



# City of West Allis

7525 W. Greenfield Ave.  
West Allis, WI 53214

## Ordinance

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**File Number: O-2006-0030**

**Final Action:**

An Ordinance to Repeal and Recreate Section 6.03 Relating to Public Welfare and Peace, Repeal and Recreate Section 6.04 Relating to Penalties and Amending Subsections 2.19(8)(b), 5.10(17) and 7.035(7)(k) of the West Allis Revised Municipal Code

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

**PART I.** Section 6.03 of the Revised Municipal Code is hereby repealed and recreated to read:

**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 and Advertisements. No person shall put up, erect, fasten, post, paint or maintain any sign, picture, poster or advertisement 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.

(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 69<sup>th</sup> Street and South 76<sup>th</sup> 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 70<sup>th</sup> 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, mini bike, 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 shall inspect all trees, vines, hedges, plants, logs and branches within the City to determine whether they are healthy or diseased. He shall have the right to enter upon any private property to make such examination. If any tree, vine, hedge, plant, log or branch is found dead, diseased, infected or infested and, in the opinion of the Superintendent, is liable 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 seven (7) day written notice to the owner,

agent or occupant of such premises of such condition and direct that the owner, agent or occupant remove and destroy the tree, vine, hedge, plant, log or branch. In the event the owner, agent or occupant shall fail to comply with the directions given within the time specified, the Superintendent may enter upon and remove 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 Fermented Malt Beverages and Intoxicating Liquors.

(a) No person shall consume any fermented malt beverage or intoxicating liquor in or upon any public street, alley, sidewalk, park or other public place.

(b) No person shall have in his possession any fermented malt beverage or intoxicating liquor in or upon any public street, alley, sidewalk, park or other public place, unless such beverage or liquor is in the unopened original container or sealed original package.

(c) No person shall drink from or open a container of fermented malt beverage or intoxicating liquor in a motor vehicle, which is parked or standing upon a public street, alley, municipal parking lot or other public place.

(d) The holder of a Class "B" fermented malt beverage or intoxicating liquor license shall make every reasonable effort to discourage his patrons from taking fermented malt beverages or intoxicating liquor from the licensed premises, when such beverages or liquor are served for consumption on the premises.

(e) This subsection shall not apply to community functions or events authorized by specific action of the Common Council or public places for which a special Class "B" license has been issued.

(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:

1. Fuel or lubricants.
2. A firearm cartridge or shotgun shell.
3. 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.
4. A match, cigarette lighter, stove, furnace, candle, lantern or space heater.
5. 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.
6. A model rocket engine.

7. Tobacco or a tobacco product.

(b) Prohibition.

1. No person may sell any fireworks in the City of West Allis.

2. 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 sections 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 section 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 section 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.

1. 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 section 167.10 of the Wisconsin Statutes.

2. 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.

1. 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.

PART II. Section 6.04 of the Revised Municipal Code is hereby repealed and recreated to read:

#### 6.04 PENALTIES.

Every person, firm or corporation convicted of a violation of any of the provisions of the following enumerated section or subsections shall, for each offense, be punished by the forfeiture set forth, together with the costs of prosecution:

(1) A forfeiture not to exceed fifty dollars (\$50) for a violation of any of the following:

6.01(3)  
6.02(21) - 1<sup>st</sup> Offense  
6.03(1), (2), (3) or (5)

(2) A forfeiture not to exceed one hundred dollars (\$100) for a violation of any of the following:

6.01(1), (2)  
6.02(18)  
6.02(21) - 2<sup>nd</sup> Offense  
6.025  
6.03(7)  
6.031  
6.038

(3) A forfeiture not to exceed two hundred dollars (\$200) for each day a violation of section 6.01(4) continues.

(4) A forfeiture not to exceed three hundred dollars (\$300) for a violation of the following:

6.03(4)

(5) A forfeiture not to exceed five hundred dollars (\$500) for a violation of any of the following:

6.02(7), (8), (9), (10), (11), (12), (13), (14), (16) or (19)  
6.02(21) - 3<sup>rd</sup> Offense  
6.026  
6.03(6)

(6) In default of payment of such forfeiture and costs, by imprisonment in the Milwaukee County House of Correction or Milwaukee County Jail until payment of such forfeiture and costs, but not in excess of the terms set forth in section 800.095(a) of the Wisconsin Statutes, or by suspension of operating privileges, pursuant to sections 343.30 and 345.47 of the Wisconsin

Statutes. Each and every day during which a violation continues constitutes a separate offense.

