

**CITY OF WEST ALLIS
ORDINANCE O-2026-1483**

**ORDINANCE TO ADOPT STATE LAW REGARDING CITY SEALERS AND
DUTIES REGARDING WEIGHTS AND MEASURES**

REPEALING AND RECREATING CHAPTER 8

WHEREAS, pursuant to Wis. Stat. 98.04(1) the City enforces the provisions of state law regarding weights and measures and may enact ordinances that regulate weights and measures and that are not in conflict with state law;

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

SECTION 1: **ADOPTION** “8.21 Establishment” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

8.21 Establishment(*Added*)

To enforce the provisions of state law and this chapter, the division of weights and measures is established within the health department. The division shall employ qualified sealers or inspectors to who are empowered to ensure compliance with applicable law.

SECTION 2: **ADOPTION** “8.22 Regulations” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

8.22 Regulations(*Added*)

The regulations in [Wis. Stat. Ch. 98](#) and [Wis. Adm. Code Ch. ATP 90, ATP 91, and ATP 92](#), as they may be amended, are hereby adopted. In addition, the following local regulations of weights and measures shall apply, as authorized by Wis. Stat. 98.04(1):

1. (Reserved)

SECTION 3: **ADOPTION** “8.23 Review Of Sealer Detemination” of the City Of West Allis Municipal Code is hereby *added* as follows:

A D O P T I O N

8.23 Review Of Sealer Detemination(*Added*)

1. Adoption of State Procedure. Any person having a substantial interest which is adversely affected by an administrative determination of the city sealer may have such determination reviewed as provided in Wis. Stat. Ch. 68.
2. Review of Initial Determination. Any person seeking review of an initial determination of the city sealer shall deliver to the health department a written request that complies with Wis. Stat. 68.08.
3. Administrative Appeal. The impartial decision maker who shall make the decision on appeal is the administrative appeals review board.
4. Order Valid During Review and Appeal. Unless otherwise required by court order, the initial determination of the city sealer shall remain in force while any review or administrative appeal is pending.

SECTION 4: **ADOPTION** “8.24 Penalties” of the City Of West Allis Municipal Code is hereby *added* as follows:

A D O P T I O N

8.24 Penalties(*Added*)

The penalties under Wis. Stat. 98.26, as they may be amended, are hereby adopted.

SECTION 5: **REPEAL** “8.01 Definitions” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

R E P E A L

~~8.01 Definitions~~ (*Repealed*)

~~As used in this ordinance, unless the context requires otherwise:~~

1. The word "person" shall include individuals, partnerships, corporations, companies, societies and associations.
2. "Department" means the West Allis Health Department.

3. "Weights and measures" means weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories used with any or all such instruments and devices, except meters for the measurement of electricity, gas (natural or manufactured) or water, when the same are operated in a public utility system. [Ord. O-2015-0021, 4/7/2015]
4. "Sell," "sale" and "sold" includes barter or exchange and any offering or exposing for sale or possession with intent to sell.
5. "Sealer" and "Assistant Sealer" means a Sealer of Weights and Measures and Assistant Sealer of Weights and Measures of the City of West Allis.
6. "Weight" means net weight when used in reference to a commodity.
7. "Incorrect," as applied to weights and measures and commodities, includes any failure to comply with the requirements of this ordinance.
8. "Commodity" means any movable or tangible thing that is produced or used as a subject or barter of sale.
9. "Pricing System" means a system that utilizes a scanning device such as a handheld gun or wand, or counter-mounted scanner unit at retail checkouts which read universal product code symbols or other bar code labels and the like. [Ord. 6432, 5/4/1999]

SECTION 6: **REPEAL** “8.02 Systems Of Weights And Measures” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

R E P E A L

~~8.02 Systems Of Weights And Measures~~ (*Repealed*)

1. The system of weights and measures in customary use in the United States or the metric system of weights and measures shall be the only systems used for commercial purposes in this City. The definitions of basic units of weights and measure, the tables of weights and measures and weights and measures equivalents, published by the National Institute of Standards and Technology, shall govern weighing and measuring equipment and transactions in this City.

