv. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.
- am. Increase in Regional Flood Height. A calculated upward rise in the regional flood elevation, equal to or greater than one-tenth (0.01) foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
- an. Land Use. Any nonstructural use made of unimproved or improved real estate. (Also see Development.)
- ao. Manufactured Home. A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."
- ap. Mobile Recreational Vehicle. A vehicle which is built on a single chassis, four hundred (400) square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."
- aq. Municipality or Municipal. The county, City or village governmental units enacting, administering and enforcing this section.
- ar. NGVD or National Geodetic Vertical Datum. Elevations referenced to mean sea level datum, 1929 adjustment.
- as. New Construction. For floodplain management purposes, "new construction"

means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

- at. Nonconforming Structure. An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)
- au. Nonconforming Use. An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)
- av. Obstruction to Flow. Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.
- aw. Official Floodplain Zoning Map. That map, adopted and made part of this ordinance, as described in Subsection (1)(e)(ii), which has been approved by the Department and FEMA.
- ax. Open Space Use. Those uses having a relatively low flood damage potential and not involving structures.
- ay. Ordinary Highwater Mark. The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
- az. Person. An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
- ba. Private Sewage System. A sewage treatment and disposal system serving one (1) structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.
- bb. Public Utilities. Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.
- bc. Reasonably Safe From Flooding. Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- bd. Regional Flood. A flood determined to be representative of large floods

known to have occurred in Wisconsin. A regional flood is a flood with a one percent (1%) chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

- be. Start of Construction. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- bf. Structure. Any man-made object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- bg. Subdivision. Has the meaning given in sec. 236.02(12), Wis. Stats.
- bh. Substantial Damage. Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed fifty percent (50%) of the equalized assessed value of the structure before the damage occurred.
- bi. Unnecessary Hardship. Where special conditions affecting a particular property, which were not self created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
- bj. Variance. An authorization by the Board of Adjustment or Appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
- bk. Violation. The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.
- bl. Watershed. The entire region contributing runoff or surface water to a watercourse or body of water.
- bm. Water Surface Profile. A graphical representation showing the elevation of the

water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

- bn. Well. Means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

[Ord. O-2006-0001, 1/17/2006]

SECTION 24: **AMENDMENT** “15.071 Regulatory Board Established” of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

15.071 Regulatory Board Established

Regulatory Board Established. The ~~License and Health~~Public Safety Committee of the Common Council is hereby designated and established as a Cable Television System Regulatory Board.

SECTION 25: **AMENDMENT** “17.01 Definitions And Rules For Construction” of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

17.01 Definitions And Rules For Construction

The following definitions and rules of construction shall be observed in interpretation of this Revised Municipal Code, unless otherwise expressly provided in any section hereof or unless the context of any section clearly requires otherwise.

1. Revised Municipal Code. The term "Revised Municipal Code," or the work "Code," unless context otherwise requires, shall be deemed to mean the same as "Revised Municipal Code of the City of West Allis, Wisconsin."
2. City. The word "City" shall be deemed to mean the City of West Allis, a municipal corporation in the State of Wisconsin.
3. Council and City Council. The word "Council" and the terms "City Council" or "Common Council" shall be deemed to mean the Common Council of the City of West Allis, a legislative branch of the City of West Allis.
4. Gender. When any subject matter, party or person is described or referred to by words importing the masculine, females, as well as males, firms, associations and corporate

organizations, as well as individuals, shall be deemed to be included.

