



# City of West Allis

## Meeting Agenda

### Common Council

*Mayor Dan Devine, Chair*

*Aldersperson Thomas G. Lajsic, Council President*

*Alderspersons: Suzzette Grisham, Kevin Haass, Danna Kuehn, Thomas G. Lajsic, Rosalie L. Reinke,  
Daniel J. Roadt, Tracy Stefanski, Angelito Tenorio, Vincent Vitale, and Martin J. Weigel*

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Monday, April 12, 2021

6:00 PM

City Hall, Common Council Chambers  
7525 W. Greenfield Avenue

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#### A. CALL TO ORDER

#### B. ROLL CALL

#### C. NEW AND PREVIOUS MATTERS

1. [O-2021-0034](#) Ordinance to amend outdoor licensed premises regulations, recreate process for obtaining temporary extensions of a licensed premises, and perform various administrative updates to retail alcohol licensing

#### D. ADJOURNMENT



All meetings of the Common Council are public meetings. In order for the general public to make comments at the committee meetings, the individual(s) must be scheduled (as an appearance) with the chair of the committee or the appropriate staff contact; otherwise, the meeting of the committee is a working session for the committee itself, and discussion by those in attendance is limited to committee members, the mayor, other alderpersons, staff and others that may be a party to the matter being discussed.

#### **NOTICE OF POSSIBLE QUORUM**

It is possible that members of, and possibly a quorum of, members of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information. No action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice.

#### **NON-DISCRIMINATION STATEMENT**

The City of West Allis does not discriminate against individuals on the basis of race, color, religion, age, marital or veterans' status, sex, national origin, disability or any other legally protected status in the admission or access to, or treatment or employment in, its services, programs or activities.

#### **AMERICANS WITH DISABILITIES ACT NOTICE**

Upon reasonable notice the City will furnish appropriate auxiliary aids and services when necessary to afford individuals with disabilities an equal opportunity to participate in and to enjoy the benefits of a service, program or activity provided by the City.

#### **LIMITED ENGLISH PROFICIENCY STATEMENT**

It is the policy of the City of West Allis to provide language access services to populations of persons with Limited English Proficiency (LEP) who are eligible to be served or likely to be directly affected by our programs. Such services will be focused on providing meaningful access to our programs, services and/or benefits.

**CITY OF WEST ALLIS  
ORDINANCE O-2021-0034**

**ORDINANCE TO AMEND OUTDOOR LICENSED PREMISES REGULATIONS,  
RECREATE PROCESS FOR OBTAINING TEMPORARY EXTENSIONS OF A  
LICENSED PREMISES, AND PERFORM VARIOUS ADMINISTRATIVE UPDATES  
TO RETAIL ALCOHOL LICENSING**

**AMENDING SECTION 9.02**

**WHEREAS**, the common council desires to update and improve the process for reviewing and approving temporary extensions of premises licensed to serve alcohol; and

**WHEREAS**, the common council desires to create consistent, yet flexible regulations for outdoor premises licensed to serve alcohol to promote equitable standards for licensees and improve the city's license administration; and

**WHEREAS**, several provisions in Section 9.02 are in need of updating to reflect current law and practice;

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

**SECTION 1:**        **AMENDMENT** “9.02 Alcoholic Beverages” of the City Of West Allis Municipal Code is hereby *amended* as follows:

**A M E N D M E N T**

**9.02 Alcoholic Beverages**

1. State Regulations. Except as otherwise provided herein, the provisions of Chapter 125 of the Wisconsin Statutes, relating to the sale of alcohol beverages, are adopted by reference and made a part hereof with the same force and effect as if fully set forth herein.

1m. 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 only on the premises where sold and also authorizes the sale of intoxicating liquor in the original package or container, in any quantity, to be consumed off the premises where sold.

2. License Required. No person, firm, partnership, corporation or association shall, within the City, sell, barter, exchange, offer for sale or have in possession with intent to sell, deal or traffic in fermented malt beverages or intoxicating liquor, in any quantity whatsoever, or cause the same to be done without having procured a license.
3. Applications for Class "A" and "B" Retail License.

- a. When and Where Filed. A written application for the licenses required by this section shall be filed with the City Clerk upon forms provided by the City Clerk. The application shall be filed with the City Clerk not less than fifteen (15) days prior to the granting of such license. Except as otherwise provided in this chapter, the license fee shall be paid prior to the issuance of the license by the City Clerk. **[Ord. O-2018-0037, 9/18/2018]**

Such application shall be filed and completed in accordance with Sec. 125.04(3) of the Wisconsin Statutes. The City Clerk shall not accept an application from a foreign corporation, a foreign limited liability company or a person acting as an agent for or in the employ of another.

- b. Original Applications. Applicants seeking to establish a new licensed premise shall, upon application, pay a two hundred dollar (\$200) fee to defray a portion of the costs of building, plumbing, electrical, health and fire inspections. The fee shall be nonrefundable, but shall be applied to the license fee.
- c. Publication. The application shall be published at least once in the official City newspaper, and the costs of publication shall be paid by the applicant.
- d. Notice of Change In Application. If a licensee files with the clerk a written description of a change in fact pursuant to Wis. Stat. 125.04(3)(h)(h), the clerk shall update the city's records to reflect that change, unless the change is an amendment to the premises description. No change to a premises description is valid unless approved by the common council. The common council shall review any request to amend a premises description in the same manner as it reviews an application for a new license.

~~Whenever anything occurs to change any fact set out in the application of any licensee, including the written premises description, such licensee shall submit a written notice of such changes to the City Clerk within ten (10) days prior to any change in any fact set out in the application and prior to the next available meeting of the License and Health Committee. It is within the discretion of the License and Health Committee and Common Council to approve or disapprove the change in the written premises description. The licensee shall pay a fee as specified in the most recent Schedule of Fees resolution. [Ord. O-2018-0037, 9/18/2018]~~

- e. Late Application. The Common Council may meet to consider and act upon any application for a Combination Class B or Combination Class A license, which has not been timely filed so that the Common Council may act upon the application at its regular meeting prior to the commencement of the license year, provided that any such application has been filed with the City Clerk at least fifteen (15) days prior to the special meeting of the Common Council. A late filing fee of one thousand dollars (\$1,000) shall accompany each such application to defray administrative expenses. The late filing fee shall be nonrefundable unless a quorum of the Common Council is not able to meet and shall be in addition to the license fee. **[Ord. O-2005-0033, 6/21/2005]**
- f. Provisional Retail License. Pursuant to Wisconsin Statutes Section 125.185, the City Clerk is authorized to issue provisional retail licenses. Licenses ~~shall~~ may

be granted only to applicants who have possessed ~~a valid~~the same retail license for the sale of alcoholic beverages within the past year. The fee for such license shall be fifteen dollars (\$15) and shall be paid to the Clerk before issuance.

