



# City of West Allis

Ordinance: O-2016-0032

7525 W. Greenfield Ave.  
West Allis, WI 53214

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**File Number: O-2016-0032**

**Final Action: 7/5/2016**

**Sponsor(s): Ald. Probst**

Ordinance to amend subsections 12.06, 12.40 and 12.42 of the Revised Municipal Code relative to Tobacco Retailers definitions and requirements.

WHEREAS, new technology has emerged in relation to Electronic Nicotine Delivery Systems (ENDS), such as e-cigarettes and vaporizers, that use liquid containing nicotine and other substances, which are heated into aerosols and inhaled by users; and,

WHEREAS, in 2016, the U.S. Food and Drug Administration extended its regulatory authority of tobacco products to include these types of products; and,

WHEREAS, tobacco uses are currently defined and regulated by the City of West Allis, however, these new types of uses are presently undefined and unregulated within the City's Municipal Code; and,

WHEREAS, due to its current local non-regulation, this technology has become easily accessible to all members of the public, including youth who are considered susceptible to this type of activity and subsequent escalating behaviors, and the health implications associated with both; and,

WHEREAS, it is understood to be in the best interest of the City of West Allis to define and regulate these types of uses, with particular regards to exposure to youth; and,

WHEREAS, zoning is a tool that identifies and governs land use in a community and has the ability to separate sensitive land uses from each other in order to avoid conflict and serve the public's best interest; and,

WHEREAS, it is the intent of the City of West Allis Zoning Code to encourage the most appropriate use of land throughout the community and promote the health, safety, morals, prosperity, aesthetics and general welfare of the community; and,

WHEREAS, this proposed ordinance would acknowledge the importance of our community's health by defining and separating these types of principal uses from youth-oriented land uses, while not disallowing their establishment within the city.

NOW THEREFORE BE IT RESOLVED that the Common Council of the City of West Allis do ordain as follows:

PART I. Subsection 12.06 of the Revised Municipal Code of the City of West Allis is hereby amended to include the following terms.

\* \* \*

**Tobacco Paraphernalia.** Tobacco paraphernalia means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines and any other item designed for the smoking or ingestion of tobacco products. Tobacco paraphernalia includes electronic cigarettes, personal vaporizers, electronic nicotine delivery systems or any item designed to atomize liquid solutions that simulate smoking.

**Tobacco Products.** Tobacco products means any substance containing any tobacco leaf, including but not limited to cigarettes, cigars, bidis, pipe tobacco, snuff, chewing tobacco and smokeless tobacco. Tobacco products include e-liquids such as propylene glycol, glycerin, nicotine, flavorings or other products for the use in electronic cigarettes, personal vaporizers or electronic nicotine delivery systems.

**Tobacco Retailer.** A tobacco retailer is any establishment that either devotes twenty percent (20%) or more of floor area or display area to the sale or exchange of tobacco products or tobacco paraphernalia.

\* \* \*

**PART II.** Subsection 12.40(1)(jj) of the Revised Municipal Code of the City of West Allis is hereby amended to read:

\* \* \*

**(jj) Tobacco Retailers**

1. No tobacco retailer shall be located within 1,000 feet of parcels occupied by the following uses:
  - a. A public or private kindergarten, elementary, junior high or high school;
  - b. Libraries;
  - c. Zoned parkland; or
  - d. Another tobacco retailer or establishment licensed to sell any tobacco product or tobacco paraphernalia as defined within 12.06.

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**PART III.** Subsection 12.42(1)(ee) of the Revised Municipal Code of the City of West Allis is hereby amended to read:

**(1) Permitted Uses**

\* \* \*

**(ee) Tobacco Retailers**

1. No tobacco retailer shall be located within 1,000 feet of parcels occupied by the following uses:
  - a. A public or private kindergarten, elementary, junior high or high school;
  - b. Libraries;
  - c. Zoned parkland; or

d. Another tobacco retailer or establishment licensed to sell any tobacco product or tobacco paraphernalia as defined within 12.06.

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PART IV. All ordinances or parts of ordinances contravening the provisions of this ordinance are hereby repealed.

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

cc: Department of Development  
Building Inspections and Neighborhood Services  
City Attorney's Office

ZON-O-1059-7-5-16-Version 2

PASSED AS AMENDED

7/5/2016

APPROVED AS AMENDED

7/11/16

Monica Schultz

Monica Schultz, City Clerk

Dan Devine

Dan Devine, Mayor