5. Number. When any subject matter, party or person is described or referred to by words importing the singular number, the plural and persons and bodies corporate shall be deemed to be included.
6. Person. The word "person" shall include a firm, corporation, association or other organization acting as a group or unit, as well as an individual. It shall also include an executor, administrator, trustee, receiver or other representative appointed according to law. Whenever the word "person" is used in any section of this Revised Municipal Code prescribing a penalty or fine, as to firms, associations and other organizations, the words shall include the partners, members or agents who are responsible for any violation of said section thereof and, as to corporations, shall include the officers, agents or members thereof who are responsible for any violation of said section.
7. Evidence. Any printed copy of the Revised Municipal Code or any printed supplement thereto, containing a printed certificate of the City Clerk as to correctness, shall be received in evidence in any court for the purpose of proving any charter and ordinances therein contained with like effect and for the same purpose as the original ordinances, minutes or journals would be received.
8. Reference to Wisconsin Statutes. All references in this Code to any sections of the Wisconsin Statutes shall be taken to mean the most recently revised and published edition of the Wisconsin Statutes, as from time to time amended, modified, repealed or otherwise altered by the State Legislature.
9. Health Commissioner. Whenever the title "Health Officer" is used in this Code it shall be taken to mean "Health Commissioner." From time to time hereafter, as pages from this Code are reprinted, the City Clerk shall substitute the title of "Health Commissioner" for the title "Health Officer."
10. Wards and Aldermanic Districts. Wherever the word "Ward" is used in this Code it shall be taken to mean "Aldermanic District," until such time as the page where such reference is contained is reprinted. Following such new printing of a Code page, the word "Ward" shall mean that which was formerly denominated "Precinct," as used in this Code, it shall be taken to mean "Ward." From time to time hereafter, as pages from this Code are reprinted, the City Clerk shall substitute "Aldermanic District" or "Aldermanic Districts" for "Wards," and "Ward" or "Wards" for "Precinct" or "Precincts."
11. ~~License and Health Committee. Whenever the term "Public Welfare Committee" is used in this Code, it shall be taken to mean "License and Health Committee." From time to time hereafter, as pages from this Code are reprinted, the City Clerk shall substitute the term "License and Health Committee" for "Public Welfare Committee(Reserved)."~~
12. ~~Administration and Finance Committee. Whenever the term "Public Administration Committee" is used in this Code, it shall be taken to mean "Administration and Finance Committee." From time to time hereafter, as pages from this Code are reprinted, the City Clerk shall substitute the term "Administration and Finance Committee" for "Public Administration Committee(Reserved)."~~
13. Director of Planning & Housing. Whenever the title "City Planner" is used in this Code, it shall be taken to mean "Director of Planning & Housing." From time to time hereafter, as pages of this Code are reprinted, the City Clerk shall substitute the title of

"Director of Planning & Housing" for the title "City Planner."

14. (Reserved.)
15. ~~Safety and Development Committee. Whenever the term "Public Safety Committee" is used in this Code, it shall be taken to mean "Safety and Development Committee." From time to time hereafter, as pages from this Code are reprinted, the City Clerk shall substitute the term "Safety and Development Committee" for "Public Safety Committee."~~
~~(Reserved.)~~
16. Alderpersons. Whenever the term "Alderman" is used in this Code, it shall be taken to mean "Aldersperson." From time to time hereafter, as pages of this Code are reprinted, the City Clerk shall substitute the term "Aldersperson" for "Alderman." [Ord. O-2003-0075, 11/18/2003]
17. (Reserved.)
18. (Reserved.)

SECTION 26: **AMENDMENT** "18.12 Surveillance Systems Required On Nuisance Commercial Properties" of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

18.12 Surveillance Systems Required On Nuisance Commercial Properties

1. Findings. In order to promote safe and orderly public places and commercial properties, the Common Council finds that any commercial property that has facilitated or been the location of three (3) or more nuisance activities in a one-hundred-eighty-day period, may be required to install a security camera system to help ensure the safety and welfare of the people of the City of West Allis.
2. Definitions.
 - a. "Commercial Property" means use of property that is not classified by the City Assessor as residential and includes classifications of mixed use, multifamily, commercial, manufacturing, industrial and institutional property classifications.
 - b. "Incident" means separate acts of nuisance activity. A single incident that incorporates multiple nuisance activities at the same time will only be counted as one (1) incident. Multiple separate incidents in one (1) day will constitute separate incidents for counting purposes.
 - c. "Occupant" means one who has possessory rights in, or control over, certain property or premises.
 - d. "Owner" means each person or legal entity who jointly or severally is vested with all or part of legal title to (or beneficial ownership of) the premises, and who has the right to use and enjoyment of the premises. The term includes, but is not limited to, a mortgagee in possession, a trustee, a trust, a life estate holder, a condominium association, a land-contract buyer, a general partnership, a limited partnership, a limited liability company, a cooperative, and a corporation or other property ownership type.