~~{Ord. O-2011-0022, 6/21/2011}~~

3m. Class "C" Licenses. **[Ord. 6329, 9/2/1997]**

- i. Filing of Applications. A written application for a Class "C" license shall be filed with the City Clerk upon forms provided by the City Clerk. The application shall be filed with the City Clerk not less than fifteen (15) days prior to the granting of such licenses. Except as otherwise provided in this chapter, the license fee shall be paid prior to the issuance of the license by the City Clerk. **[Ord. O-2018-0037, 9/18/2018]**

The application shall be filed and completed in accordance with Sec. 125.04(3) of the Wisconsin Statutes. The City Clerk shall not accept an application from a foreign corporation, a foreign limited liability company or a person acting as an agent for or in the employ of another.

- ii. Publication. The application shall be published at least once in the official City newspaper and the costs of publication shall be paid by the applicant.
- iii. Granting of License. A Class "C" license may be granted to an applicant only if the applicant meets the qualifications set forth in sec. 125.04(5) of the Wisconsin Statutes; the premises to be licensed is a restaurant in which the sale of alcohol beverages accounts for or will account for less than fifty percent (50%) of gross receipts; and the restaurant does not contain a barroom.

- (1) In addition to the restrictions on location of a "Class A" and "Class B" premises under Wis. Stat. 125.68(3), No~~no~~"Class "C" license ~~or permit~~ may be issued for premises, the main entrance of which is less than ~~three hundred (300)~~ feet from the main entrance of any public or parochial school, hospital or church, except that this prohibition may be waived by a majority vote of Common Council. The distance shall be measured by the shortest route along the highway from the main entrance of the school, church or hospital to the main entrance of the premises covered by the license or permit. The distance shall be measured by the shortest route along the highway from the main entrance of the school, church, or hospital to the main entrance of the premises covered by the license. The prohibition in this subsection does not apply to any premises covered by a "Class "C" license ~~or permit~~ on the date this ordinance is published or premises covered by a "Class "C" license ~~or permit~~ prior to the occupation of real property within ~~three hundred (300)~~ feet thereof by any school, hospital

or church building.

- iv. ~~Notice of Change. Whenever anything occurs to change any fact set out in the application of any licensee, including the written premises description, such licensee shall submit a written notice of such changes to the City Clerk within ten (10) days prior to the next available meeting of the License and Health Committee. All changes are subject to approval by the License and Health Committee prior to the granting of the license. It is within the discretion of the License and Health Committee and Common Council to approve or disapprove the change in the written premises description. The licensee shall pay a fee as specified in the most recent Schedule of Fees resolution. [Ord. O-2018-0037, 9/18/2018](Reserved)~~

4. ~~Right to Premises, Floor Plan, and Plan of Operation. [Ord. O-2013-0014, 4/2/2013]~~

- a. ~~No applicant will be considered unless the applicant has the right to possession of the premises described in the application for the license. The applicant shall present documentation, in a form acceptable to the City Attorney, of proof of right to possession for the license period. Loss of the right to the premises subjects the license to immediate revocation(Reserved).~~
- b. In any application for an alcohol beverage retail establishment license, excepting special Class B Beer and Wine Licenses, the applicant shall file a detailed floor plan on an 8 1/2-inch by 11-inch sized sheet of paper for each floor of the licensed premises. The floor plan shall include:
  - i. Area in square feet and dimensions of the licensed premises.
  - ii. Locations of 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.
  - iii. Locations of all seating areas, bars, and, if applicable, food preparation areas.
  - iv. Locations and dimensions of any alcohol beverage storage and display areas.
  - v. Locations and dimensions of any outdoor areas available at the premises for the sale, service or consumption of alcohol beverages.
  - vi. North point and date.
  - vii. Any other reasonable and pertinent information the License and Health Committee may require either for all applicants or in a particular case.
- c. Plan of Operation. A completed plan of operation on forms provided therefor by the Clerk. The plan of operation shall require: **[Ord. O-2014-0019, 4/1/2014; Ord. O-2018-0037, 9/18/2018]**
  - i. The current or planned hours of operation for the premises.
  - ii. The legal occupancy capacity of the premises.
  - iii. What plans the applicant has to insure the orderly appearance and operation of the premises with respect to noise and litter. This shall include a description of designated or likely outdoor smoking areas, the

- number and location of exterior and interior trash receptacles.
- iv. What other types of business enterprises, if any, are planned or currently conducted at the premises.
  - v. What other licenses and permits, if any, are planned or currently issued for the premises.
  - vi. For applications for premises in locations that have not been licensed previously or within the past year under Section 9.02, whether the premises is less than three hundred (300) feet from any school, hospital, or church, pursuant to Section 9.02(4)(c)1 and Section 125.68(3) of the Wisconsin Statutes.
  - vii. The number of security personnel expected to be on the premises, their responsibilities, and the equipment they will use in carrying out their duties.
  - viii. Any other reasonable information the License and Health Committee may require either for all applicants or in a particular case.
- d. Renewals. For any renewal application for an alcohol beverage retail establishment license for which there is no change in any information that is reported in the floor plan and plan of operation as submitted with the original or previous renewal application, the licensee may re-file the previous documents. The License and Health Committee may require changes to a floor plan or plan of operation based on the licensee's past operation.
- e. Alterations/Amendments. The floor plan and plan of operation are subject to approval by the License and Health Committee prior to the granting of the license and may be subject to the issuance of any building, zoning, or other permits. Applicants seeking such alterations or amendments shall submit a written notice of such changes to the City Clerk ~~within ten (10) days prior to the next available meeting of the License and Health Committee. It is within the discretion of the License and Health Committee and~~ The Common Council ~~to may~~ approve or disapprove the change in the ~~written premises description and/or floor plan or plan of operation under the same standard as the review of a new license application.~~ The License and Health Committee may change all or part of the plan of operation or may impose additional requirements to address problems created by the licensee's operation. Applicants seeking an alteration or amendment to the floor plan or plan of operation shall pay a fee as specified in the most recent Schedule of Fees resolution and upon application. ~~{Ord. O-2014-0078, 11/18/2014; Ord. O-2018-0037, 9/18/2018}~~
- 4m. Truth of Statements. All matters submitted in writing to the City by any applicant or licensee pertaining to an alcohol beverage license shall be true. Any person who submits in writing any untrue statement to the City in connection with any such license or application shall forfeit not more than five hundred dollars (\$500) together with the costs of prosecution, and in default shall be imprisoned in the Milwaukee County House of Correction for the maximum number of days set forth in Section 800.095(1)(b) of the Wisconsin Statutes. In addition, any license granted shall be subject to revocation and no alcohol

beverage license of any kind whatsoever shall thereafter be granted to such person for a period of one year from the date of such revocation. [Ord. O-2013-0014, 4/2/2013]

5. ~~Extension of~~ Outdoor Premises:

a. Definitions

- i. "Indoor premises" means any part of the premises that is an enclosed place as that term is defined in Wis. Stat. 101.123(1)(ak).
- ii. "Outdoor premises" means any part of the premises that is not an indoor premises.

b. Outdoor Premises Regulations. Unless the licensee has been granted an authorization under paragraph (c), all outdoor premises shall comply with the following regulations:

