

**CITY OF WEST ALLIS
ORDINANCE O-2025-0028**

**ORDINANCE TO REPEAL AND RECREATE PROVISIONS RELATED TO
PUBLIC HEALTH, SANITATION, AND ANIMALS**

REPEALING AND RECREATING CHAPTER 7

WHEREAS, WAMC Chapter 7 contains outdated language and laws; and

WHEREAS, the common council desires to update the code over time to use more modern language and contemporary rules;

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

SECTION 1: **AMENDMENT** “7.19 Coal Tar Sealant Products” of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

7.19 Coal Tar Sealant Products

1. Definitions. In this section:
 - a. “Coal tar sealant product” means a surface-applied sealing product containing coal tar, coal tar pitch, coal tar pitch volatiles, or any variation assigned the Chemical Abstracts Service (CAS) number 65996-93-2, 65996-89-6, or 208007-45-2.
 - b. “High PAH sealant product” means a surface-applied sealing product that contains more than 0.1 percent polycyclic aromatic hydrocarbons by weight.
2. Prohibitions.
 - a. No person may sell or offer for sale a coal tar sealant product or high PAH sealant product, except as provided in sub. (3).
 - b. No person may apply a coal tar sealant product or high PAH sealant product, except as provided in sub. (3).
3. Exemptions. The city engineer may grant an exemption to the prohibitions under sub. (2) to any of the following upon written request:
 - a. A person who is researching the effects of a coal tar sealant product or high PAH sealant product on the environment.
 - b. A person who is developing an alternative technology if the use of a coal tar sealant product or high PAH sealant product is required for research or development

~~Whereas, the City of West Allis finds that the City's water resources are a natural asset, which enhance the environmental, recreational, cultural and economic resources of the area and contribute to the general~~

health and welfare of the public; and Whereas, the City finds that polycyclic aromatic hydrocarbons (PAHs), which are contained in coal tar sealants and other high PAH sealants, volatilize off sealed pavement and can be inhaled by humans and animals; are broken down by sunlight and abraded by vehicle and foot traffic; can be carried off of sealed pavement as small particles by that same traffic and transported into homes and onto nearby soils; and can be carried by stormwater and other runoff into the water resources of the City; and Whereas, PAHs are an environmental concern because they are toxic to aquatic life, resulting in a loss of species and a lower number of organisms; and Whereas, PAH compounds have been proven to be carcinogenic, mutagenic, and teratogenic to humans according to the International Agency for Research on Cancer; individuals with lifelong exposure to coal tar sealcoat treated pavements and playgrounds have a thirty-eight fold higher risk of cancer; and the American Medical Association therefore advocates for legislation to ban the use of pavement sealcoats that contain PAHs or require use of sealcoat products that contain minimal PAH; and Whereas, environmental impacts and human health risks can be minimized and pavements can be maintained by utilizing alternative products or methods, absent PAHs; and Whereas, the following studies support the City's findings with regard to PAHs: Whereas, the City also finds based on said studies that regulating the amount of contaminants, including PAHs contained in coal tar sealant products and other high PAH sealant products, entering the water resources of the City will improve and protect public health and the water quality of the City and neighboring water resources; Now, therefore, the Common Council of the City of West Allis do ordain as follows: Definitions. Enforcement. Violations of this section will be enforced by the Health Department, Police Department and City Attorney's office. Regulation of the Application and Sale of Coal Tar or Other High PAH Sealant Products. That PAHs, which are contained in coal tar sealants and other high PAH sealants, volatilize off sealed pavement and can be inhaled by humans and animals; are broken down by sunlight and abraded by vehicle and foot traffic; can be carried off of sealed pavement as small particles by that same traffic and transported into homes and onto nearby soils; and can be carried by stormwater and other runoff into the water resources of the City of West Allis. PAHs are an environmental concern because they are toxic to aquatic life, resulting in a loss of species and a lower number of organisms. Environmental impacts and human health risks can be minimized and pavements can be maintained by utilizing alternative products or methods, absent PAHs. That regulating the amount of contaminants, including PAHs contained in coal tar sealant products and other high PAH sealant products, entering the water resources of the City will improve and protect public health and the water quality of and neighboring water resources; and PAH compounds have been proven to be carcinogenic, mutagenic, and teratogenic to humans according to the International Agency for Research on Cancer; individuals with lifelong exposure to coal tar sealcoat treated pavements and playgrounds have a thirty-

