



# City of West Allis

## Legislation Text

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**File #:** O-2012-0007, **Version:** 1

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Ordinance to Repeal and Recreate Section 9.09 of the City of West Allis Revised Municipal Code Relating to Shows and Exhibitions.

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

PART I. Section 9.09 of the Revised Municipal Code is hereby repealed and recreated to read as follows:

### 9.09 CARNIVAL PERMIT

(1) Definitions.

a) Carnival is defined as an amusement show that typically consists of rides, air pillows, giant slides, ride-throughs, walk-throughs, sideshows, games of chance or skill, performing animals, public display of the skills of performers, and/or public display of objects of general interest.

(2) Adoption of Code. Except as otherwise provided herein, the provisions of Wisconsin Administrative Code, Department of Commerce Chapter 334 are adopted by reference and made a part hereof with the same force and effect as if fully set forth herein.

(3) Permit Required. No person, firm or corporation shall maintain or operate any carnival within the City unless a permit therefore shall have been obtained from the Common Council.

(4) Application. The application for a permit shall be made to the Council in writing and shall set forth:

a) The name, address, and telephone number of the applicant.

b) If the applicant is a corporation, the address and phone number of the principal offices of the corporation, the state of incorporation, and the name, address, and telephone number of the registered agent.

c) The name, address, and telephone number of the person or persons to be in immediate charge of the place of amusement at all times during its operation.

d) The names of any sponsoring organizations and the names and addresses of the principal officers of such organization.

e) The date or dates of proposed operation and the location at which it is proposed to conduct the carnival.

f) A description of the type of acts or entertainment to be shown, a list of the proposed number of rides, and a description of the merchandise to be sold.

g) A statement that the applicant will directly control and supervise each activity proposed to be authorized under the permit sought, and will be responsible for the conduct, operation and management thereof.

h) A valid certificate of liability insurance in an amount of not less than \$1,000,000 per occurrence against liability

for injury to persons for the rides, a valid certificate of liability insurance in an amount of not less than \$500,000 per occurrence against liability for injury to persons on non-mechanical rides or coin-operated rides; and an endorsement to the effect that the City will be indemnified and held harmless from any and all claims, damages or judgments arising from the granting of the permit or the operation of the show or exhibition.

- i) A statement certifying in penalty of perjury the correctness of the information given on the application and agreeing on behalf of the applicant that there shall be full compliance of the applicant with all state and local laws in the conduct of the activities for which a permit may be granted.
  - j) Proof from the Department of Commerce that the carnival and rides are in compliance with all applicable State of Wisconsin rules and regulations.
- (5) Investigation.
- a) The application shall be referred to the Police Department for an investigation and report on the character, reputation and record of the applicant, the registered agent, and all of the persons listed as being in immediate charge of the operation.
  - b) The application shall be referred to the Fire Department for investigation of ride safety and fire safety.
  - c) The application shall be referred to the Building Inspection Department for investigation of compliance with the zoning requirements and local and state building codes.
  - d) If food is to be sold, the applicant shall be referred to the Health Department to apply for a food permit.
- (6) Granting of Permit. The Common Council shall not grant any permit unless the conduct or maintenance of the carnival at the proposed location will not, in the judgment of the Council, endanger public peace, health, safety, or welfare. In granting any permits, the Council shall impose such conditions or requirements as it deems necessary to protect public peace, health, safety, and welfare.
- (7) Location Restricted.
- a) Carnival operation shall comply with all applicable city zoning laws and regulations.
  - b) No carnival for which a permit is granted shall keep or use any ponies, horses, livestock or other animals within five hundred (500) feet of any dwelling, house or restaurant within the City.
  - c) No carnival shall be permitted to operate within five hundred (500) feet of a residential district in the City.
- (8) Food Regulations. No food of any sort shall be served at the carnival unless the food handlers are in compliance with Ordinance 7.04 and all local, state, and federal food regulations.
- (9) Closing Hours. No carnival licensed hereunder shall operate after 10:00 P.M.
- (10) Permit Fee and Bond.
- a) A nonreturnable fee of \$50.00 shall accompany the application as an application fee.
  - b) The applicant shall pay a permit fee as follows: one hundred dollars (\$100) for any combination of five (5) or less rides and/or stands, plus ten dollars (\$10) for each additional ride and/or stand.
  - c) The permittee shall, in addition to payment of the permit fees established by the City, deposit with the City no

later than 10 days prior to the first day of conducting any carnival activity and shall maintain for a period of thirty (30) days after the termination of activities under such permit as may be issued by the City, a cash bond in the sum of \$5,000, or in lieu thereof shall post and maintain in full force and effect during said period a surety bond in the amount of \$5,000. Such bond shall be issued by a surety company, approved by the City Attorney, and shall be in a form approved by the City Attorney. Such bond shall, by its terms:

i) Insure payment to the City for any damage to City property occasioned by the operation of such carnival activity, including damages occasioned by the entrance into or exit from the city of the permittee or of the equipment, facilities, or personnel of such amusement activity as shall be permitted by the permit.

ii) Insure the cleaning of the premises used for such amusement activity and of the immediate surrounding properties and streets of such litter and debris as may result from the operation thereof.

iii) Insure payment of any fines levied against the permittee for violation of this or any other section or state law while conducting amusement activities in the city.

d) Such bond may be waived or reduced in amount or sooner cancelled or returned by the Common Council when, in their reasonable judgment, the conditions of or reasons for requiring such bonds have been satisfactorily met. The permittee shall be promptly notified of any claims made or contemplated against such bond or surety and shall have the right to appeal from any such claim, or the amount thereof, to the Common Council.

(11) Permit Posted. Any permit granted shall be prominently displayed at all times when the carnival is in operation.

(12) Conditions of License. All 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 permit 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 local and state laws.

b) The permittee, and/or the employees and agents of the permittee, shall cooperate with police investigations of disturbances, intoxicated persons, and other violations of local 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 permitted premises and providing complete and truthful responses to police inquiries. A permittee 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.

c) Each permitted 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 permitted premises.

d) 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.

(13) Entertainment Standards.

a) No person shall, on premises permitted under this section, 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 the permitted 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 the permitted 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 or corporation holding a permit under this section, nor his/her/its agents or employees, shall allow or permit in or upon the permitted premises any act or conduct described in subsections (a), (b) and (c).
- (14) Expiration of Permit. All permits shall expire at the time period determined by the Council, which shall be no longer than seven (7) days.
- (15) Penalties
- a) Penalties. Any person or entity violating any provision of this ordinance shall be required to forfeit not less than two hundred dollars (\$200) nor more than one thousand dollars (\$1000). The person or entity shall be required to pay 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(4) of the Wisconsin Statutes. Each and every day that an offense continues constitutes a separate offense.
- (16) Severability. If any part of this section is found to be unconstitutional or otherwise invalid, the validity of the remaining parts shall not be affected.

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&RecreateSec9.09Shows&Exhibitions-CarnivalPermit