- i. Contiguity. Any outdoor premises shall be contiguous with the licensee's indoor premises. Any outdoor premises that existed on April 12, 2021, is exempt from this requirement for as long as the outdoor premises continually exists.
- ii. Proximity. The outdoor premises shall be at least 200 feet away from any residential building. Any outdoor premises that existed on April 12, 2021, is exempt from this requirement for as long as the outdoor premises continually exists.
- iii. Bordering. The border of any outdoor remises shall be physically marked with fencing, vegetation, barriers, or other objects or markings accurately indicating where the outdoor premises ends.
- 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.
- vi. Service Bar Seating. If a service bar from which persons may purchase intoxicating liquor or fermented malt beverages is provided on the outdoor premises, no seating may be provided at the service bar.
- vii. Noise Limit. No outdoor premises may be the source of sound that is audible beyond 200 feet from the outdoor premises.
- viii. Term. Any outdoor premises shall close no later than 2:00 a.m. on the Tuesday following the first Monday of September and may not reopen until 6:00 a.m. on the last Saturday in May.

c. Authorizations. A licensee may request an authorization under this paragraph. Upon receiving a request for any authorization under this paragraph, the clerk shall notify the Planning Department, Building Inspection and Neighborhood Services Department, Health Department, and Police Department of the request, and the departments may provide information regarding the request to the common council.

- i. Contiguity Authorization. A licensee may request approval for an outdoor premises that does not connect to the licensee's indoor premises by submitting to the city clerk an official request and paying the fee



- listed in the Fee Schedule. The common council may approve a noncontiguous outdoor premises if it is located reasonably near the indoor premises.
- ii. Proximity Authorization. A licensee may request approval for an outdoor premises within 200 feet of a residential building by submitting to the city clerk an official request and paying the fee listed in the Fee Schedule. Before the council considers a request under this subparagraph, the clerk shall mail or post a notice to the occupants of any residential building within 200 feet of the proposed outdoor premises informing them of the committee or council meeting where the request will be heard. The common council may approve an outdoor premises located less than 200 feet away from any residential building if the closer proximity is compatible with the surrounding neighborhood.
  - iii. Bordering Authorization. A licensee may request approval for an outdoor premises that has no border indicated by submitting to the city clerk an official request and paying the fee listed in the Fee Schedule. The common council may approve a borderless outdoor premises if the layout of the outdoor premises makes bordering unreasonable.
  - iv. Lighting Authorization. A licensee may request approval for an outdoor premises that has lighting directed beyond the premises by submitting to the city clerk an official request and paying the fee listed in the Fee Schedule. Before the council considers a request under this subparagraph, the clerk shall mail or post a notice to occupants of any adjacent property informing them of the committee or council meeting where the request will be heard. The common council may approve an outdoor premises with lighting directed off the premises if necessary for security or other appropriate purposes.
  - v. Closing Hours Authorization. A licensee may request approval for an outdoor premises to remain open for specific times outside of the standard hours by submitting to the city clerk an official request and paying the fee listed in the Fee Schedule. The common council may approve extended hours for an outdoor premises if the extended hours will not interfere with public health, safety, or welfare.
  - vi. Service Bar Seating Authorization. A licensee may request approval for seating at a service bar on an outdoor premises by submitting to the city clerk an official request and paying the fee listed in the Fee Schedule. The common council may approve service bar seating on an outdoor premises if the additional congestion and capacity will not interfere with public health, safety, or welfare.
  - vii. Noise Limit Authorization. A licensee may request approval for an outdoor premises to be the source of sound for a specific distance beyond 200 feet from the outdoor premises by submitting to the city clerk an official request and paying the fee listed in the Fee Schedule.

Before the council considers a request under this subparagraph, the clerk shall mail or post a notice to occupants of any residential property located within the distance requested by the licensee from the outdoor premises informing them of the committee or council meeting where the request will be heard. The common council may approve an extended noise limit distance if the additional noise will not interfere with public health, safety, or welfare. The council's approval may be limited to specific dates and times.

- viii. Term Authorization. A licensee may request approval for an outdoor premises to remain open for specific dates outside of the standard term by submitting to the city clerk an official request and paying the fee listed in the Fee Schedule. The common council may approve an extended term for an outdoor premises if the additional additional open dates will not interfere with public health, safety, or welfare.

~~Purpose. The licensing of outdoor areas for the possession, sale and consumption of fermented malt beverages and intoxicating liquors involves special considerations not associated with the licensing of building premises. Such considerations include control of public access to the premises, proper visibility, noise, lighting and public safety. Therefore, special regulations to protect the health, safety and welfare of the community are required and are herein set forth as a matter of public policy; however, nothing herein contained should be construed to in any manner act as a limitation upon or restriction of the general licensing authority of the Common Council under state and local laws and ordinances.~~  
~~Authority. Outdoor areas may be included, as part of the licensed premises, subject to the qualifications, conditions and special regulations set forth in this paragraph.~~  
~~Qualifications. An outdoor area, in order to qualify for consideration as part of the licensed premises, shall:~~  
~~Be located on the same site as the building premises described in the license application. For purposes of this subsection, "same site" means one (1) parcel of property or multiple abutting parcels of property as long as the licensee complies with Section 9.02(5)(a) of this Code. [Ord. O-2018-0037, 9/18/2018]~~  
~~The outdoor area shall conform to all setback requirements set forth in Chapter 12. [Ord. 6105, 7/19/1994]~~  
~~The outdoor area shall not be located on property which abuts or is within two hundred (200) feet of other property zoned or used for residential purposes. For purposes of this subsection, measurements shall be made from the boundary of the outdoor area to the building on other property zoned or used for residential purposes. [Ord. 6105, 7/19/1994]~~  
~~Conditions. Qualified outdoor areas may be included as part of the licensed premises under the following conditions:~~  
~~Temporary Extension of Class "B" Tavern~~

~~Licensed Premises for Special Events. Eligibility. Any person holding a valid Class B license may apply under this subsection to the common council for temporary extension of such licensed premises and any collateral entertainment licenses under the following conditions: Use of Public Sidewalk. Any premises extended into a public sidewalk is granted a privilege to place only movable tables and chairs on that premises under the following conditions: Application. Licensees seeking to temporarily extend their licensed premises under this subsection shall submit to the City Clerk a complete and signed application on a form approved by the City Clerk. The application shall include the following information: Conditions. The following conditions shall apply to any temporary extension of licensed premises granted under this subsection unless further limited by the council: Council Action. The application shall be filed by 5:00 p.m. on the day prior to the date of the Common Council meeting to consider the application. The Common Council may, in its discretion, grant or deny the application. If the application is denied, the City Clerk shall, in writing, notify the applicant of the decision and the Council's reasons for denial, if any, deciding whether to grant a license, the Common Council may consider, among other factors, the appropriateness of the location for which a temporary extension of licensed premises is sought, whether such location will create an adverse impact on other property in the neighborhood, and any other factors which reasonably relate to the public health, safety and welfare. Issuance. For any granted applications and upon payment of a fee of \$50, the City Clerk shall issue an appropriate document to the applicant confirming the granting of the license. Such document shall also contain any restrictions or conditions which the Common Council may place on such approvals. The City Clerk shall, within twenty-four (24) hours after the issuance of the approving document, provide a copy of the same document to the Chief of Police. The outdoor area is screened from off-site view. In addition to planting materials, walls and/or fences shall be utilized to provide screening and to control access to the outdoor area; [Ord. 6105, 7/19/1994] Lighting sources shall be shielded and so arranged to prevent spray onto adjacent properties. Flashing, intermittent or moving light or lights, and lights which are directed at any part of a traveled street or highway or which interfere with or obscure an official traffic device, sign or signal, are prohibited; The site shall be constructed so as to assist in maintaining site noise within the standards set forth in Section 7.035(3) of this Code; The outdoor area shall be constructed and arranged so as to limit the number of patrons to not more than twenty-five percent (25%) of the person per square foot capacity for the licensed building premises. Special Regulations. The following special regulations shall apply to outdoor areas included as part of the licensed premises: Site Plans. Outdoor areas shall be constructed and maintained in accordance~~

