

**CITY OF WEST ALLIS
ORDINANCE O-2025-0042**

**ORDINANCE TO CREATE NONINTOXICATING BEVERAGE LICENSE
REGULATING CANNABIDIOL- AND THC-INFUSED BEVERAGES**

CREATING SECTION 9.74

WHEREAS, Wis. Stat. 66.0433 says the common council "may grant licenses to persons it considers proper for the sale of beverages containing less than 0.5 percent of alcohol by volume to be consumed on the premises where sold and to manufacturers, wholesalers, retailers and distributors of these beverages"; and

WHEREAS, 2019 Wisconsin Act 68 created regulations that allow the production and sale of certain consumable goods containing cannabidiol and delta-9-tetrahydrocannabinol derived from hemp; and

WHEREAS, the market has also introduced beverages containing delta-8-tetrahydrocannabinol and delta-10-tetrahydrocannabinol, which have similar psychotropic effects on the consumer, and the introduction of other variants is likely in the future; and

WHEREAS, the common council finds it proper to regulate the sale of beverages that contain cannabidiol and tetrahydrocannabinols derived from cannabis plants by and to its citizens, for the benefit of the public health and welfare;

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

SECTION 1: **AMENDMENT** "6.03 Public Welfare And Peace" of the City Of West Allis Municipal Code is hereby *amended* as follows:

A M E N D M E N T

6.03 Public Welfare And Peace

1. Destruction of Property.

- a. Fences, Walls, Trees, etc. No person shall willfully, maliciously or wantonly destroy, remove, throw down or injure any fence, hedge or wall enclosing any orchard, garden or any field whatever on land belonging to or lawfully occupied by another, or to open or leave open, throw down, injure, remove or destroy any gate or bars in such fence, hedge or wall, or cut down, root up, sever, injure, destroy or carry away, when severed, any fruit, shade, ornamental or other tree or any shrub, root, plant, fruit, flower, grain or other vegetable production in the City.
- b. Park Property, Statues, etc. No person shall break or otherwise injure any tree,

shrub or plant; break, soil or deface any fountain, statue or other ornamental structure; damage any grass plot; or, in any way, injure, soil or deface any square, sidewalk or ground in the City or any public property in any public park or any other public place, which has been declared to be a public park and under the control of the City, whether the same shall be owned, leased or held in trust by the City, or held in trust for the use of the City.

- c. Gardens, Crops, etc. No person shall enter any enclosed or unenclosed garden or orchard located within the City, without the consent of the owner, tenant, lessee or his or her agent and there cut down, injure, damage, destroy, pull out, eat or carry away any portion of the garden, including any growing thing, crop, seed, soil, fertilizer, water supply, tools, implements, racks, support or any other protective device or any other thing useful for the development, cultivation, maintenance and use of the garden.
2. Posting Signs, Advertisements or Displays. No person shall put up, erect, fasten, post, paint or maintain any sign, picture, poster, advertisement, symbol, structure, display or any other item of any description upon any curb, sidewalk, fence, board, barrel, box, case, railing, pole, post, barricade, material, bridge, structure or building of any kind placed upon any street, alley, public way or public ground. **[Ord. O-2008-0003, 2/5/2008]**
3. Open Air Meetings.
 - a. Where Prohibited. No person shall hold any open air meetings for any purpose whatsoever on West Greenfield Avenue between South 69th Street and South 76th Street or on any side street or in any alley abutting thereon, within one hundred twenty (120) feet on either side of West Greenfield Avenue.
 - b. Permit Required. Any person properly qualified may secure a permit for use of the park located at South 70th Street and West National Avenue for such purpose, providing permission is first obtained from the Park Board of the City.
4. Disorderly Conduct with a Motor Vehicle.
 - a. No person shall, within the City of West Allis, on public or private property, by or through the use of a motor vehicle, motorcycle, snowmobile, minibike, all-terrain vehicle or any other motorized vehicle, engage in violent, dangerous, abusive, unreasonably loud or otherwise disorderly conduct, including but not limited to unnecessary, deliberate or intentional: spinning of wheels, squealing of tires, revving of the engine, blowing of the horn, causing the engine to backfire, causing the vehicle in motion to raise one or more of its wheels off the ground or causing the vehicle to otherwise be operated in an erratic or dangerous manner under circumstances which tend to cause or provoke a disturbance.
 - b. Any person who shall violate this subsection shall upon conviction be subject to a forfeiture in the amount of \$300.00 for each offense.
5. Diseased and Infected Trees, Hedges, etc.
 - a. Inspection by Superintendent of Forestry and Public Grounds; Notice; Removal. The Superintendent of Forestry and Public Grounds (hereafter "the Superintendent") may inspect trees, vines, hedges, plants, logs and branches