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

SECTION 7: **REPEAL** “8.03 Field Standards And Equipment; Specifications And Tolerances; Adoption Of Code” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

R E P E A L

~~8.03 Field Standards And Equipment; Specifications And Tolerances; Adoption Of Code~~

(Repealed)

1. There shall be supplied by the City such field standards and such equipment as may be found necessary to carry out the provisions of this ordinance. The field standards shall be verified by the Wisconsin Weights and Measures Laboratory upon their initial receipt and thereafter as the Wisconsin Department of Agriculture, Trade and Consumer Protection may require.
2. The specifications, tolerances, and regulations for commercial weighing and measuring devices issued by the National Institute of Standards and Technology shall apply in this City, except as modified by rules issued by the Wisconsin Department of Agriculture, Trade and Consumer Protection.
3. The provisions of Chapter 98 of the Wisconsin Statutes, entitled "Weights and Measures," ATCP Chapters 90, 91, and 92 of the Wisconsin Administrative Code, and the National Institute of Standards and Technology Handbook, as applicable to weights and measures, are adopted by reference and incorporated as though fully set forth herein. Violation of any applicable provisions thereof shall constitute a violation of this ordinance.

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

SECTION 8: **REPEAL** “8.04 City Sealers And Assistant Sealers” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~8.04 City Sealers And Assistant Sealers~~ *(Repealed)*

1. Pursuant to Section 2.17(1) of this Code, the City Health Commissioner is hereby designated as the Sealer of Weights and Measures. The Health Commissioner may appoint public health sanitarians or environmentalists as Assistant Sealers. **[Ord. O-2015-0021, 4/7/2015]**
2. Complete records of all weights and measures work shall be kept. A written report shall be submitted to the Mayor every third month and filed with the City Clerk showing the number and kind of measure or measures inspected, tested and sealed, the names of persons arrested under this act, the property seized and the fines imposed.

SECTION 9: **REPEAL** “8.05 Enforcement Authority” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~8.05 Enforcement Authority (Repealed)~~

1. There is hereby conferred upon the Sealer and Assistant Sealers of Weights and Measures, police power; such Sealer and Assistant Sealers shall be provided with suitable badges or insignia of authority and, in the exercise of their functions, shall exhibit the same, upon demand, to any person questioning their powers and they are hereby empowered and authorized to make arrests, with or without formal warrant, of any person violating any ordinance or statute relating to weights and measures.
2. The Sealer or Assistant Sealers may enter and go into or upon any structure or premises, and may stop any person or vehicle for the purpose of enforcing this ordinance. They shall inspect and test any weights and measures or commodities which are sold or used commercially as often as necessary to secure compliance with this ordinance, and may seize as evidence, or reject and mark or tag as "rejected," those which are incorrect. A representative sample may be used as the basis to determine whether any lot is incorrect.
3. Weights and measures and commodities that have been rejected may be confiscated and destroyed by the Sealer or an Assistant Sealer if not corrected within thirty (30) days or such longer period as the Health Commissioner may authorize, or if used or disposed of without his or her written authorization. **[Ord. O-2015-0021, 4/7/2015]**
4. The Sealer or Assistant Sealers may seal or mark with appropriate devices such weights and measures as are found upon inspection and test to be in conformance with this ordinance.
5. The Sealer or Assistant Sealers shall investigate complaints made concerning violations of the provisions of this ordinance and shall, upon their own initiative, conduct such investigations as they deem appropriate and advisable to develop information on possible prevailing practices in commercial quantity determination and on possible violations of the provisions of this ordinance and to promote the general objective of accuracy in the determination and representation of quantity in commercial transactions. **[Ord. O-2015-0021, 4/7/2015]**
 - a. If the Sealer or Assistant Sealer reinspects a weight and measure because he or she has found a violation of this chapter, the permittee shall pay a reinspection fee for each reinspection. The reinspection fee shall be the same as the annual permit fee of the weight or measure being reinspected. Such fee shall be due immediately after the reinspection upon written demand from the Health Department. No permittee may renew a permit issued under this chapter unless the permittee has paid all reinspection fees in full.