with site plans approved by the Common Council. Applicants for outdoor areas shall file a site plan with their license application, showing the following information: Prior to acting upon any application to include an outdoor area as part of the licensed premises, the Common Council shall refer said application for recommendations to the Plan Commission, Police and Fire Departments, Health Department and the Department of Building Inspections and Zoning. Nothing herein contained shall in any manner abridge the authority of the Common Council to stipulate such other and further qualifications, conditions and regulations as may be necessary to protect the public health, safety and welfare, or affect or limit the authority and discretion of the Common Council, under applicable state laws and local ordinances, to regulate the possession, sale and consumption of fermented malt beverages and intoxicating liquors. Prior to granting the license to extend the premises outdoors, the fee shall be paid to the City Clerk. No fee is required for renewal unless the license holder wishes to change the site plan. This section shall not apply to licensed premises that are also "food establishments" as defined in section 7.04(1)(c) of the Revised Municipal Code. The extension of premises for such establishments shall be governed by Chapter 12. **[Ord. 6573, 6/5/2001]** Authority. The granting of a temporary extension of Class "B" fermented malt beverage or intoxicating liquor licensed premises for special events shall authorize the licensee to sell or serve fermented malt beverages and intoxicating liquors during the period of time and in the area described in the application for such temporary extension, as expressly approved by the Common Council. **[Ord. O-2018-0037, 9/18/2018]** Eligibility. Any person holding a valid Class "B" tavern license may apply for temporary extension of such licensed premises for a special event. The area which the licensee wishes to include in any temporary extension of the licensed premises must be contiguous to the licensed premises and must either be owned by or be under the control of the licensee, or extend into or encroach upon public property or public thoroughfares. The applicant shall be required to enclose the extended licensed premises so that the ingress and egress of patrons may be monitored. If the extension is onto or in the public right of way, the application shall be accompanied by proof of insurance for comprehensive general liability in at least the following limits of coverage: \$300,000 each occurrence and \$300,000 aggregate for bodily injury; \$300,000 each occurrence and \$300,000 aggregate for property damage. The proof of insurance shall have an endorsement to indemnify and hold the City of West Allis harmless from any and all damages, judgments and claims which may be asserted against the City by reason of any damages or injuries sustained by any person or to any property by the extension onto or in the public right of way. The applicant shall also comply with all other applicable statutes;

ordinances, resolutions and conditions. (Reserved) Editor's Note: Former Subsection (5)(b)2m, Farmers Market, added 2-7-2017 by Ord. O-2017-0004, was repealed 9-18-2018 by Ord. No. O-2018-0037.

**Applicant's Responsibility.** Application for the temporary extension of Class "B" tavern licensed premises shall be made in writing to the City Clerk on forms provided by the City Clerk. The application shall be signed by the applicant, if an individual, or by a duly authorized agent or officer, if a corporation or limited liability company, and shall be sworn to by the applicant. Such application shall contain the name of the licensee, the address of the existing licensed premises, the particular event or function for which the temporary extension of the licensed premises is sought, the date and period of time sought for the temporary extension of the licensed premises, a specific description of the area for which the temporary extension is sought, plans describing how the extended premises will be enclosed, and such other reasonable and pertinent information as the Common Council or the License and Health Committee of the Common Council may require. The application shall be filed at least thirty (30) days prior to the date of granting by the Common Council. Any application submitted within thirty (30) days, and no later than forty-eight (48) business hours, prior to the date of granting by the Common Council must be accompanied by a late fee of fifty dollars (\$50) in addition to the license fee. [Ord. O-2007-0037, 10/2/2007]

**Council Action.** The Common Council may, in its discretion, grant or deny the application. If the application is denied, the City Clerk shall, in writing, notify the applicant of the decision and the Council's reasons for denial. In deciding whether to grant a license, the Common Council may consider, among other factors, the appropriateness of the location for which a temporary extension of licensed premises is sought, whether such location will create an adverse impact on other property in the neighborhood, and any other factors which reasonably relate to the public health, safety and welfare. More than three (3) temporary extension permits per licensing year shall be presumed to be unreasonable. [Ord. O-2013-0004, 2/19/2013]

**Issuance.** In the event the Common Council grants the application for a temporary extension of licensed premises for special events, the City Clerk shall issue an appropriate document to the applicant confirming the granting of the license and specifying the date, period of time and specific location for which the extended licensed premises shall be in effect. Such document shall also contain any restrictions or conditions which the Common Council may place on such approvals. The City Clerk shall, within twenty-four (24) hours after the issuance of the approving document, inform the Chief of Police of the date, time, place and event. The extended premises must be contiguous to the licensed premises and must either be owned by or be under the control of the licensee or

~~extend on to a public sidewalk. The extended premises, other than premises extending on to a public sidewalk, shall be enclosed in a manner that the ingress and egress of patrons may be monitored. The licensee shall maintain a clear path 3 feet wide for pedestrian traffic. The licensee assumes primary liability for damages to person or property. No bond is required. The licensee is obligated to immediately remove any obstructions upon notice by the city. The licensee is not entitled to damages for removal of an obstruction, and if the licensee does not remove the obstruction upon notice, it may be removed at the licensee's expense. Third parties whose rights are interfered with by the granting of a privilege have a right of action against the licensee only. The name of the licensee. Contact information for the licensee or the agent of a corporate licensee. The address of the existing licensed premises. A visual depiction of the proposed extended premises and the permanently licensed premises. The combined person capacity of the permanent and temporary premises. No extended premises may remain open after 9:00 p.m. Sunday through Thursday. No extended premises may remain open after 10:00 p.m. Friday through Saturday. A sufficient number of toilet facilities shall be provided to accommodate the combined person capacity of the permanent and temporary licensed premises. The closing hours during which no patron or guest shall be permitted to enter or remain in the outdoor area shall be between midnight (12:00 a.m.) and 10:00 a.m. [Ord. 6105, 7/19/1994] A service bar from which patrons may, through a waiter or waitress, purchase intoxicating liquor or fermented malt beverages, to be consumed by such patrons while seated at tables, shall be permitted. Patrons shall not be seated or permitted to be seated at the service bar. No live music shall be permitted. Music which is mechanically or electronically reproduced shall be permitted, provided that said music is not audible beyond two hundred (200) feet. [Ord. 6105, 7/19/1994] In addition to the special regulations, outdoor areas shall be subject to the provisions of this Code and Wisconsin Statutes relating to the possession, sale and consumption of alcoholic beverages. [Ord. 6105, 7/19/1994] The arrangement of all structures, paving and landscaping areas; The land uses and general location of improvements on adjoining properties within five hundred (500) feet of the outdoor area; Location and type of screening and/or landscape materials; Location and type of lighting for the outdoor area; Location of service bar, food preparation areas, tables, etc.; Entrances and exits to the outdoor area, including provision for controlled access; Such additional information as the Common Council may reasonably require. Application for the temporary extension of Class "B" tavern licensed premises for special events shall be made by an individual, or authorized agent in the case of a corporation, who shall be personally responsible for compliance with all of the terms and provisions of this Chapter. The applicant shall be responsible for~~