(7) Carrying Dangerous Weapons.

(a) Definition. "Dangerous weapon" means any firearm, whether loaded or unloaded; any device designed as a weapon and capable of producing death or great bodily harm; any electric weapon; or, any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.

(b) If a person violates any provision of Section 6.02 of this Code, while possessing, using or threatening to use a dangerous weapon, the penalty shall be increased two hundred dollars (\$200).

PART III. Subsection 2.19(8)(b) of the Revised Municipal Code is hereby amended to read as follows:

2.19 MUNICIPAL JUDGE.

\* \* \*

(8) Stipulations.

\* \* \*

(b) Schedule of Deposits. The basic amounts of deposits established pursuant to section 800.03(3) of the Wisconsin Statutes, are set forth below for convenient reference and shall be accompanied by any penalty assessments, costs and surcharges applicable by law.

| <u>Section Violated</u> | <u>Violation Description</u>   | <u>Deposit</u> |
|-------------------------|--|----------------|
| 5.10                    | Fire Prevention Code   | \$50.00        |
| 5.10                    | Cause Fire by Tobacco Smoking  | 100.00         |
| 6.15                    | Abandoned vehicle  |                |
|                         | 1 <sup>st</sup> Offense  | 150.00         |
|                         | 2 <sup>nd</sup> or subsequent offense                                  | 400.00         |
|                         | plus costs of impounding and disposing of the vehicle or "Must Appear" |                |
| 6.02(3)                 | Battery  | 800.00         |
| 6.02(3)                 | Burglary   | 800.00         |
| 6.02(3)                 | Carrying Concealed Weapon  | 300.00         |
|                         | Knife or Handgun   | 500.00         |
| 6.02(3)                 | Cheating Tokens – Use of   | 130.00         |
| 6.02(3)                 | Contributing to Delinquency of Minor                                   | 400.00         |
| 6.02(3)                 | Criminal Damage to Property  | 300.00         |
| 6.02(3)                 | Criminal Trespass to Dwelling  | 300.00         |

|         |  |          |
|---------|--|----------|
| 6.02(3) | Criminal Trespass to Land  | 200.00   |
| 6.02(3) | Disorderly Conduct   | 300.00   |
| 6.02(3) | Disorderly Conduct with Motor Vehicle                            | 300.00   |
| 6.02(3) | Disorderly Conduct while Armed                                   | 600.00   |
| 6.02(3) | Drinking in Common Carrier                                       | 60.00    |
| 6.02(3) | Entry to Locked Vehicle  | 200.00   |
| 6.02(3) | Escape   | 200.00   |
| 6.02(3) | Forgery  | 300.00   |
| 6.02(3) | Fraud on Innkeeper   | 250.00   |
| 6.02(3) | Fraud on Gas Station (943.21)                                    | 200.00   |
| 6.02(3) | Gambling   | 200.00   |
| 6.02(3) | Graffiti   | 400.00   |
| 6.02(3) | Issue of Worthless Check   | 500.00   |
| 6.02(3) | Lewd and Lascivious Behavior                                     | 400.00   |
| 6.02(3) | Lewd or Indecent Drawings  | 100.00   |
| 6.02(3) | Negligent Handling of Burning Materials                          | 500.00   |
| 6.02(3) | Obstructing an Officer   | 400.00   |
| 6.02(3) | Operating Vehicle Without Owner's Consent                        | 300.00   |
| 6.02(3) | Possession of a Controlled Substance                             |          |
|         | THC  | 1,000.00 |
|         | Other  | 1,000.00 |
| 6.02(3) | Possession of Drug Paraphernalia                                 | 500.00   |
| 6.02(3) | Possession of Dangerous Weapon by Child                          | 160.00   |
| 6.02(3) | Receiving Stolen Property from Children                          | 300.00   |
| 6.02(3) | Receiving Stolen Property  |          |
|         | Less than \$200.00 value   | 300.00   |
|         | \$200.00 value or greater  | 400.00   |
| 6.02(3) | Reckless Use of a Weapon   | 400.00   |
| 6.02(3) | Resisting an Officer   | 800.00   |
| 6.02(3) | Robbery  | 600.00   |
| 6.02(3) | Sexual Gratification   | 400.00   |
| 6.02(3) | Retail Theft   |          |
|         | Value less than \$10.00, first offense                           | 150.00   |
|         | Value less than \$10.00, second or subsequent offense            | 250.00   |
|         | Value \$10.00 or greater, first offense                          | 250.00   |
|         | Value \$10.00 or greater, second or subsequent offense           | 350.00   |
| 6.02(3) | Theft  | 400.00   |
| 6.02(3) | Unlawful Assembly  | 150.00   |
| 6.02(3) | Unlawful Use of Telephone  | 300.00   |
| 6.02(3) | Unlawful Use of Computerized<br>Communications System (947.0125) | 300.00   |
| 6.02(3) | Vagrancy   | 150.00   |
| 6.02(3) | Unsafe Burning of Buildings                                      | 500.00   |
| 6.02(3) | Interfering with Fire Fighting                                   | 500.00   |
| 6.02(3) | False Alarms   | 500.00   |
| 6.02(7) | Gambling Devices   | 500.00   |
| 6.02(8) | Interference with Fire Dept. or Equipment                        | 500.00   |
| 6.02(9) | Loitering  | 500.00   |
| 6.02(9) | Prowling   | 500.00   |



