



**VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN**

**ORDINANCE NO. 18-007**

**AN ORDINANCE AMENDING SECTION 94.4.09(16) OUTDOOR ALCOHOL AREA.**

WHEREAS, the Village of Weston is authorized to prepare, amend and adopt a zoning ordinance under Wis. Stats. §§ 62.23 and 61.35; and

WHEREAS, the Village adopted a new Chapter 94 in March 2015, to serve as the Village's general zoning ordinance and the Village's extraterritorial zoning ordinance for the portions of the Town of Weston defined as the extraterritorial zoning area; and

WHEREAS, in administering this new Chapter 94, the Village Plan Commission has found Section 94.4.09(16) does not adequately address the regulations needed to regulate outdoor alcohol areas in the Village and Town; and

WHEREAS, the Plan Commission has recommended enactment of the Zoning Ordinance amendments set forth below, for applicability within the Village limits; and

WHEREAS, the Joint Town and Village Extraterritorial Zoning Committee has recommended enactment of the Zoning Ordinance amendments set forth below, for applicability within the Extraterritorial Zoning limits of the Town of Weston; and

WHEREAS, the Joint Village and Town of Weston Extraterritorial Zoning Committee and Village Plan Commission have held a joint public hearing on this ordinance, on February 12, 2018, in compliance with Wis. Stat. § 62.23, and following such hearing the Board considered public comments and the recommendation of the Village Plan Commission and Joint Village and Town of Weston Extraterritorial Zoning Committee; and

WHEREAS, the Village Board finds the proposed amendment is reasonable, consistent with the Village Comprehensive Plan, and in the public interest;

NOW, THEREFORE, the Village Board of Weston, Marathon County, Wisconsin, does ordain as follows:

SECTION 1: Chapter 94 Zoning Ordinance is hereby amended to provide as follows:

**Section 94.4.09: Accessory & Miscellaneous Land Use**

**(16) Outdoor Alcohol Area.**

Outdoor Alcohol Areas are those that serve or allow for the consumption of alcohol outside of the principal structure, generally associated with an approved "Indoor Commercial Entertainment" use such as a restaurant, tavern, bar, and/or live music venue, but possibly also certain "Indoor Institutional" uses and other land uses. Examples of Outdoor Alcohol Areas

include, but are not limited to beer gardens and outdoor dining and recreational areas (e.g., volleyball courts) that allow the consumption of alcohol.

**Performance Standards:** The following standards shall apply to all Outdoor Alcohol Areas established or expanded after March 18, 2015, except as specifically indicated below:

1. Non-temporary Outdoor Alcohol Areas shall be set back a minimum of 100 feet from any residential use in any zoning district and provide a bufferyard meeting the requirements of Section 94.11.02(3)(d) along all property borders abutting residentially zoned property.
2. The maximum allowable area for an Outdoor Alcohol Area shall not exceed 50 percent of the indoor gross floor area where accessory to a principal “Indoor Commercial Entertainment” use.
3. The exterior may be required to be enclosed with a fence or wall as limited by State Statute. Emergency exits shall be provided in accordance with applicable Fire and Building Codes.
4. Except as a temporary use or in conjunction with a recreational use, an Outdoor Alcohol Area must be located on an impervious surface or hard all-weather decking material. No parking lot or driveway shall be used for any Outdoor Alcohol Area established or expanded after [insert effective date of amendment], unless the pavement is professionally replaced or overlaid with a raised non-asphaltic material to establish the Outdoor Alcohol Area as a protected and deliberately designed space for persons outside of vehicles.
5. Except where otherwise specified by the conditional use permit, Outdoor Alcohol Areas shall not open earlier than 7 a.m. or remain open later than 11 p.m. on any day.
6. Except where otherwise limited by conditional use permit, Outdoor Alcohol Areas may play amplified music, whether live or recorded and may have speakers, microphones, televisions, or other audio or video devices provided all noise standards established in Section 94.12.13 are met.
7. Outdoor Alcohol Areas shall at all times comply with all applicable regulations concerning accessibility and nondiscrimination in the providing of service.
8. Conditional use permit applications shall include operational details and site plan details addressing each of the requirements above in addition to the requirements for site plan review in Section 94.16.09. Any application for this use directly abutting a public right-of-way, parking lot, or driveway shall include details regarding the specific location of public street, parking lot, or driveway improvements, and how the activity will be kept off of the public street, parking lot, or driveway.
9. Each Outdoor Alcohol Area shall meet all state and local permit and license requirements before commencing operations and at all times during operation, including but not limited to a local liquor license and a Wisconsin Department of Health and Family Services to operate said establishment pursuant to Wis. Stat. Chapter 254.
10. Minimum Parking Off-Street Requirements: one space for every three persons at the maximum capacity of the Outdoor Alcohol Area. No conversion of space formally utilized for parking spaces to the Outdoor Alcohol Area shall reduce the number of parking spaces serving all uses on the premises below, or further below, the minimums under this chapter.