~~cleaning up the extended licensed area and shall provide containers for storage of refuse. Duration of Extended Premises and Automatic Re-Application. Applications granted under this subsection shall expire on the day after the subsequent meeting of the common council. Any application granted under this subsection shall be automatically resubmitted for council action at the next subsequent council meeting. Expedited Temporary Extension of Class "B" and "Class B" Licensed Premises (EFFECTIVE UNTIL 6/30/2021: O-2021-0025)~~

6. Investigation. The City Clerk shall notify the Chief of Police, Health Officer, Chief of the Fire Department and Building Inspector of each application, and these officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license. These officials shall furnish to the Common Council, in writing, the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused. No license shall be renewed without a reinspection of the premises and report as originally required.
7. Approval of Application. In determining the suitability of an applicant, consideration shall be given to the criteria set forth in § 125.04(5) of the Wisconsin Statutes, the appropriateness of the location and premises proposed, and generally the applicant's fitness for the trust to be reposed.
8. Granting of License
  - a. Upon the approval of an application by the Common Council, the City Clerk shall issue to the applicant a license, subject to the provisions of this code.
  - b. In lieu of Common Council approval, the City Clerk is authorized to issue temporary Class "B" licenses and permit underage persons to be on the premises as provided in Wis. Stat. § 125.26(6), issue temporary "Class B" licenses and permit underage persons to be on the premises for the purpose of acting as designated drivers as provided in Wis. Stat. 125.51(10), and issue operator's licenses as provided in Wis. Stat. § 125.17(1) to any of the following applicants:
    - i. A person who is not a reviewable applicant.
    - ii. A reviewable applicant who has been granted an operator's license by the common council on a prior date and has no arrest or conviction record since the prior license was granted.
  - c. Under this paragraph, "reviewable applicant" means any person who has 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.
- d. For any temporary Class B license, the clerk shall notify the Alderpersons of the district in which the event is to be held that a license has been issued.
  - e. Applications for a temporary license must be received in the Clerk's Office at least five (5) business days prior to the event. An application for a temporary license received in the Clerk's Office five (5) business days prior to the event without approval of the Common Council must be accompanied by a late fee of fifteen dollars (\$15) in addition to the temporary licensee fee to defray administrative costs. An application filed less than five (5) business days prior to the event must be accompanied by a late fee of twenty-five dollars (\$25) in addition to the temporary license fee to defray administrative costs.
9. Transfer and Lapse of License.
- a. A license shall be transferable from one premises to another, if such transfer is first approved by the Common Council. No licensee shall be entitled to more than one (1) transfer in any one license year. Application for transfer shall be made on a form furnished by the City Clerk at least fifteen (15) days prior to the next available meeting of the License and Health Committee. Proceedings for such transfer shall be had in the same form and manner as the original application. Whenever a license is transferred, the City Clerk shall forthwith notify the Wisconsin Department of Revenue of such transfer. The licensee shall pay a fee as specified in the most recent Schedule of Fees resolution. **[Ord. O-2018-0037, 9/18/2018]**
  - b. A license shall be transferable from one person to another, as set forth in Sec. 125.04(12)(b) of the Wisconsin Statutes. If licensed premises are transferred to a new owner or tenant, the new occupant must apply for and receive, prior to commencing operations, a Class "B" retailer's license. This section shall apply to licenses held by corporations which transfer same to another corporate entity with or without changing agents to the agent or to other persons. The prospective licensee shall file a new application and pay the required fee, as if it were making an original application. If the applicant is a tenant or subtenant, he shall first secure and present to the Common Council written approval of such tenancy from the owner of such premises.



Preference to applicants for a transfer of any license issued under this subsection shall be given to licensee-tenants who are evicted or threatened with eviction for a refusal to pay an increase in rental in excess of ten percent (10%) of the rentals prevailing for the year next preceding the application for such transfer. A demand upon the part of the landlord that such tenant improve or cause improvements to be made to the real property or to the personal property appurtenant to the licensed premises at a cost which exceeds ten percent (10%) of the rentals prevailing for the year next preceding the application for such transfer shall be construed to be a demand upon the part of the landlord for an increase in rentals in excess of ten percent (10%) of such period.

- c. Whenever any licensee under this section shall not conduct his licensed business at the authorized location for a period of thirty (30) consecutive days, the license shall become subject to revocation, unless such thirty-day period shall, for good cause shown, be extended by the Common Council. [**Ord. 6224, 4/2/1996**]

10. Numbering, Expiration, and Posting of Licenses. [**Ord. O-2006-0016, 4/18/2006; Ord. O-2013-0014, 4/2/2013**]

- a. Each license holder shall be assigned a number which shall remain the same for that license holder annually except that the year when the license year commences shall change each license year, shall state clearly the specific premises for which granted, the date of issuance, the fee paid, the name of the licensee, and a statement that the license shall expire on the 30th day of June thereafter, unless revoked by state law or City ordinance.
  - b. Every person licensed under this section shall post the license and maintain it posted while in force in a conspicuous place in the room or place where alcohol beverages are drawn or removed for service or sale. It shall be unlawful for any person to post the license upon premises other than those identified in the application and grant, or to knowingly deface or destroy the license.
11. Lost Licenses. Whenever a license issued under this section or under Section 9.03 shall be lost or destroyed without fault on the part of the holder or his agent or employee, a duplicate license in lieu thereof under the original application shall be issued by the City Clerk upon payment of the fee and satisfying himself as to the facts.
12. General Conditions upon all Licenses. All retail Class A and B licenses granted hereunder shall be granted subject to the following conditions, and all other conditions of this section, and subject to all other ordinances and regulations of the City applicable thereto:
- a. Every applicant procuring a license thereby consents to the entry of 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 license holder, and/or the employees and agents of the license holder, shall cooperate with police investigations of disturbances, intoxicated persons, underage persons and other violations of City and state laws. "Cooperate," as used in this subsection, shall mean calling the police when a disturbance of the

peace or other violation occurs on the licensed premises and providing complete and truthful responses to police inquiries. A license holder shall also appear before the License and Health Committee when requested to do so and shall otherwise follow the lawful directives of the License and Health Committee.