|                      |  |        |
|----------------------|--|--------|
| 6.02(16)             | Hindering an Officer   | 500.00 |
| 6.02(17)             | Skateboarding on Public Property   |        |
|                      | 1 <sup>st</sup> Offense  | 10.00  |
|                      | 2 <sup>nd</sup> and subsequent offenses  | 30.00  |
| 6.02(18)             | County Park Ordinance Violations   | 100.00 |
| 6.02(19)             | Giving/Selling Tobacco Products to Minors  |        |
|                      | 1 <sup>st</sup> Offense  | 500.00 |
|                      | 2 <sup>nd</sup> and subsequent offenses  | 500.00 |
|                      | Possession/purchase of tobacco by minor  | 50.00  |
| 6.02(21)             | Public Nudity  |        |
|                      | 1 <sup>st</sup> Offense  | 50.00  |
|                      | 2 <sup>nd</sup> Offense  | 100.00 |
|                      | 3 <sup>rd</sup> and subsequent offenses  | 500.00 |
| 6.025(1)             | Curfew Violation   | 30.00  |
| 6.025(2)             | Curfew Violation   |        |
|                      | 1 <sup>st</sup> Offense  | 30.00  |
|                      | 2 <sup>nd</sup> Offense  | 50.00  |
|                      | 3 <sup>rd</sup> and subsequent offenses  | 100.00 |
| 6.025(3)to(6)        | Contributing to Curfew Violation   | 50.00  |
|                      | 1 <sup>st</sup> Offense  | 50.00  |
|                      | 2 <sup>nd</sup> Offense  | 75.00  |
|                      | 3 <sup>rd</sup> and subsequent offenses  | 100.00 |
| 6.03(4)              | Disorderly Conduct with a Motor Vehicle  | 300.00 |
| 6.03(7)              | Drinking Intoxicants in Streets  | 100.00 |
| 7.121                | Dogs and Dog Licensing   | 40.00  |
| 7.122                | Cats and Cat Licensing   | 35.00  |
| 7.12(3)              | Cruelty to Animals (951.02)  | 300.00 |
|                      | If mutilation, disfigurement or death results  | 600.00 |
| 7.05(1-7)            | Littering/Scavenging Violations  | 50.00  |
| 7.05(8)              | Refuse Violations  | 100.00 |
| 9.02(1)              | Sell Alcohol to Underage Person  |        |
|                      | 1 <sup>st</sup> offense  | 100.00 |
|                      | 2 <sup>nd</sup> offense within 12 months   | 200.00 |
|                      | 3 <sup>rd</sup> and subsequent offense within 12 months                                | 500.00 |
| 9.02(1)              | Sell Alcohol to Intoxicated Person   | 100.00 |
| 9.02(1)              | Underage Drinking Violations   | *      |
| 9.02(1)              | Identification Card Violations   | *      |
| 9.02(1)              | School Related Poss. of Alcohol Beverages  | *      |
|                      | *See Wisconsin Revised Uniform State<br>Traffic and Alcohol Beverages Deposit Schedule |        |
| 9.02(1)              | Open After Hours   | 150.00 |
| 9.02(17)             | Loitering by Underage Persons Where<br>Alcohol Served                                  | 50.00  |
| 9.18                 | Direct Sellers and Solicitors  | 100.00 |
| 10.01/346.53(1-5)    | Parking Prohibited in Certain Specified Places   | 15.00  |
| 10.01/346.54         | How to Park and Stop on Streets  | 15.00  |
| 10.01/346.55(1), (2) | Other Restrictions on Parking and Stopping   | 15.00  |