eight-fold higher risk of cancer; and the American Medical Association therefore advocates for legislation to ban the use of pavement sealcoats that contain PAHs or require use of sealcoat products that contain minimal PAH. Baldwin AK, Corsi SR, Lutz MA, Ingersoll CG, Dorman R, Magruder C, Magruder M. (2017). Primary sources and toxicity of PAHs in Milwaukee-area streambed sediment. *Environmental Toxicology & Chemistry* 36: 1622-1635. US Environmental Protection Agency, Office of Research and Development, (2011), "Assessment of Water Quality of Runoff from Sealed Asphalt Surfaces". Van Metre PC and Mahler BJ. (2014). PAH concentrations in lake sediment decline following ban on coal-tar-based pavement sealants in Austin, Texas. *Environmental Science and Technology* 48: 7222-7228. Van Metre PC, Mahler BJ. (2010). Contribution of PAHs from coal-tar pavement sealcoat and other sources to 40 U.S. lakes. *Science of the Total Environment* 409: 334-344. Williams ES, Mahler BJ, Van Metre PC. (2012). Coal-tar pavement sealants might substantially increase children's PAH exposures. *Environmental Pollution* 164: 40-41. COAL TAR is a by-product of the process used to refine coal. Coal tar contains high levels of PAHs. COAL TAR SEALANT PRODUCT means a pavement sealant product that contains coal tar, coal tar pitch, coal tar pitch volatiles, RT-12, Refined Tar or any variation assigned the Chemical Abstracts Service (CAS) Numbers 65996-92-1, 65996-93-2, 65996-89-6, or 8007-45-2 or related substances. HIGH PAH SEALANT PRODUCT means any pavement sealant product that contains greater than 0.1% PAHs by weight, including, but not limited to, coal tar sealant products and sealant products containing steam-cracked petroleum residues, steam-cracked asphalt, pyrolysis fuel oil, heavy fuel oil, ethylene tar, or any variation of those substances assigned the Chemical Abstracts Service Number 64742-90-1, 69013-21-4 or related substances. PAVEMENT SEALANT PRODUCT, or sealcoat, is any substance that is typically applied on paved surfaces to protect the surfaces. This may include but is not limited to sealant products that are coal tar or asphalt based. POLYCYCLIC AROMATIC HYDROCARBONS (PAHs) are a group of organic chemicals that are formed during the incomplete combustion of coal, oil, gas, or other organic substances, are present at high levels in coal tar, and are known to be harmful to humans, fish, and other aquatic life. DIRECTOR means the Health Commissioner of Health Department. Except as provided in Subsection (5), no person shall apply any coal tar sealant product or high PAH sealant product within the City. No person shall sell, offer to sell, or display for sale any coal tar sealant product or high PAH sealant product within the City. No person shall allow a coal tar sealant product or other high PAH sealant product to be applied upon property that is under that person's ownership or control. No person shall contract with any commercial applicator, residential or commercial developer, or any other person for the application of any coal tar sealant product or high PAH sealant product to any driveway, parking lot, or other surface within the City. No commercial applicator, residential or commercial developer, or other similar individual or organization shall direct

~~any employee, independent contractor, volunteer, or other person to apply any coal tar sealant product or high PAH sealant product to any driveway, parking lot, or other surface within the City. Exemptions. The Health Commissioner may exempt a person from a requirement of this section if the Health Commissioner determines that the person is conducting bona fide research concerning the effects of a coal tar sealant product or high PAH sealant product on the environment; the use of the coal tar product or high PAH sealant product is required for said research; and the Health Commissioner determines that said research will not cause significant contamination of the surrounding environment, including soils and aquatic ecosystems, and will not unduly endanger human health.~~

4. Penalty.

- a. Any person who violates this section shall be subjected to forfeiture not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000).
- b. Each day that a violation occurs or continues is a separate offense and subject to an additional fine. Each incidence of a violation shall constitute a separate offense. Upon default of payment, the violator shall be subject to imprisonment in the Milwaukee House of Correction or Milwaukee County Jail until payment of such forfeiture and costs are paid but not in excess of the number of days set forth in Section 800.095(1)(b)1 of the Wisconsin Statutes.

~~{Ord. O-2018-0020, 5/15/2018}~~

SECTION 2: **ADOPTION** “7.20 Smoking and Vaping” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

7.20 Smoking and Vaping(Added)

1. State Smoking Law Adopted. Wis. Stat. 101.123 is adopted as though fully set forth herein.
2. Additional Smoking Regulations. To protect the health and comfort of the public and pursuant to Wis. Stat. 101.123(4m), no person may smoke in the following locations:
 - a. On public property within 25 feet of an enclosed place where smoking is prohibited. Notwithstanding this provision, the person in charge of a restaurant, tavern, private club, or retail establishment may designate an outside area that is a reasonable distance from any entrance to the restaurant, tavern, private club, or retail establishment where customers, employees, or persons associated with the restaurant, tavern, private club, or retail establishment may smoke.
 - b. The Farmers Market at 6501 West National Avenue and the sidewalk surrounding the Farmers Market.