~~Editor's Note: Former Subsection (6), as amended 5/4/1999 by Ord. 6432 which immediately followed this subsection and set forth requirements for the acquisition of an annual permit and annual permit fees was repealed 4/7/2015 by Ord. O-2015-0021. For current provisions, see Section 8.13.~~

SECTION 10: **REPEAL** “8.06 Through 8.07 (Reserved)” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~8.06 Through 8.07 (Reserved) (Repealed)~~

~~Editor’s Note: Former Section 8.06, Method of Sale of Commodities, and former Section 8.07, Declaration of Quantity, were repealed 4/7/2015 by Ord. O-2015-0021.~~

SECTION 11: **REPEAL** “8.08 Advertising Commodities For Sale” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~8.08 Advertising Commodities For Sale (Repealed)~~

~~No person shall himself, or by his servant or agent, or as the servant or agent of any other person, advertise for sale any commodity when the retail price is mentioned in such advertisement, unless the actual weight or volume or count of such commodity shall be plainly and conspicuously set forth in such advertisement in not less than five (5) point type.~~

SECTION 12: **REPEAL** “8.09 Misrepresentation Of Price” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~8.09 Misrepresentation Of Price (Repealed)~~

~~Whenever any commodity or service is sold or is offered, exposed or advertised for sale by weight, measure or count, the price shall not be misrepresented, nor shall the price be represented in any manner calculated or tending to mislead or deceive an actual or prospective purchaser. Whenever an advertised, posted or labeled price per unit of weight, measure or count includes a fraction of a cent, all elements of the fraction shall be prominently displayed and the numeral or numerals expressing the fraction shall be immediately adjacent to, of the same general design and style and at least one half (1/2) the height and width of the numerals representing the whole cents.~~

SECTION 13: **REPEAL** “8.10 Through 8.11 (Reserved)” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~8.10 Through 8.11 (Reserved)~~ (*Repealed*)

~~Editor's Note: Former Section 8.10, Standard Containers, and former Section 8.11, Bulk Deliveries Sold in Terms of Weight and Delivered by Vehicle, were repealed 4/7/2015 by Ord. O-2015-0021.~~

SECTION 14: **REPEAL** “8.12 Prohibited Acts” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~8.12 Prohibited Acts~~ (*Repealed*)

1. No person shall commit any of the following acts:
 - a. Hinder, obstruct, or impersonate a Sealer or Assistant Sealer.
 - b. Use or have in possession an incorrect weight or measure for use in buying or selling any commodity or service, sell any incorrect weight or measure, or cause a weight or measure to be incorrect.
 - c. Represent in any manner a false quantity or price in connection with the purchase or sale, or any advertising thereof, of any commodity, thing, or service.
 - d. Use or dispose of any rejected weight or measure or commodity or remove therefrom any official tag, seal, stamp, or mark without written authority from a Sealer or Assistant Sealer.
 - e. Violate any other provision of this ordinance for which no specific penalty is prescribed.

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

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

REPEAL

~~8.13 Permits~~ (*Repealed*)

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

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

REPEAL

~~8.14 Suspension, Revocation, And Nonrenewal Of Permit~~ (*Repealed*)