**[Ord. O-2008-0047, 10/7/2008]**

- c. Each licensed premises shall at all times be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.
- d. The licensee 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.

12m. Conditions upon Specific Licenses. The common council may impose any of the following conditions specifically upon a new Class A or Class B license at the time the license is granted. The council may impose any of the following conditions specifically upon an existing licensee only with the licensee's consent.

a. The license 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).

b. The licensee shall maintain the property and licensed premises so it is consistent with the landscaping and architectural design plans approved by the common council.

c. The licensee shall video record all activities taking place on the licensed 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.

d. The licensee shall maintain certain security measures particularly described by the common council. Examples include lighting requirements, staffing minimums, and photographic identification scanners.

e. The licensee shall maintain the layout of the licensed premises consistent with the layout plan approved by the common council.

f. The licensee may not promote or conduct certain activities particularly described by the common council. Examples include live music and drink specials.

### 13. Restrictions.

- a. In General. The following restrictions shall apply to the granting of licenses:

- i. A retail Class "B" fermented malt beverage or intoxicating liquor license shall be issued only for that portion of the premises located on the street level, unless specifically extended by the authority of the Council. This subsection shall not apply to a bona fide club, hotel, bowling alley, lodge room, labor union or ex-servicemen's post.
    - ii. No retail Class B fermented malt beverage or intoxicating liquor license or Class C license shall be issued unless the premises is conformed to the sanitary, safety and health requirements of the State Building Code, and the licensee satisfactorily demonstrates compliance with the rules promulgated by the Department of Agriculture, Trade, and Consumer Protection in regard to restaurant sanitation during a sanitation inspection from the West Allis Health Department as set forth in Wis. Stat. Sec. 125.68(5) and West Allis Revised Municipal Code Section 7.04(6). **[Ord. O-2017-0013, 3/21/2017]**
  - b. It shall be unlawful for any person to sell, dispense or serve alcohol beverages by means of a drive-through facility. In this section, "drive-through facility" means any vehicle related commercial facility in which a service is provided or goods, food or beverages are sold, served or dispensed to an operator or passengers of a vehicle without the necessity of the operator or passengers disembarking from the vehicle. **[Ord. 6110, 7/19/1994]**
  - c. 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:
    - i. The "Class A" license contains the condition that retail sales of intoxicating liquor are limited to cider; or
    - 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.
14. Health Rules. Each premises shall be maintained in a sanitary manner and shall be a safe and proper place for the purpose for which used. The Health Commissioner of the City may make reasonable and general rules for the sanitation of all places of business possessing licenses under this section. Such rules or regulations may be classified and made applicable according to the class of business conducted. All such rules and regulations and infractions thereof may be punished as a violation of this section.
15. Closing Hours. **[Ord. O-2018-0037, 9/18/2018]**
- a. No premises for which a Class "B," "Class B," or a Class C license or permit is issued may remain open between the hours of 2:00 a.m. and 6:00 a.m. On Saturday and Sunday, the closing hours shall be between 2:30 a.m. and 6:00 a.m. except that, on the Sunday that daylight saving time begins as specified in Sec. 175.095(2) of the Wisconsin Statutes, the closing hours shall be between 3:30 a.m. and 6:00 a.m. On January 1 premises operating under a Class "B" or "Class B" license are not required to close.
  - b. Between 9:00 p.m. and 8:00 a.m. no person may sell fermented malt beverages or intoxicating liquor on Class B or Class C licensed premises in an original

unopened packages, container or bottle or for consumption away from the premises.

- c. Class "A" and "Class A" premises may remain open for the conduct of their regular business but may not sell fermented malt beverages between 9:00 p.m. and 8:00 a.m. Section 9.02(18)(a) of this Code does not apply to Class "A" premises between 9:00 p.m. and 8:00 a.m. or at any other time during which the sale of fermented malt beverages or intoxicating liquor is prohibited.
- d. Hotels and restaurants, the principal business of which is the furnishing of food and lodging to patrons, bowling centers, movie theaters, painting studios, indoor golf and baseball facilities, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but may not sell fermented malt beverages during the hours specified in paragraph (a) of this subsection.
- e. No person shall enter or remain upon licensed premises while such premises are closed, pursuant to statute or ordinance. This section shall not apply to the license holder or agents and employees of the license holder who are performing bona fide services related to the licensed business.

16. Operator's Licenses. **[Ord. O-2003-0038, 6/3/2003; Ord. O-2013-0014, 4/2/2013]**

- a. Operator's License. An operator's license shall entitle the holder thereof to work as an operator upon premises licensed under a retail Class "A" intoxicating liquor or fermented malt beverage license, a retail Class "B" intoxicating liquor or fermented malt beverage license, or a retail Class "C" wine license. Such licenses will be issued by the Common Council only to persons meeting the requirements set forth in Sections 125.04(5) and 125.17(6) of the Wisconsin Statutes. The license shall be valid for a period of two (2) years, except that it shall be deemed to have been issued July 1 and shall expire on June 30 of the second year.
- b. Provisional Operator's License. **[Ord. O-2018-0037, 9/18/2018]**
  - i. The City Clerk is the official charged with issuing and revoking a provisional operator's license. A provisional license requires an additional fee as specified in the most recent Schedule of Fees resolution.
  - ii. Standards for a provisional license, unless the applicant has a certified copy of a license issued by another municipality, are as follows:
    - (1) The applicant has applied for an operator's license;
    - (2) The applicant for a provisional operator's license shall complete an application attesting he/she has not been convicted of any crime against life and bodily injury, against children, or a violent crime against a child, as set forth in Sec. 111.335 (4) of the Wisconsin Statutes, or crime that substantially relates to the licensing activity. Any false statements made by the licensee on the application may result in revocation of the license by the City Clerk.
    - (3) No provisional operator's license may be issued to a person

who has been previously denied an operator's license by the Council.

(4) The applicant must provide evidence of completion or enrollment in a responsible beverage server course.

iii. Such provisional license shall be valid for not to exceed sixty (60) days or until action of the Common Council, whichever first occurs.

c. Temporary License. The City Clerk is authorized to issue a temporary operator's license to applicants meeting the qualifications of Subsection (a) if the applicant will be employed by or donating his services to nonprofit corporations and has not held another temporary license during the license year. The temporary license shall be valid for up to fourteen (14) days and the period for which it is valid shall be stated on the license.

d. Application. A written application shall be filed biennially with the City Clerk, stating the name, residence, age and sex of the applicant. The application shall be referred to the Chief of Police for a report. A license fee and record check fee must accompany the application. There will be no refund of the fees if the license is not subsequently granted.

e. Possession. Each person who holds an operator's license shall carry that license on his person while engaged in serving alcoholic beverages.