within the City right-of-way and those trees, vines, hedges, plants, logs, and branches as the Superintendent determines may pose a danger to persons using the City right-of-way in order to determine whether they are healthy or diseased. If any such tree, vine, hedge, plant, log or branch is found dead, diseased, infected or infested and, in the opinion of the Superintendent, is likely to spread any disease or is found to harbor destructive insects or, if any tree, vine, hedge, plant, log or branch is dangerous to the public, the Superintendent shall give a written order to the owner, agent or occupant of such premises of such condition and direct that the owner, agent or occupant to remove and destroy the tree, vine, hedge, plant, log or branch. The owner, agent, or occupant of such premises of such condition will have thirty (30) days from the date of the order to correct the defect. The owner, agent, or occupant may request an extension to correct the defects which will only be granted for good cause at the discretion of the Superintendent of Forestry and Public Grounds. The owner, agent, or occupant who received the order may appeal the order to the Administrative Appeals Review Board (hereafter "the Board") by submitting a written objection to the City Clerk's Office within 30 days of the order. Upon receipt of a timely appeal, the Board shall hold a hearing on the appeal, during which the Board may review any pertinent information and may accept oral and written statements from any person. In the event the owner, agent or occupant shall fail to comply with the orders within the time specified, the Superintendent may enter upon and remove or contract for the removal of the diseased, infected or infested trees, vines, hedges, plants, logs or branches or any part thereof.

- b. Transportation Permit Required. No person, firm or corporation shall carry or transport in, out of or through the City, any dead, diseased, infected or infested trees, vines, hedges, plants, logs and branches. All commercial and professional arborists shall, upon removal of any dead, diseased, infected or infested trees, vines, hedges, plants, logs and branches, get a permit from the Superintendent to carry or transport the same to an approved and designated disposal area, as directed by the Superintendent.
- c. Sale and Planting of Cottonwood Trees Prohibited. No person shall hereafter sell or plant within the City any *populus sargentii*, commonly known as the plains cottonwood, or the *populus deltoides*, commonly known as the eastern cottonwood, both such species also commonly known as the cottonwood poplar.

6. Fraud on Tavern Keeper.

- a. No person, having obtained food, lodging, beverage or other service at a tavern, shall intentionally abscond without paying for it; nor, while a patron at a tavern, shall intentionally defraud the keeper thereof in any transaction arising out of such relationship.
- b. Under this subsection, prima facie evidence of any intent to defraud or to abscond is shown by:

The refusal of payment upon presentation when due and the return unpaid of any bank check or order for the payment of money given by any patron to any

tavern in payment of any obligation arising out of such relationship as patron;
or,

The failure or refusal of any patron at a tavern to pay, upon written demand, the established charge for food, beverages of any kind or other services actually rendered; or,

The giving of false information or the presenting of false or fictitious credentials for the purpose of obtaining credit, food, beverages or other services; or,

The drawing, endorsing, issuing or delivering to any tavern of any check, draft or order for payment of money upon any bank or other depository, in payment of established charges for food, beverages of any kind or other service, knowing at the time that there is not sufficient credit with the drawee bank or other depository for payment in full of the instrument drawn.