- c. Any premises owned or rented by, or under the control of, a school board when the use of all tobacco products on that premises is prohibited under Wis. Stat. 120.12(20).
 - d. Within the fenced area of the Liberty Heights Pool located at 1540 South 62nd Street.
 - e. On public property that is within 100 feet of any playground equipment owned or maintained by the state, City, or a school district.
- 3. Regulation of Hookahs and Similar Devices. While in a location where smoking is prohibited, no person may inhale or exhale smoke from any hookah or other device used to burn plant products intended for inhalation.
- 4. Regulation of Electronic Vaping Devices. While in a location where smoking is prohibited, no person may inhale or exhale vapor from any electronic vaping device, as defined in Wis. Stat. 134.65(1a)(b).
- 5. Responsibility of Person in Charge
 - a. No person in charge may allow any person to violate subsections (2)-(4) at a location that is under the control or direction of the person in charge.
 - b. A person in charge shall make reasonable efforts to prohibit persons from violating subsections (2)-(4) by doing all of the following:
 - i. Posting signs setting forth the prohibition and providing other appropriate notification and information concerning the prohibition.
 - ii. Refusing to serve a person, if the person is violating subsections (2)-(4) in a restaurant, tavern, or private club.
 - iii. Asking a person who is violating subsections (2)-(4) to refrain from doing so and, if the person refuses to do so, asking the person to leave the location.
 - iv. If a person refuses to leave a location after being requested to do so as provided above, the person in charge shall immediately notify an appropriate law enforcement agency of the violation.
- 6. Penalties
 - a. For any violation of subsection (1), the penalties under Wis. Stat. 101.123(8) are hereby adopted as though fully set forth herein.
 - b. Any person who violates subsection (2)-(4) shall be subject to a forfeiture of not less than \$100 nor more than \$250 for each violation.
 - c. Any person in charge who violates sub. (5) shall be subject to a forfeiture of \$100 for each violation.
 - i. For violations subject to the forfeiture under this paragraph, if the person in charge has not previously received a warning notice for a violation of subsection (5), the law enforcement officer shall issue the person in charge a warning notice and may not issue a citation.
 - ii. No person in charge may be required to forfeit more than \$100 in total for all violations of sub. (5) occurring on a single day.

SECTION 3: ADOPTION “7.21 Animals” of the City Of West Allis
Municipal Code is hereby *added* as follows:

ADOPTION

7.21 Animals(*Added*)

1. Keeping of Wild Animals

- a. Prohibition. Pursuant to Wis. Stat. 169.43, no person may own, possess, keep, harbor, sell, or have custody or control of a live wild animal except as allowed below. Any person who violates this provision shall pay a forfeiture of not more than \$1,000.
- b. Exceptions. A person may own, possess, keep, harbor, or have custody or control of a live wild animal if any of the following applies:
 - i. The act is authorized by state law.
 - ii. The animal cannot survive living outside of water.
 - iii. The person is any of the following:
 - (1) An agent of an institution accredited by the American Zoo and Aquarium Association
 - (2) A licensed veterinarian
 - (3) An agent of a licensed veterinary hospital or clinic, a licensed circus, a licensed or accredited research or medical institution, or a licensed or accredited educational institution.
 - (4) An agent of any government-owned or -operated facility
 - (5) A holder of a valid federal permit to possess a particular wild animal
 - (6) Temporarily transporting a wild animal through the City if the transit time is not more than 24 hours and the animal is at all times maintained within a confinement sufficient to prevent the animal from escaping.

2. Keeping of Domestic Animals

- a. Prohibition No person may own, possess, keep, harbor, or have custody or control of a live domestic animal, as defined in Wis. Stat. 169.01(7) and Wis. Adm. Code ATCP 10.02, except as allowed below. Any person who violates this provision shall pay a forfeiture of not more than \$500.
 - i. A person make own, possess, keep, harbor, or have custody or control of a dog, cat, rabbit, ferret, mouse, rat, gerbil, hamster, guinea pig, chinchilla, fish, insect native to Wisconsin, non-poisonous amphibian, or indoor pet bird, as defined in Wis. Stat. 169.01(25m).
 - ii. A person may own, possess, keep, harbor, or have custody or control of an animal that is a service animal specifically trained to assist a person who has a disability.
- b. The health commissioner has issued to that person an animal fancier license to