17. Loitering by Underage Persons Where Alcohol is Illegally Served. **[Ord. 6188 (repeal & recreate), 9/19/1995]**

a. No underage person shall enter, remain or loiter in any public or private place with the knowledge that any fermented malt beverage or other alcohol beverage is being sold, dispensed, served, given away or made available to underage persons.

b. This subsection shall not apply to underage persons who are accompanied by a spouse who has attained the legal drinking age or a parent or guardian.

c. No adult may knowingly suffer or permit any underage person to enter, remain or loiter in any premises, public or private, where alcohol beverages are served, sold, dispensed, given away or made available to underage persons, unless such underage person is accompanied by a spouse who has attained the legal drinking age, a parent or guardian.

18. List of Employees and Performers.

a. Every person holding a Class "B" Fermented Malt Beverage or Intoxicating Liquor License shall maintain a current list of all persons employed to work in the premises. The list shall also include those persons employed to work after closing hours for the purposes of cleaning the premises.

b. Every person holding a Class "B" Fermented Malt Beverage or Intoxicating Liquor License who affords patrons entertainment by, or performance of, any act, stunt, music, song or dance by performers under his auspices, whether such performances are paid or not, shall maintain a current list of all performers who perform in the licensed premises.

c. The lists required above shall contain the name or names (legal, trade and alias), current address and date of birth of each employee or performer and shall be provided to any police officer upon request.

19. Entertainment Standards.

- a. No person shall, on a licensed Class "B" fermented malt beverages or intoxicating liquor premises, perform acts of or acts which constitute or simulate:
  - i. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law; or,
  - ii. The touching, caressing or fondling of the breast, buttocks, anus or genitals; or,
  - iii. The displaying of human genitals, buttocks or pubic area or the female breast below the top of the areola.
- b. No person shall, on a licensed premises, use artificial devices or inanimate objects to perform, simulate or depict any of the prohibited conduct or activities described in subsection (a).
- c. It shall be unlawful for any person to show, display or exhibit on a licensed premises, any film, video, still picture, electronic reproduction or any other visual reproduction or image of any act, other visual reproduction or image of any act or conduct described in subsections (a) and (b).
- d. No person holding a Class "B" fermented malt beverage or intoxicating liquor license, nor his agents or employees, shall allow or permit in or upon the licensed premises any act or conduct described in subsections (a), (b) and (c).

20. License Suspension, Revocation or Nonrenewal. **[Ord. O-2013-0014, 4/2/2013]**

- a. Causes. Any license issued under this section may be suspended, revoked, or non-renewed for cause by the Common Council after notice to the licensee and a hearing. Licenses may be suspended, revoked, or not renewed for the following causes:
  - i. The making of any material false statement in any application for a license.
  - ii. The conviction of the licensee, his agent, manager, operator, or any other employee for keeping a gambling house or a house of prostitution or any felony related to the licensed operation.
  - iii. A showing that the licensee has violated any state law or City ordinance prohibiting the sale of intoxicating liquors or fermented malt beverages to underage persons or to any person who is intoxicated or bordering on intoxication.
  - iv. The violation of any of the applicable provisions of Section 9.02.
  - v. The violation of any of the excise laws of this state, or failure to provide proof that the licensee is in good standing as required by Sections 77.61(1) and 125.04(5)(a) of the Wisconsin Statutes.
  - vi. The licensed premises is operated in such a manner that it constitutes a public or private nuisance or that conduct on or emanating from the licensed premises, including but not limited to loud and raucous noise, has had a substantial adverse effect upon the health, safety, convenience or prosperity of the immediate neighborhood.
  - vii. Failure of the licensee to operate the premises in accordance with the floor plan or plan of operation submitted pursuant to Section 9.02(5).

- viii. If the licensee is a corporation or licensed limited partnership, the conviction of the corporate agent, officers, directors, members or any shareholders holding twenty percent (20%) or more of the corporation's total or voting stock, or proxies for that amount of stock, or any of the offenses enumerated in Section 125.12(2)(ag) of the Wisconsin Statutes.
  - ix. Any of the grounds set forth in Section 125.12(2)(ag) of the Wisconsin Statutes.
  - x. The licensee is a habitual law offender as set forth in 125.04(5)(b) of the Wisconsin Statutes.
  - xi. The failure to pay any tax or forfeiture as provided in Section 1.08(a).
  - xii. The City has been notified pursuant to Section 125.33(7)(b) and 125.69(4)(b) of the Wisconsin Statutes, that the licensee has failed to pay for alcohol beverages.
- b. State Law Applicable. Except as otherwise provided herein, the provisions of Section 125.12(2)(ag) to (c) and 125.12(3) of the Wisconsin Statutes, shall be applicable to proceedings for the suspension, revocation, and nonrenewal of all licenses granted under this section.
- c. Commencement of Proceedings. Suspension, revocation, or nonrenewal proceedings may be instituted by the License and Health Committee of the Common Council upon its own motion, upon sworn written charges made and filed with the Clerk/Treasurer by the Chief of Police, or upon a sworn written complaint filed with the Clerk/Treasurer by any City resident.
- d. Procedure.
- i. Upon receipt of a sworn complaint, either from the Chief of Police, a resident of the City, or upon directive of the Committee, the License and Health Committee shall direct the City Attorney to prepare a summons and have the summons and complaint served upon the licensee pursuant to Section 125.12(2)(ar) of the Wisconsin Statutes.
  - ii. The summons and complaint shall contain: the date and time for appearance by the licensee; a statement of the Common Council's intention to suspend, revoke, or not renew the license 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 licensee 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; notification to the licensee of the right to be represented by counsel of the licensee's choice and at the licensee's expense.
  - iii. If the licensee fails to appear on the date and time designated in the summons, the License and Health Committee may enter a default judgment and take the allegations of the complaint to be true. The License and Health Committee shall then deliberate on what sanction, if any, to impose consistent with Section 125.12 of the Wisconsin

Statutes.

- iv. If the licensee appears before the License and Health 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 licensee 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 licensee in connection with whether to non-renew, revoke or suspend the license 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 licensee may present evidence in opposition to the charges.
  - (3) The complainant and licensee may subpoena and present witnesses. All witnesses shall testify under oath or affirmation and shall be subject to cross examination.
  - (4) The complainant and licensee 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 licensee shall be given a reasonable time to make arguments upon the evidence produced at hearing.
- e. Miscellaneous Procedural Matters.
  - i. At all stages of the proceedings, the licensee shall be entitled to appear in person or by an attorney of his 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 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.
  - f. 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 license(s) at issue. The report shall be filed with the City Clerk/Treasurer with a copy to the licensee and complainant. The findings and recommendations shall be distributed to each member of the Common Council.
    - ii. The licensee and complainant may file a written statement or response to the findings and recommendation, including objections, exceptions, and arguments of fact and law. A written statement must be filed with the City Clerk/Treasurer 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.
  - g. Common Council Action.
    - i. Not less than five (5) working days prior to the matter being scheduled before the Common Council, the Clerk/Treasurer shall notify the licensee and complainant by U.S. 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 licensee 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 license(s), the Clerk/Treasurer shall give notice to the person whose license 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.
  - h. Surrender of License.
    - i. A licensee may, at any time during the license year surrender a license to the City Clerk/Treasurer, along with a statement, in writing, that the