**SECTION 2:** The amendment effectuated by this Ordinance shall apply within the municipal limits of the Village and within its extraterritorial zoning jurisdiction in the Town of Weston.

**SECTION 3: SEVERABILITY.** If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this

Ordinance shall not be affected thereby. If an application of this Ordinance to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment. If any requirement or limitation attached to an authorization given under this Ordinance is found invalid, it shall be presumed that the authorization would not have been granted without the requirement or limitation and, therefore, said authorization shall also be invalid. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 4: EFFECTIVE DATE. This ordinance shall take effect upon approval and publication.

Dated the 19<sup>th</sup> day of February, 2018

WESTON VILLAGE BOARD

By: Barbara Ermeling  
Barbara Ermeling, its President

Attest:  
Sherry Weinkauff  
Sherry Weinkauff, its Clerk

APPROVED: 2/19/18

PUBLISHED: 2/23/18

Notice of Newly Enacted Ordinance No. 18-007

Please take notice that the Village Board of Weston, Wisconsin enacted on February 19, 2018, Ordinance No. 18-007: *An Ordinance amending Section 94.4.09(16) Outdoor Alcohol Area.*

The full text of Ordinance No. 18-007 may be obtained at the office of the Village Clerk, 5500 Schofield Avenue, Weston, Wisconsin or through the Village's website at <http://www.westonwi.gov>.

Dated this 19<sup>th</sup> day of February  
Sherry Weinkauff, Village Clerk

Published: 2/23/2018

# DAILY HERALD media

A GANNETT COMPANY

STATE OF WISCONSIN  
BROWN COUNTY

WESTON VILLAGE OF  
5500 SCHOFIELD AVE  
WESTON WI 544764333

I, being duly sworn, doth depose and say I am an authorized representative of The Wausau Daily Herald, a newspaper at Wausau Wisconsin and that an advertisement of which the annexed is a true copy, taken from said paper, which published therein on:

Account Number: GWM-WES425  
Order Number: 0002745317  
No. of Affidavits: 1  
Total Ad Cost: \$10.96  
Published Dates: 02/23/18

**VOUCHER APPROVAL**  
Account Number: 10-06-56920<sup>2</sup> -321-000  
Description: Ord 18-007  
publication fees  
Approved by: [Signature] Date: 3/23/18

(Signed) [Signature] (Date) 3/5/18  
Legal Clerk

Notice of Newly Enacted Ordinance No. 18-007  
Please take notice that the Village Board of Weston, Wisconsin enacted on February 19, 2018, Ordinance No. 18-007: An Ordinance amending Section 94.4.09(16) Outdoor Alcohol Area. The full text of Ordinance No. 18-007 may be obtained at the office of the Village Clerk, 5500 Schofield Avenue, Weston, Wisconsin or through the Village's website at <http://www.westonwi.gov>.  
Dated this 19th day of February  
Sherry Weinkauff, Village Clerk  
Run: February 23, 2018 WNAXLP

Signed and sworn before me  
[Signature]



