



# City of West Allis

## Legislation Details (With Text)

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**Title:** An Ordinance to Repeal and Recreate Section 7.04 of the West Allis Revised Municipal Code Relating to Food Establishments.

**Sponsors:** Rosalie L. Reinke

**Indexes:**

**Code sections:**

**Attachments:** 1. ATTO-Repeal&RecreateSec7.04FoodEstablishments.pdf

Date	Ver.	Action By	Action	Result
5/2/2006	2	Common Council	Passed as Amended	Pass
4/25/2006	1	License and Health Committee (INACTIVE)		
4/25/2006	2	License and Health Committee (INACTIVE)		Pass
4/25/2006	1	Staff		
4/18/2006	1	Common Council		
4/18/2006	1	License and Health Committee (INACTIVE)	Held	

An Ordinance to Repeal and Recreate Section 7.04 of the West Allis Revised Municipal Code Relating to Food Establishments.

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

PART I. Section 7.04 of the Revised Municipal Code is hereby repealed and recreated to read:

### 7.04 FOOD ESTABLISHMENTS.

(1) Definitions. The following definitions shall apply in the interpretation and the enforcement of this section:

(a) Health Commissioner. The term "Health Commissioner" shall mean the Health Commissioner of the City, or an authorized agent.

(b) State Administrative Fee. The term "State Administrative Fee" shall mean the amount of money paid annually to the Department of Health & Family Services, Division of Public Health, and/or the Department of Agriculture, Trade & Consumer Protection, of the State of Wisconsin, pursuant to agency contracts between those agencies and the West Allis Health Department.

(c) All other definitions listed in the Wisconsin Administrative Code Chapter Agriculture, Trade and Consumer Protection 75 and the Appendix thereto and Chapter Health and Family Services 196 and the

Appendix thereto are hereby adopted by reference except that references to the word "permit" as used herein shall be taken to mean "license" as used in ATCP 75.

(2) Permit Required. No person, firm or corporation shall operate a food establishment in the City, who does not possess a permit from the Health Commissioner. Only a person who complies with the requirements of this section shall be entitled to receive and retain a permit. Violation of any of the requirements of this section by a holder of Class "B" Tavern Licenses shall be grounds for suspension or revocation of such Class "B" Tavern License, in accordance with Section 9.02(20) of this Code. Permits shall be issued only in the name of the operator of the food establishment and shall not be transferable as to person or premises. The operator of an itinerant food establishment shall be required to secure a permit.

(3) Permit Fees.

(a) Food Permit. All food establishments shall be required to obtain a food permit with the exception of those establishments, which have already been issued a restaurant or retail food establishment permit by the City of West Allis. The appropriate fees shall be paid pursuant to the Restaurant and Food Permit Fee Schedule listed herein. Food Permit fees may be waived by the Health Commissioner for fraternal, charitable, religious or not-for-profit organizations, if additional licensure is not required under Chapters 254 or 97 of the Wisconsin Statutes. A food and beverage permit shall not be required if the establishment is licensed as a restaurant or retail food establishment.

(b) Restaurant Permit. All food establishments which are required to be licensed under Chapter HFS 196, Wisconsin Administrative Code, must obtain a restaurant permit and shall pay fees as follows:

1. Limited-Service Restaurant. A restaurant which prepares, serves or sells only individually wrapped, hermetically sealed, single good servings supplied by a licensed processor, shall pay the appropriate fee pursuant to the Restaurant and Food Permit Fee Schedule listed herein.

2. Full-Service Restaurant. A restaurant, which prepares, serves or sells meals prepared from raw, canned, dried, packaged or frozen foods shall be considered a full service restaurant and shall pay a fee consistent with their category. A restaurant permit category shall be determined by an evaluation of the complexity of the restaurant based on the criteria specified in table HFS 196.04, and restaurants shall pay the appropriate fee pursuant to the Restaurant and Food Permit Fee Schedule listed herein.

3. Temporary Restaurant. A restaurant which operates at a fixed location in conjunction with a single event, such as a fair, carnival, circus, parade, festival, public exhibition, anniversary sale, occasional sales promotion or similar event, shall pay the appropriate fee pursuant to the Restaurant and Food Permit Fee Schedule listed herein.

**RESTAURANT AND FOOD PERMIT FEE SCHEDULE:**

<b>Activity</b>	<b>PI N/R</b>	<b>PI Transfer</b>	<b>Annual Fee + SAF</b>	<b>Late Fee</b>
Food Permit	\$62.00	\$41.00	\$31.00	\$26.00
	0			0

Limited Rest.	\$207.00	\$155.00	\$124.00 + SAF	\$31.00
Full - Simple	\$259.00	\$207.00	\$176.00 + SAF	\$52.00
Full - Moderate	\$362.00	\$259.00	\$207.00 + SAF	\$52.00
Full - Complex	\$414.00	\$310.00	\$284.00 + SAF	\$52.00
Temporary			\$52.00 + SAF	

PI N/R = Pre-inspection New or Remodeled  
 PI Transfer = Pre-inspection Transfer/Change Of Operator  
 SAF = State Administrative Fee

(c) Retail Food Establishment Permit.