- licensee no longer wishes to conduct licensed activity at the licensed premises.
- ii. The Clerk/Treasurer shall notify the License and Health Committee of the surrender. Except as set forth in Subsection (h)3. below, the surrender shall operate to extinguish any right the licensee had to the license or to conduct licensed activity at the premises listed in the license.
  - iii. If a summons and complaint has been issued against the licensee seeking suspension, revocation, or nonrenewal of the license, the surrender of the license shall be deemed a request and the matter shall be referred to the License and Health Committee. The Committee may approve the request or deny the request and proceed to hearing.
  - iv. Any request to have a surrendered license returned shall be treated as a new license 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 license applications.
21. Fees. ~~The following fees for licenses shall be paid to the City Clerk/Treasurer prior to issuance of the license:~~  
~~Class B Beer: \$100. Class B Liquor: \$500. Class A Beer: \$150. [Ord. O-2009-0033, 11/3/2009] Class A Liquor: \$500. [Ord. O-2006-0008, 2/7/2006] Temporary Extension of Class B Premises: \$70. [Ord. 6055, 11/15/1993; Ord. O-2009-0033, 11/3/2009] Transfer of Class A or B Licenses: \$10. Duplicate License: \$10. [Ord. O-2009-0033, 11/3/2009] Operator's License: \$90. [Ord. 6055, 11/15/1993; Ord. 6215, 3/5/1996; Ord. O-2003-0038, 6/3/2003; Ord. No. O-2009-0012, 3/17/2009] Provisional Operator's License: \$15. Temporary Operator's License: \$15. [Ord. No. O-2009-0012, 3/17/2009] Special Class B Beer and Wine License: \$10 per event. Outdoor area included in licensed premises: \$200 one-time fee. Class C: \$100. [Ord. No. 6329, 9/2/1997] (reserved) Publication: \$15. [Ord. O-2009-0033, 11/3/2009] See Fee Schedule.~~
22. Presence of Underage Persons On Specified Dates When No Alcohol Beverages Are Sold. [Ord. O-2012-0020, 6/19/2012]
- a. Underage persons may enter or remain on a Class "B" or "Class B" licensed premises, as set forth in Wisconsin Statutes § 125.07(3)(a)(10), under the following conditions:
    - i. Notification of Dates. The licensee or agent shall notify the Police Chief at least seven (7) days prior to any date on which underage persons will be permitted to enter and remain on the premises. The time period may be waived by the Police Chief or a designee upon determination of good cause or special circumstances.
      - (1) Each event shall require separate notification. Notification shall be in writing and contain the following information: dates and times of the event; specific nature of the event, including description of entertainment; number of persons expected on the premises.
    - ii. Regulations. The operation of a licensed premises during those times

when underage persons are on the premises under this section shall be subject to the following regulations:

- (1) There shall be at least a one-hour period between the serving of the last alcohol beverage and the commencement of operations under this section.
- (2) No alcohol beverages may be consumed, sold or given away in any part of the licensed premises.
- (3) All alcoholic beverages on tables shall be removed.
- (4) The licensee, the agent named in the license if the licensee is a corporation, or a person who has an operator's license shall be on the premises during the event unless all alcohol beverages are stored in a locked portion of the premises.
- (5) The licensee shall be responsible for the adequate supervision of the premises, and such supervision shall consist of adult persons twenty-one (21) years of age or older.
- (6) Closing hours shall be no later than 1:00 a.m. on weekdays and 1:30 a.m. on Saturdays and Sundays.
- (7) No persons under age seventeen (17) shall be allowed on the premises, unless accompanied by a parent.
- (8) All underage persons must be off the licensed premises at least thirty (30) minutes prior to the resumption of alcohol beverage sales.

23. Late Fees. ~~Any application for renewal of licenses submitted after April 30 shall be subject to the applicable late fee listed below and shall be paid to the City Clerk for deposit with the City Treasurer prior to issuance of the license: [Ord. O-2014-0095, 12/16/2014]~~

~~Class B Beer: \$50. Class B Liquor: \$50. Combination Class B Beer and Liquor: \$100. Class A Beer: \$50. Class A Liquor: \$50. Combination Class A Beer and Liquor: \$100. Class C: \$50. See Fee Schedule.~~

24. ~~Priority of License Applications~~ Temporary Extension of Premises ~~Multiple applications for "Class B" liquor license(s) available under quota. [Ord. O-2015-0047, 10/6/2015]~~

- a. ~~If more than one complete license application is timely filed with the City Clerk for any available "Class B" liquor license~~ A licensee may apply for a temporary extension of premises by submitting an application to the city clerk in a form approved by the clerk and paying the fee listed on the Fee Schedule. , the City Clerk shall require e ~~Each applicant to complete a supplemental questionnaire regarding the benefits/impacts of such proposed licensed establishment. Such supplemental questionnaire shall seek information from the applicant as to~~ shall provide the following along with the application:
  - i. A description of the proposed temporary premises with an overhead illustration showing the permanent premises and its relation to the proposed temporary premises.
  - ii. The proposed dates and times that the temporary extension begins and ends.

- iii. The capacity of the permanent premises and capacity of the proposed temporary premises.
- iv. For an outdoor premises, any authorization requests under WAMC 9.02(5)(c).~~Number of jobs to be created should the license be granted to the applicant. Scope and cost of any improvements the applicant intends to make to the location sought to be licensed. Size of premises for which the license is sought, including proposed seating capacity of such premises. Certainty of such venture and expected opening date. Potential negative impacts on the neighborhood and how they will be addressed/ameliorated. Potential policing costs. What type of business and clientele the establishment intends to cater to.~~
- b. The City Clerk shall forward all temporary extension application materials to the License and Health Committee for review.
- c. The License and Health Committee shall review all materials submitted. Its recommendation to the Common Council on granting ~~such available "Class B" license(s)~~an application shall be based upon ~~its determination as to which application will provide the most benefit to the City with the fewest negative impacts~~the standards for granting a new license application. In making its recommendation, the License and Health Committee shall ~~evaluate the factors set forth in Subsection (1) for each license application~~determine if the temporary extension is consistent with the public health, safety, and welfare. The License and Health Committee, in its recommendation, ~~shall indicate how each factor is met and to what extent. The order in which applications were received shall be given no weight~~may impose conditions upon any application it grants.
- d. 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 without further action by the City or any other person. Approval of a temporary extension of premises does not create a right to future approvals .

**SECTION 2:            EFFECTIVE DATE** This Ordinance shall be in full force and effect on and after the required approval and publication according to law.

PASSED AND ADOPTED BY THE CITY OF WEST ALLIS COUNCIL

\_\_\_\_\_.

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

Attest

Presiding Officer

\_\_\_\_\_  
Rebecca Grill, City Clerk, City Of  
West Allis

\_\_\_\_\_  
Dan Devine, Mayor City Of West  
Allis