|                         |  |                              |
|-------------------------|--|------------------------------|
| 10.01/346.55(3)         | Parking on Posted Public or Private Property                                       | 40.00                        |
| 10.025                  | Wis. Administrative Code Chapter Trans. 305  | 30.00                        |
| 10.06(7)                | Heavy Traffic & Trucking – Parking Prohibited (posted)                             | 40.00                        |
| 10.065(b)               | Motor Bus Loading Zones (Operator's Duty)  | 15.00                        |
| 10.09                   | State Fair Parking Restrictions  | 20.00                        |
| 10.10                   | Parking Restrictions on Streets and Alleys   | 20.00                        |
| 10.105                  | All Night Parking  | 20.00                        |
| 10.105                  | All Night Parking (2 <sup>nd</sup> Consecutive and Successive Nights of Violation) | 30.00                        |
| 10.105                  | All Night Parking by Vehicles Listed in Sec. 10.105(2)(e)                          | 30.00                        |
| 10.108                  | Trespass Parking   | 40.00                        |
| 10.11                   | Parking During Snowstorms and Emergencies  | 30.00                        |
| 10.115                  | Winter Parking Regulations   | 25.00                        |
| 10.12(2)                | Motor Running While Parked   | 25.00                        |
| 10.12(3)                | Use of Brakes/Accident   | 15.00                        |
| 10.12(4)                | Greenfield Avenue Parking Lots   | 25.00                        |
| 10.12(5)(6)             | Parking in County Park/Parking   | 15.00                        |
| 10.12(6)                | Leaving Keys in Ignition of Parked Cars  | 25.00                        |
| 10.12(7)                | Repair of Vehicles Parked in Street  | 20.00                        |
| 10.13(1)                | Off-Street Parking Lots  | 15.00                        |
| 10.13(2)                | Vocational School Parking Lots   | 30.00                        |
| 10.13(3)                | Municipal Market Parking Lots  | 15.00                        |
| 10.13(4)                | Library Parking Lots   | 15.00                        |
| 10.14(excluding (7)(e)) | Parking Meter Violations   | 15.00                        |
| 10.14(10)               | Municipal Parking Lots   | 15.00                        |
| 10.15                   | Bicycle Regulations  | 10.00                        |
| 11.12                   | Snow and Ice Removal   | 20.00                        |
| Chapter 13              | Building Code  | \$100.00 or<br>"Must Appear" |

\* \* \*

PART IV. Subsection 5.10(17) of the Revised Municipal Code is hereby amended to read as follows:

5.10 FIRE PREVENTION CODE.

\* \* \*

(17) Fireworks. The provisions of Section 6.03(8) of the Revised Municipal Code are incorporated by reference and made a part of the Fire Prevention Code, as if fully set forth herein.

\* \* \*

PART V. Subsection 7.035(7)(k) of the Revised Municipal Code is hereby amended to read as follows:

7.035 EXCESSIVE NOISE AND VIBRATION.

\* \* \*

(7) Noise Exemptions. The noise limitations as set forth in subsection (3)(a) shall not apply to the following:

\* \* \*

(k) Parades duly licensed, pursuant to Section 6.031 of this code.

\* \* \*

PART VI. All ordinances or parts of ordinances contravening the provisions of this ordinance are hereby amended.

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

**PASSED** \_\_\_\_\_

**APPROVED** \_\_\_\_\_

\_\_\_\_\_  
Paul M. Ziehler, City Admin. Officer, Clerk/Treas.

\_\_\_\_\_  
Jeannette Bell