7. Consumption and Possession of Alcohol Beverages and CBD/THC Beverages
 - a. No person may consume ~~alcohol beverages~~ or possess alcohol beverages or CBD/THC beverages in an open container while upon any public way or City-owned property. This provision does not apply to any of the following:
 - i. Any premises where a government-issued license or permit allows the consumption of alcohol
 - ii. Within a community event declared under this subsection if the alcohol beverage was lawfully obtained at the the community event or a licensee or permittee adjacent to the community event
 - iii. At the farmers market if the alcohol beverage was lawfully obtained at the farmers market
 - iv. The consumption of fermented malt beverages on a commercial quadricycle
 - b. (Reserved).
 - c. (Reserved).
 - d. No person licensed or permitted to sell alcohol beverages may knowingly allow another person to leave that licensed or permitted premises while carrying an alcohol beverage in an open container, except to enter a community event adjacent to the premises. No person may leave a premises licensed or permitted to sell alcohol beverages while carrying an alcohol beverage in an open container, except to enter a community event adjacent to the premises.
 - e. The Common Council may, by resolution, designate a specified public way or city-owned property to be the location of a community event. The resolution shall describe the premises of the community event, the date and time of the community event, and any other conditions upon the consumption of alcohol beverages on the premises of that community event.
 - f. (Reserved).
8. Fireworks Prohibited.
 - a. Definition. In this section, "fireworks" means anything manufactured,

processed or packaged for exploding, emitting sparks or combustion, which does not have another common use, but does not include any of the following:

- i. Fuel or lubricants.
 - ii. A firearm cartridge or shotgun shell.
 - iii. A flare used or possessed or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle.
 - iv. A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
 - v. A cap containing not more than one quarter (1/4) gram of explosive mixture, if the cap is used or possessed or sold for use, in a device which prevents direct bodily contact with the cap when it is in place for explosion.
 - vi. A model rocket engine.
 - vii. Tobacco or a tobacco product.
- b. Prohibition.
- i. No person may sell any fireworks in the City of West Allis.
 - ii. Exceptions. This section does not prohibit a resident, wholesaler, dealer or jobber from selling fireworks at wholesale, if that wholesaler, dealer or jobber ships or delivers the fireworks outside of this state in sealed opaque containers by, as defined in secs. 194.01(5), (11) and (14) of the Wisconsin Statutes, common motor carrier, contract motor carrier or private motor carrier engaged in the business of shipping or delivering property, or to a person or group granted a permit under sec. 167.10 of the Wisconsin Statutes.
- c. Possession and Use, State Statutes Adopted. Possession and use of fireworks shall be regulated according to the provisions of sec. 167.10 of the Wisconsin Statutes, as the same are from time to time amended, which are hereby adopted and incorporated by reference herein.
- d. Enforcement.
- i. In addition to other penalties prescribed under this section, the City may petition the Circuit Court for an order enjoining any violation of this ordinance or of sec. 167.10 of the Wisconsin Statutes.
 - ii. Any fireworks stored, handled, sold, possessed or used by the person who violates any provision of this section shall be seized. The fireworks shall be destroyed after conviction for a violation and otherwise returned to the owner.
- e. Penalties.
- i. Any person who shall violate any provision of this section shall, upon conviction, pay a forfeiture of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), together with the costs of the action and, upon default of payment thereof, shall be imprisoned in the Milwaukee County House of Correction for a period not to exceed ninety (90) days or until such forfeiture and costs are paid. Each day during which a violation of this section is permitted to exist shall be deemed to be a separate violation.