My commission expires 9-19-21

WESTON VILLAGE OF  
Re: Ord. No. 18-007



**VILLAGE OF WESTON, WISCONSIN  
AGENDA ITEM COVER SHEET**

---

**MTG/DATE:** Board of Trustees – 2/19/18

---

**FROM:** Jennifer Higgins, Director of Planning & Development

---

**DESCRIPTION:** Ordinance No. 18-007: An Ordinance amending Sec. 94.4.09(16) Outdoor Alcohol Areas.

---

<b>ACTION:</b>	<input checked="" type="checkbox"/> Approve	<input checked="" type="checkbox"/> Ordinance	<input type="checkbox"/> Proclamation
	<input type="checkbox"/> Deny	<input type="checkbox"/> Policy	<input type="checkbox"/> Report
	<input type="checkbox"/> Expenditure	<input type="checkbox"/> Procedure	<input type="checkbox"/> Resolution

---

**QUESTION:**

Should the Board of Trustees adopt additional regulations in the zoning code related to the creation of outdoor alcohol areas?

---

**BRIEF:**

At the August 14<sup>th</sup> Plan Commission meeting the PC held a public hearing on a conditional use permit request from local business, Crafties, to construct an outside alcohol area in their existing parking lot. The item was deferred for additional information at the August and September PC meetings. At the October 9, 2017 PC meeting, where action was taken to approve the request, some Commissioners expressed their unease with allowing this to occur. They requested staff to look at making changes to the ordinance to put more restrictions on the development of these types of outside patio areas, after the fact, and bring the item back for discussion. Staff has discussed further with MDRoffers, and we offered the attached amendment suggestions for discussion at the Public Hearing. There was no opposition expressed at the public hearing held on 2/12. Both the PC and ETZ recommended the approval of the amendments unanimously.

---

**RECOMMEND:** Director recommends approval of the amendments as presented.

---

**COMMITTEE:** Plan Commission discussion of outdoor alcohol areas at their 10/9/17 during the Crafties CUP discussion. Deferred at 11/13/17 & 12/11/17 Meeting due to time and Commissioner Gau not being present at the meeting.  
1/8/18 PC directed staff to schedule for Public Hearing  
2/12/18 Public Hearing held before PC/ETZ

---

**REQUEST:**                    **Board approval of the proposed amendments as presented.**

---

Is there an additional briefer with this agenda item?

---

Are there additional reference documents which have been attached to this report?

## VILLAGE OF WESTON, WISCONSIN AGENDA ITEM BRIEFER

### 1. Policy Question:

---

Should the BOT approve amendments to the zoning code to further regulate the creation of new outdoor alcohol areas for existing businesses which would like to create these areas in their parking lots?

### 2. Purpose:

---

The purpose of asking this question is to receive guidance and feedback from Village policymakers regarding the "policy question" written out above.

### 3. Background:

---

At the August 14<sup>th</sup> Plan Commission meeting the PC held a public hearing on a conditional use permit request from local business, Crafties, to construct an outside alcohol area in their existing parking lot. The item was deferred for additional information at the August and September PC meetings. At the October 9, 2017 PC meeting where action was taken to approve the request, some Commissioners expressed their unease with allowing this to occur. They requested staff to look at making changes to the ordinance to put more restrictions on the development of these types of outside patio areas.

Staff brought the proposed changes to the PC at their 1/8/18 meeting and after PC discussion, they directed staff to schedule the Public Hearing on the amendments at their 2/12/18 meeting.

### 4. Issue Analysis:

---

Staff has been approached by a number of businesses interested in putting in after the fact patio/outside alcohol areas. Many of these businesses did not plan for this in their original site plans so they tend to request using parking spots which, if done inappropriately, can cause safety and aesthetic issues and a decrease in the needed parking for the uses. Plan Commission recently entertained such a request and felt that additional performance standards should be developed in the code to restrict when they can be used and how they would be constructed.

Due to staff's current workload, we discussed the PC's request with MDRoffers, the developer of our original zoning ordinance. Mark Roffers has recommended some suggestions for the PC & ETZ to look at and discuss. Staff brought the proposed changes to the PC at their 1/8/18 meeting and after PC discussion, they directed staff to schedule the Public Hearing on the amendments at their 2/12/18 meeting.

The Public Hearing was held before the PC/ETZ at their 2/12/18 meeting. No one spoke in favor or opposition of the changes. Both PC and ETZ unanimously recommended approval of the amendments as presented.

### 5. Fiscal Impact:

---

Staff time, MDRoffers Billable time, public hearing noticing and other publishing fees.