- e. "Nuisance Activities" includes those activities or acts as described in Subsection 18.03(2). "Nuisance activities" also includes:
 - i. Acts against life or bodily security as enumerated in Sections 940.01 through 940.32, Wis. Stat.
 - ii. Acts against property as enumerated in Sections 943.01 through 943.50, Wis. Stat.
 - iii. Acts involving illegal possession or use of firearms as enumerated in Ch. 941 and Section 948.60, Wis. Stat.
 - iv. Keeping a place of prostitution as defined in Section 944.34, Wis. Stat., or leasing a building that is being used to violate Section 944.34, Wis. Stat.
- 3. Procedure. Whenever the Police Chief or one of his/her designees identifies that three (3) or more nuisance activities have occurred at a commercial property in separate incidents during a one-hundred-eighty-day period, the Police Chief, designee, or the City Attorney may issue the premises owner or occupant a written order to install and maintain a surveillance system for a nuisance commercial property (hereafter "order"), to notify the owner or occupant of his/her requirement to install a security camera system in compliance with Subsection (4) of this section. The premises owner or occupant shall have sixty (60) days from the date of the notification to install and maintain for two (2) years, a security camera pursuant to Subsection (4).
 - a. This notice shall be deemed properly delivered if sent by either first class mail to the premises owner's or occupant's last known address or if delivered in person to the premises owner or occupant. If the premises owner or occupant cannot be located, the notice shall be deemed to be properly delivered if a copy is left at the premises owner's or occupant's usual place of abode in the presence of some competent member of the family at least fourteen (14) years of age or a competent adult currently residing there. If a current address cannot be located, it shall be deemed sufficient if a copy of the notice is sent by first-class mail to the last known address of the owner as identified by records kept by the West Allis Assessor's Office.
 - b. The notice shall contain: the legal description or street address of the premises; a description of the nuisance activities that have occurred at the premises; a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises via Section 18.04 for ongoing nuisance activity; a statement that the premises owner or occupant shall within sixty (60) days from the date of notification, comply with the requirements of Subsection (4); and a notice of the premises owner's or occupant's right to appeal pursuant to Subsection (5).
 - c. Failure of the commercial property owner or occupant to comply with the order for a security system as outlined in this section may constitute grounds for nonrenewal, suspension, or revocation of a license or permit for the premises and/or declaration that the property is a chronic public nuisance under West Allis RMC Section 18.04 of this code.
- 4. Security Camera Requirements. Any premises owner or occupant subject to Subsection (3) shall comply with the following regulations:

- a. Security cameras shall be installed and maintained in proper working order and operate during all hours that the commercial property is open to customers or employees. Each security camera shall display an accurate date and time stamp on each image and produce retrievable images suitable for permanent police records.
- b. Security cameras shall be installed so as to provide clear images of the entire premises including areas as specified on a license or permit as well as the public right-of-way abutting the premises and any off-street parking lot used by patrons and/or employees. In addition, at least one security camera shall provide an overall view of each counter and register area, and at least one security camera shall be positioned to provide a clear, identifiable, full-frame image of the face of each person entering and leaving commercial properties at each entrance and exit. Security camera view shall not be obstructed by premises fixtures or displays. The police may encourage the commercial property to position and use additional security cameras to bolster overall crime-prevention efforts.
- c. Surveillance video quality must be of a sufficient resolution for persons to be easily identified by law enforcement and to aid in the investigation of incidents at the premises. If the surveillance video system implemented by the premises owner or occupant is of insufficient video quality, the Police Department, ~~License and Health~~Economic Development Committee, or Public Safety ~~and Development~~ Committee may require additional action by the premises owner or occupant to bring the surveillance video system up to sufficient quality and/or the noncompliance may result in a violation and penalties for violating the ordinance.
- d. If a time lapse surveillance system is used, said system and interval of image recording must be approved by the Chief of Police or his/her designee to ensure that the system is sufficiently capable of providing sufficiently reliable surveillance. Once approved, the interval of recording shall not be changed without approval of the Chief of Police or his/her designee.
- e. All security camera footage recordings shall be stored and maintained by the owner or occupant in good viewing order for at least thirty (30) days after the original recording.
- f. All camera footage shall be made available upon request, within the requested time frame, to the ~~License and Health~~Economic Development Committee, the Public Safety ~~and Development~~ Committee, and/or to law enforcement officers. Employees at the commercial property must be able to make duplicate copies of video recordings during hours that the property is open to customers or employees.
- g. Security camera systems shall be capable of copying all images in an accessible form while maintaining the native format. Digital video recordings made by security camera systems on a disk storage format, such as CDs or DVDs, shall be copied onto a disk storage format whenever the system's video recording media reaches capacity, but not less frequently than once