1. Revocation of Permit.

- a. Any permit issued under this section may be suspended, revoked, or nonrenewed for cause by the Common Council after notice to the permittee and a hearing. Permits may be suspended, revoked, or not renewed for the following causes:
 - i. The making of any material false statement in any application for a permit.
 - ii. The violation of any of the applicable provisions of Chapter 8 of the West Allis Revised Municipal Code.
 - iii. The violation of any of the applicable provisions of Wisconsin Statutes Chapter 98, ATCP Chapters 90, 91, and 92 of the Wisconsin Administrative Code, or the National Institute of Standards and Technology Handbook, as related to weights and measures.
 - iv. The failure to pay any of the items listed in Section 1.08(9)(a) and (b) of this Code.
- b. Commencement of Proceedings. Suspension, revocation, or nonrenewal proceedings may be instituted by the Public Safety Committee of the Common Council upon its own motion or upon sworn written charges made and filed with the City Clerk by the Health Commissioner.
- c. Procedure.
 - i. Upon receipt of a sworn complaint, either from the Health Commissioner or upon directive of the Committee, the Public Safety Committee shall direct the City Attorney to prepare a summons and have the summons and complaint served upon the permittee pursuant to § 801.11 of the Wisconsin Statutes.
 - ii. The summons and complaint shall contain the date and time for appearance by the permittee; a statement of the Common Council's intention to suspend, revoke, or not renew the permit in the event any of the allegations are found to be true; a statement of the reasons for suspension, revocation, or nonrenewal; notification to the permittee of an opportunity to be heard, respond to and challenge the reasons for suspension, revocation, or nonrenewal and to present and cross examine witnesses under oath; and notification to the permittee of the right to be represented by counsel of the permittee's choice and at the permittee's expense.
 - iii. If the permittee fails to appear on the date and time designated in the

summons, the Public Safety Committee may enter a default judgment and take the allegations of the complaint to be true. The Public Safety Committee shall then deliberate on what sanction, if any, to impose.

- iv. If the permittee appears before the Public Safety Committee at the date and time designated in the summons and denies the material charges contained in the complaint, an evidentiary hearing shall be scheduled. If the permittee does not appear or appears but does not deny the material charges contained in the complaint, the complaint may be taken as true and the Committee shall hear the arguments of the complainant and, if applicable, the permittee in connection with whether to nonrenew, revoke, or suspend the permit and the length of the suspension.
- v. If the matter proceeds to hearing before the Committee, the following procedures shall apply:
 - (1) The complainant shall first present evidence in support of the complaint.
 - (2) After the complainant rests, the permittee may present evidence in opposition to the charges.
 - (3) The complainant and permittee may subpoena and present witnesses. All witnesses shall testify under oath or affirmation and shall be subject to cross examination.
 - (4) The complainant and permittee shall each be limited to one (1) hour for testimony unless the Chair, subject to approval of the Committee, extends the time to assure a full and fair presentation.
 - (5) Questions by Committee members or the advising City Attorney, and answers to such questions, shall not be counted against the time limitations.
 - (6) At the close of testimony, the complainant and permittee shall be given a reasonable time to make arguments upon the evidence produced at hearing.

d. Miscellaneous Procedural Matters.

- i. At all stages of the proceedings, the permittee shall be entitled to appear in person or by an attorney at his or her own expense.
- ii. If the complaint is in the name of the Committee or is brought by a City official in his/her official capacity, the complainant shall be represented by a prosecuting City Attorney.
- iii. The Committee shall be, when required, advised by an advisory City Attorney who shall not be the same individual as the prosecuting City Attorney.
- iv. The Chair of the Public Safety Committee shall be the presiding officer. The Chair shall direct that oaths and affirmations be administered and subpoenas issued upon request of either side. The Chair shall ensure that an orderly hearing is conducted in accordance with the provisions of this section. The Chair shall rule on objections

to the admissibility of evidence. Any ruling of the Chair shall be final unless appealed to the Committee and a majority vote of those members present and voting reverses such ruling.

- v. An audio recording or stenographic record shall be made of all proceedings at the hearing. Any interested party may obtain a copy of the recording or transcript at his or her own expense.

e. Findings and Recommendations.