1. A retail food establishment, pursuant to Section 97.30 of the Wisconsin Statutes, is required to obtain a permit and pay the appropriate fee pursuant to the Retail Food Establishment Fee Schedule listed herein.

**RETAIL FOOD ESTABLISHMENT PERMIT FEE SCHEDULE:**

Activity	PI N/R	PI Transfer	Annual Fee + SAF	Late Fee
R-11	\$414.00	\$310.00	\$569.00 + SAF	\$52.00
R-22	\$259.00	\$103.00	\$207.00 + SAF	\$52.00
R-33	\$155.00	\$103.00	\$155.00 + SAF	\$52.00
R-44	\$103.00	\$78.00	\$62.00 + SAF	\$52.00
R-55	\$103.00	\$78.00	\$52.00 + SAF	\$52.00

R-11 Food Sales of at least \$1,000,000 and processes potentially hazardous food  
 R-22 Food Sales of at least \$25,000 but less than \$1,000,000, and processes potentially hazardous food  
 R-33 Food Sales of at least \$25,000 and is engaged in food processing, but does not process potentially hazardous food  
 R-44 Food Sales less than \$25,000 and is engaged in food processing  
 R-55 No Food Processing

PI N/R = Pre-inspection New or Remodeled  
 PI Transfer = Pre-inspection Transfer/Change Of Operator  
 SAF = State Administrative Fee

(4) Automatic Revocation. The permit or permits of any establishment, excluding seasonal establishments, shall be automatically revoked when the business is not operated as a food or drinking establishment for a period of thirty (30) days or longer, or when permit renewal fees are not received by the Health Commissioner prior to August 1. When closed or not renewed for such period, the establishment shall be considered a new establishment and may not be reopened until granted a new permit in accordance with this section.

(5) Posting Permit; Fee for Duplicate Permit. Every food establishment shall display its permit at all times in a conspicuous location on the premises. Duplicate permits shall be issued to replace permits which are misplaced or damaged so as to be illegible. The fee for a duplicate permit shall be ten dollars (\$10.00).

(6) Unwholesome Food and Drink. Samples of food, drink and other substances may be taken and examined by the Health Commissioner as often as may be necessary for the detection of unwholesomeness or adulteration. The Health Commissioner may condemn and forbid the sale of, or cause to be removed or destroyed, any food or drink, which is found to be unwholesome or adulterated.

(7) Inspection of Establishments.

(a) Frequency of Inspections. At least once during the license year, the Health Commissioner shall inspect every food establishment located within the City. In case the Health Commissioner discovers a violation of any item of sanitation, he may make a second inspection after a lapse of such time as he deems necessary for the defects to be remedied; and, the second inspection shall be used for determining compliance with the requirements of this section.

(b) Inspection Report. One copy of the inspection report shall be given to the proprietor or manager of the establishment and another copy shall be filed with the records of the Health Department.

(c) Access to Establishments and Records Required. The person operating food establishments shall, upon the request of the Health Commissioner, permit access to all parts of the establishment and shall permit the copying of any records of food purchased, pest control reports or other records pertinent to conducting a food borne illness investigation.

(8) Sanitation Requirements and State Regulations Adopted. Chapter ATCP 75 ("Retail Food Establishments"), and Chapter HFS 196 ("Restaurants") of the Wisconsin Administrative Code, which from time to time, may be amended, are hereby adopted by reference and copies shall be permanently on file and open to public inspection in the office of the Health Commissioner. All food establishments shall comply with the provisions of Chapters ATCP 75 and HFS 196.

(9) Establishments Which May Operate. No food establishment shall operate within the City unless it conforms to the requirements of this section; provided, that when any food establishment fails to qualify, the Health Commissioner may suspend the permit. This section shall be applicable to all food establishments, except those for which regulation by a municipality has been prohibited by law.

(10) Reinstatement of Permit. The permit holder, whose permit has been suspended, may, at any time, make application for reinstatement of the permit. Within one week after the receipt of a satisfactory application accompanied by a signed statement by the applicant that the violated provision or provisions of this section have been corrected, the Health Commissioner shall make a re-inspection and thereafter as many additional re-inspections as he deems necessary to assure himself that the applicant is complying with the requirements; and, in the event the findings indicate compliance, shall reinstate the permit.

(11) Emergency Powers of Health Commissioner. Whenever the Health Commissioner has reasonable cause to believe that any food, sanitary condition, equipment, premises or method of operation

creates a danger to public health, the Health Commissioner may issue an order as set forth in Section 66.0417(2), Wis. Stats. The License and Health Committee of the West Allis Common Council shall conduct the hearing required by Section 66.0417(3), Wis. Stats. The decision of the License and Health Committee shall be final.

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

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

ATTO-Repeal&RecreateSec7.04FoodEstablishments