**6. Legal Impact:**

---

It is legal and consistent with past policy practice.

**7. Prior Review:**

---

Plan Commission discussion on 10/9/17, 11/13/17, 12/11/17 & 1/8/18.  
Public Hearing on 2/12/18 before the PC/ETZ

**8. Policy Choices:**

---

Within 120 days of submittal of a complete application, the BOT must, per Sec. 94.16.02(8):

1. Approve the ordinance as recommended by the PC/ETZ and direct staff to publish in the WDH.
2. Modify the ordinance and direct staff to publish in the WDH. (please note, this requires an affirmative vote of  $\frac{3}{4}$  or greater of the full Village Board due to it not conforming with the PC/ETZ recommendation)
3. Deny the ordinance. (please note, this requires an affirmative vote of  $\frac{3}{4}$  or greater of the full Village Board due to it not conforming with the PC/ETZ recommendation)

**9. Recommendation:**

---

I recommend the BOT approve the ordinance as requested and direct staff to send to the WDH for publication. (Option #1)

**10. Attachments:**

---

Ordinance No. 18-007: An Ordinance amending Sec. 94.4.09(16) Outdoor Alcohol Areas.

VILLAGE OF WESTON  
NOTICE OF PUBLIC HEARINGS



NOTICE IS HEREBY GIVEN that a public hearing will be held before the Village of Weston Plan Commission and Joint Town and Village of Weston Extraterritorial Zoning Committee, on Monday, February 12, 2018, at approximately, or shortly after, 6:00 p.m., at the Weston Municipal Center, 5500 Schofield Avenue, Weston, WI 54476, to take testimony relative to the following amendment to Chapter 94 Zoning:

1. Ordinance No 18-007: An ordinance amending Section 94.4.09(16) Outdoor Alcohol Area.

The hearing notice and applicable application materials are also available for public inspection on the Village of Weston website located at <http://westonwi.gov/421/Public-Hearing-Notices>. Proposed Ordinances can be found on the Village's website at <http://www.westonwi.gov/509/Proposed-Ordinances>.

Written testimony may be forwarded to the Village of Weston Plan Commission, Valerie Parker, Plan Commission and ETZ Committee Secretary, 5500 Schofield Avenue, Weston, WI 54476, or emailed to [vparker@westonwi.gov](mailto:vparker@westonwi.gov), by noon, on Tuesday, February 6, 2018, to be included in the meeting packet. All interested persons will be given an opportunity to be heard. Any person with questions or planning to attend needing special accommodations in order to participate should call Valerie Parker, Planning Technician, Planning and Development Department, at 715-241-2607.

Dated this 25<sup>th</sup> day of January 2018

Valerie Parker  
Plan Commission and ETZ Secretary

STATE OF WISCONSIN  
BROWN COUNTY

WESTON VILLAGE OF  
5500 SCHOFIELD AVE  
WESTON

WI 544764333

*10-06-54925-321-000  
ORD No 18-007 - ETZ  
WDH hearing notice pub  
fee \$27.23*

VILLAGE OF WESTON  
NOTICE OF PUBLIC HEARINGS  
NOTICE IS HEREBY GIVEN that a public hearing will be held before the Village of Weston Plan Commission and Joint Town and Village of Weston Extraterritorial Zoning Committee, on Monday, February 12, 2018, at approximately, or shortly after, 6:00 p.m., at the Weston Municipal Center, 5500 Schofield Avenue, Weston, WI 54476, to take testimony relative to the following amendment to Chapter 94 Zoning:  
1. Ordinance No 18-007: An ordinance amending Section 94.4.09(16) Outdoor Alcohol Area.  
The hearing notice and applicable application materials are also available for public inspection on the Village of Weston website located at <http://westonwi.gov/421/Public-Hearing-Notices>. Proposed Ordinances can be found on the Village's website at <http://www.westonwi.gov/509/Proposed-Ordinances>.  
Written testimony may be forwarded to the Village of Weston Plan Commission, Valerie Parker, Plan Commission and ETZ Committee Secretary, 5500 Schofield Avenue, Weston, WI 54476, or emailed to [vparker@westonwi.gov](mailto:vparker@westonwi.gov), by noon, on Tuesday, February 6, 2018, to be included in the meeting packet. All interested persons will be given an opportunity to be heard. Any person with questions or planning to attend needing special accommodations in order to participate should call Valerie Parker, Planning Technician, Planning and Development Department, at 715-241-2607. Dated this 25th day of January 2018  
Valerie Parker  
Plan Commission and ETZ Secretary  
Run: Jan. 29 & Feb. 5, 2018