- i. After the close of the hearing, the Committee shall deliberate and reach a decision. The Committee shall prepare findings on factual matters, conclusions of law, and a recommendation on what action, if any, should be taken with regard to the permit(s) at issue. The report shall be filed with the City Clerk, with a copy to the permittee and complainant. The findings and recommendations shall be distributed to each member of the Common Council.
- ii. The permittee and complainant may file a written statement or response to the findings and recommendations, including objections, exceptions, and arguments of fact and law. A written statement must be filed with the City Clerk before the close of business on a day that is at least three (3) working days prior to the date set for determination by the Common Council. Copies of written statements shall be provided to each member of the Common Council at least twenty-four (24) hours before any vote on the matter is scheduled before the Common Council.

f. Common Council Action.

- i. Not less than five (5) working days prior to the matter being scheduled before the Common Council, the City Clerk shall notify the permittee and complainant by United States first-class mail, postage prepaid, sent to the last known address, that the Common Council will convene to determine the matter.
- ii. Unless an Alderperson states that he/she has not read the findings and recommendations and written statements, if any, the matter shall proceed to debate amongst members of the Common Council. Neither the complainant nor the permittee shall be permitted to make oral arguments.
- iii. The Common Council shall determine by a majority vote of those in attendance and voting whether to adopt the recommendation of the Committee or make such modification as is deemed appropriate. Such vote shall be a roll call vote. Upon an affirmative vote suspending, revoking, or not renewing the permit(s), the Clerk shall give notice to the person whose permit is affected. If the Common Council finds the complaint to be untrue or unsupported by sufficient evidence, the proceedings shall be dismissed without cost to the accused.

g. Surrender of Permit.

- i. A permittee may, at any time during the permit year, surrender a

permit to the Health Department, along with a statement, in writing, that the permittee no longer wishes to conduct permitted activity at the permitted premises.

- ii. Except as set forth in Subsection (g)(3) below, the surrender shall operate to extinguish any right the permittee had to the permit or to conduct permitted activity at the premises listed in the permit.
- iii. If a summons and complaint has been issued against the permittee seeking suspension, revocation, or nonrenewal of the permit, the surrender of the permit shall be deemed a request and the matter shall be referred to the Public Safety Committee. The Committee may approve the request or deny the request and proceed to hearing.
- iv. Any request to have a surrendered permit returned shall be treated as a new permit application and the requestor must fill out the required applications and pay the required fees. The request shall thereafter be treated as all other new permit applications.
- h. Prohibition on Future Issuance. If a permit is revoked or not renewed due to action by the Public Safety Committee, at least two (2) years shall elapse before another permit may be given to the same permittee.

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

SECTION 17: **REPEAL** “8.15 Penalties” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

R E P E A L

~~8.15 Penalties~~ (*Repealed*)

1. Any person violating the provisions of this ordinance shall forfeit the sum of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) upon the first offense. For a second or subsequent offense, the person shall forfeit the sum of not less than two hundred dollars (\$200) nor more than one thousand dollars (\$1,000). For all violations, the person 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(1)(b)1 of the Wisconsin Statutes, or by suspension of the person's operating privilege, pursuant to Section 800.095(1)(a) of the Wisconsin Statutes. Each and every day a violation continues constitutes a separate offense.

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

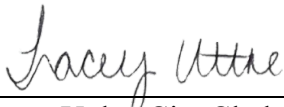
SECTION 18: **EFFECTIVE DATE** This Ordinance shall be in full force and effect on and after the required approval and publication according to law.

PASSED AND ADOPTED BY THE CITY OF WEST ALLIS COMMON COUNCIL
OCTOBER 13, 2026.

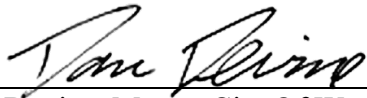
	AYE	NAY	ABSENT	ABSTAIN
Ald. Ray Turner	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Ald. Kimberlee Grob	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Ald. Chad Halvorsen	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Ald. Marissa Nowling	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Ald. Suzzette Grisham	<u> X </u>	<u> </u>	<u> </u>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

Attest

Presiding Officer



Tracey Uttke, City Clerk, City Of
West Allis



Dan Devine, Mayor, City Of West
Allis