SECTION 2: AMENDMENT “9.48 Definitions” of the City Of West Allis Municipal Code is hereby *amended* as follows:

A M E N D M E N T

9.48 Definitions

In this chapter, the words and phrases below have the corresponding meanings:

Term	Definition
Adult-oriented entertainment	Any of the following: - Any image that depicts specified anatomical area or sexual activities - Any device marketed as an object used for sexual activities - Any live performance in which a person acts out sexual activities or exposes or simulates the exposure of specified anatomical areas - Any video in which a person exposes or simulates the exposure of specified anatomical areas
Amusement device	See Wis. Stat. 77.54(65m)(b)
Approved payment plan	A debt repayment agreement between the City and a license applicant or licensee that is approved by the city attorney or the common council
<u>CBD/THC beverage</u>	<u>A beverage containing cannabidiol, any tetrahydrocannabinol, or both</u>
Entertainment device	Any equipment designed to provide amusement to the user including, but not limited to: amusement devices, jukeboxes, and other similar devices
Indoor premises	Any part of the premises that is an enclosed place as that term is defined in Wis. Stat. 101.123(1)(ak)
Outdoor premises	Any part of the premises that is not an indoor premises.
Outstanding debt	A forfeiture for a violation of a municipal ordinance that is not being appealed, a civil judgment, real estate taxes which are delinquent and have not been reimbursed by the county in the August settlement under Wis. Stat. 74.29 , delinquent personal property tax, delinquent room tax, or any other delinquent assessment, charge, or fee
Premises	The area within which the activity licensed under this chapter may occur.
	Any activity or equipment made available with or without fee to the general public for amusement including, but not limited to bowling centers, dance halls, roadhouses, billiard and pool tables, amusement

Public entertainment	devices, theater, live or pre-recorded music, movies, and other places of amusement. This definition applies to any entertainment provided commercially for gain by membership, season ticket, invitation, or other system open or offered to the public generally. This term does not include any activity or equipment licensed by the State of Wisconsin.
Specified anatomical areas	Any of the following: - Less than completely and opaquely covered human genitals or pubic region - Less than completely and opaquely covered areola or nipple of a human female breast - Human male genitals in a discernible turgid state, even if opaquely covered
Sexual activities	Any of the following: - Simulated or actual acts of sexual intercourse, sodomy, bestiality, necrophilia, human excretion, masturbation, sadism, masochism, fellatio, cunnilingus, or lewd exhibition of human genitals - Simulated or actual fondling or erotic touching of human genitals, pubic region, or female breasts

SECTION 3: ADOPTION “9.74 Nonintoxicating Beverage” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

9.74 Nonintoxicating Beverage(*Added*)

1. License Required. Pursuant to Wis. Stat. 66.0433, no person may act as a retailer of any CBD/THC beverage without first obtaining a nonintoxicating beverage license. A license issued under this section authorizes face-to-face retail sales of CBD/THC beverages sales to consumers at the premises described in the retail license to be consumed either on the premises where sold or off the premises.
2. Exceptions. No license is required under this section if any of the following applies:
 - a. The person is a pharmacy or physician approved under Wis. Stat. 961.34(2).
 - b. The beverage contains 0.5 percent or more of alcohol by volume
3. Application Process. The application process in WAMC 9.50 is adopted.
4. Regulations.
 - a. Underage Persons. No person may procure for, sell, dispense or give away any CBD/THC beverage to any person who has not yet attained the legal drinking age for alcohol beverages.
 - b. Packaging. No person may procure for, sell, dispense or give away any CBD/THC beverage unless in an original closed container and labeled in a manner that clearly indicates:
 - i. The product is for use only by adults aged 21 years or older.

- ii. The quantity of CBD/THC contained within the product.
- 5. Discipline Process. The discipline process in [WAMC 9.51](#) is adopted.

SECTION 4: **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 MAY 20, 2025.

	AYE	NAY	ABSENT	ABSTAIN
Ald. Ray Turner	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Ald. Kimberlee Grob	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Ald. Chad Halvorsen	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Ald. Marissa Nowling	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Ald. Suzzette Grisham	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Ald. Danna Kuehn	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Ald. Dan Roadt	<u> </u>	<u> </u>	<u>X</u>	<u> </u>
Ald. Patty Novak	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Ald. Kevin Haass	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Ald. Marty Weigel	<u>X</u>	<u> </u>	<u> </u>	<u> </u>

Attest



Tracey Uttke, City Clerk, City Of West Allis

Presiding Officer



Dan Devine, Mayor, City Of West Allis