every thirty (30) days. All security camera footage requested by the ~~License and Health~~Economic Development Committee, the ~~Public Safety and~~Development Committee, or law enforcement officers shall be provided on a disk storage format, such as CD-Rs or DVD-Rs. Security camera system playback software needed to view recorded images shall be copied onto each disk storage format used to store recorded video images.

- h. On-duty commercial property employees or managers, whether employed by the premises owner or premises occupant, shall provide a copy of recorded digital images to law enforcement officers immediately upon request. If the request cannot be immediately complied with, no surveillance footage may be deleted or purged from the system until the officer's request for surveillance recordings has been fulfilled.
 - i. The surveillance security cameras shall be maintained in proper working order for a period of at least two (2) years from the date of delivery of the notice in Subsection (3).
- 5. Order to remain. The order to install and maintain a surveillance system for a nuisance commercial property shall remain with either the owner or the occupant for the duration of the time prescribed in Subsection (3) unless the owner or occupant is granted relief under Subsection (7) applies.
 - a. If the order to install and maintain a surveillance system for a nuisance commercial property has been made to an occupant of a nuisance commercial property, said order will remain with that occupant for the time prescribed in Subsection (3) so long as that entity remains in the City of West Allis. An occupant or entity subject to said order cannot circumvent the order by moving to a new location within the City of West Allis.
 - b. If the order to install and maintain a surveillance system for a nuisance commercial property has been made to an owner of a nuisance commercial property, said order will remain on the nuisance commercial property location for the time prescribed in Subsection (3).
- 6. Relief from Order. An owner or occupant subject to an order by the Police Chief or his/her designee pursuant to Subsection (3) may submit a petition for relief from order to the Administrative Appeals Review Board pursuant to Section 2.48 of the Revised Municipal Code.
- 7. Procedure for Petition for Relief from Order. Any person affected by an order issued under this section shall, within thirty (30) days of the date of service or publication of the order, or within thirty (30) days of a change in occupancy or ownership, or circumstances of the commercial property subject to the order, apply to the Administrative Appeals Review Board for review of the order, or be forever barred. The Board shall determine the reasonableness of the order. Any person aggrieved by the determination of the Administrative Appeals Review Board shall appeal to the Circuit Court as provided in Wisconsin Statutes Chapter 68.
- 8. Penalties. Any commercial property owner or occupant who violates any of the provisions of this section shall, upon conviction, forfeit not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), and in default of payment

thereof, be imprisoned as provided by law. Each and every day of the violation constitutes a separate offense.

[Ord. O-2017-0039, 11/7/2017]

SECTION 27: **EFFECTIVE DATE** This Ordinance shall be in full force and effect on and after January 1, 2023.

PASSED AND ADOPTED BY THE CITY OF WEST ALLIS COUNCIL OCTOBER 18, 2022.

	AYE	NAY	ABSENT	ABSTAIN
Ald. Angelito Tenorio	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Ald. Vince Vitale	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Ald. Tracy Stefanski	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Ald. Marty Weigel	<u> 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
 Rebecca Grill, City Clerk, City Of
 West Allis

Dan Devine
 Dan Devine, Mayor, City Of West
 Allis