I, being duly sworn, doth depose and say I am an authorized representative of The Wausau Daily Herald, a newspaper at Wausau Wisconsin and that an advertisement of which the annexed is a true copy, taken from said paper, which published therein on:

**VOUCHER APPROVAL**

Account Number: GWM-WES425  
Order Number: 0002692098  
No. of Affidavits: 1  
Total Ad Cost: \$54.47  
Published Dates: 01/29/18, 02/05/18

Account Number:

*10-06-54910 - 321-000*

Description: *Ord No 18-007 - PC*

*WDH hearing notice publication fees*

Approved by *VP* *2/13/18*  
Initials Date

*\$27.24*

(Signed) *[Signature]* (Date) *2/6/18*  
Legal Clerk

Signed and sworn before me

*[Signature]*

**BERGEN GORNOWICH**  
Notary Public  
State of Wisconsin

My commission expires *12/4/2021*

WESTON VILLAGE OF  
Re: Public Hearing 2/12

**CONFIRMATION**



PART OF THE USA TODAY NETWORK

435 E. Walnut  
Green Bay, WI 54301  
(888)774-7744

WESTON VILLAGE OF  
5500 SCHOFIELD AVE  
WESTON WI 54476-4333

<u>Account</u>	<u>AD#</u>	<u>Net Amount</u>	<u>Tax Amount</u>	<u>Total Amount</u>	<u>Payment Method</u>	<u>Payment Amount</u>	<u>Amount Due</u>
GWM-WES425	0002692098	\$54.47	\$0.00	\$54.47	Credit Card	\$0.00	\$54.47

Sales Rep: vstephens

Order Taker: vstephens

Order Created 01/25/2018

<u>Product</u>	<u># Ins</u>	<u>Start Date</u>	<u>End Date</u>
GWM-WDH-Wausau Daily Herald	2	01/29/2018	02/05/2018
GWM-WDHW-Wausau Daily Herald Digital	28	01/29/2018	02/25/2018

\* ALL TRANSACTIONS CONSIDERED PAID IN FULL UPON CLEARANCE OF FINANCIAL INSTITUTION

**Text of Ad:** 01/25/2018

VILLAGE OF WESTON  
NOTICE OF PUBLIC HEARINGS  
NOTICE IS HEREBY GIVEN that a public hearing will be held before the Village of Weston Plan Commission and Joint Town and Village of Weston Extraterritorial Zoning Committee, on Monday, February 12, 2018, at approximately, or shortly after, 6:00 p.m., at the Weston Municipal Center, 5500 Schofield Avenue, Weston, WI 54476, to take testimony relative to the following amendment to Chapter 94 Zoning:

1. Ordinance No 18-007: An ordinance amending Section 94.4.09(16) Outdoor Alcohol Area.

The hearing notice and applicable application materials are also available for public inspection on the Village of Weston website located at <http://westonwi.gov/421/Public-Hearing-Notices>. Proposed Ordinances can be found on the Village's website at <http://www.westonwi.gov/509/Proposed-Ordinances>.

Written testimony may be forwarded to the Village of Weston Plan Commission, Valerie Parker, Plan Commission and ETZ Committee Secretary, 5500 Schofield Avenue, Weston, WI 54476, or emailed to [vparker@westonwi.gov](mailto:vparker@westonwi.gov), by noon, on Tuesday, February 6, 2018, to be included in the meeting packet. All interested persons will be given an opportunity to be heard. Any person with questions or planning to attend needing special accommodations in order to participate should call Valerie Parker, Planning Technician, Planning and Development Department, at 715-241-2607.

Dated this 25th day of January 2018  
Valerie Parker  
Plan Commission and ETZ Secretary  
Run: Jan. 29 & Feb. 5, 2018