- own, possess, keep, harbor, or have custody or control of that domestic animal. The health commissioner may issue a license only upon payment of the fee listed in the Fee Schedule, inspection of the premises where the animal will be kept, a determination that the particular animal will not endanger the applicant or the public, and verification that the applicant has the proper knowledge, facilities, and capacity to contain and properly care for the animal.
3. Quantity Limited. All adult occupants of a dwelling unit shall ensure their dwelling unit harbors no more than 2 dogs and 4 cats within that dwelling unit, unless at least one occupant first obtains a fancier's permit. Any cats or dogs under 5 months of age shall not be counted. No person may own, keep, or harbor more than the number of dogs or cats allowed by an animal fancier license issued to that person.
4. Dog License. Wis. Stat. 174.05 is adopted as though fully set forth herein. The fee for a dog license is established in the Fee Schedule.
5. Cat License.
- a. License Required. The owner of a cat more than 5 months of age on January 1 of any year, or 5 months of age within the license year, shall annually, or on or before the date the cat becomes 5 months of age, pay the cat license fee and obtain a license. The owner of a cat shall pay the appropriate license fees listed in the Fee Schedule. A person is not required to license a cat if all the following applies:
- i. The person took custody of an abandoned or stray cat on their property.
 - ii. The person delivered the cat to an entity contracting with the City under Wis. Stat 173.15 (1).
 - iii. The entity released that cat under Wis. Stat. 173.23(1m)(a) to the same person who took custody of it.
 - iv. The person paid the full cost of custody, care, vaccination, microchip implanting, spay or neuter surgery, and any other treatment prior to the entity releasing the cat to that person.
 - v. The person relinquishes possession of the cat on the same parcel where the person took custody of it, and
 - vi. No other cat has been released on the parcel.
- b. Term. The license year for cats shall coincide with the license year for dogs.
- c. Issuance and Display of License. Upon payment of the required cat license fee and upon presentation of evidence that the cat is currently immunized against rabies, the city clerk shall complete and issue to the owner a tag for the cat bearing a serial number and stating the date of its expiration, the owner's name and address, and the name, sex, and whether the cat is spayed or neutered. The owner shall securely attach the tag to a collar and place that collar on the cat for which the license is issued at all times except when that a cat is securely confined on private property. In the event that a license tag issued for a cat is lost, the owner may obtain a duplicate tag upon payment of the duplicate tag fee in the Fee Schedule.
6. Animal Fancier License. A person may apply to the health commissioner for an animal fancier license. The applicant or licensee shall pay the appropriate license fees and late

fees listed in the Fee Schedule.

- a. License year. The license year shall coincide with the license year for dogs.
- b. Qualifications. Before issuing an animal fancier license, the health commissioner may conduct an inspection of any premises where an applicant will keep the animal(s) subject to the license determine if the applicant is qualified. To qualify, the applicant shall prove all of the following:
 - i. All animals shall be maintained in a healthy condition or, if ill, shall be given appropriate treatment immediately.
 - ii. The quarters in which the animals are kept shall be maintained in a clean condition and good state of repair.
 - iii. Animal pens or enclosures shall be large enough to provide freedom of movement to the animals contained therein.
 - iv. Food supplies shall be stored in rodent-proof containers.
 - v. Food and water containers shall be kept clean.
 - vi. Litter and/or bedding material shall be changed as often as necessary to prevent odor nuisance.
 - vii. Yards, pens, premises and animals shall be kept free of insect infestations.
 - viii. No nuisance caused by odor, noise or animals running at large shall be permitted.
- c. Issuance of License. Upon payment of the required animal fancier license fee and verification of the applicant's qualifications, the health commissioner shall issue to the owner an animal fancier license stating the animal(s) allowed, the date of its expiration, and the owner's name and address where the animals will be kept or harbored. In the event that a license is lost, the owner may obtain a duplicate license upon payment of the duplicate license fee in the Fee Schedule.
- d. Revocation of License. The health commissioner may revoke an animal fancier license in the same manner as a business license under WAMC 9.51 if the licensee no longer qualifies under this paragraph.

7. Animal Waste

- a. No person may allow an animal under that person's control to deposit fecal matter on any private property without the permission of the property owner or occupant.
- b. No person may allow an animal under that person's control to deposit fecal matter on any public property, unless that fecal matter is immediately removed.
- c. The owner or occupant of any private property shall remove animal fecal matter has been deposited on that property and properly dispose of it within 24 hours.

8. Local Rabies Control Program. Wis. Stat. 95.21 is adopted as though fully set forth herein.

9. Animals Running At Large. Every person who owns, possesses, keeps, harbors, or has custody or control of an animal shall keep the animal within 6 feet of the person

and under control at all times unless the animal is on private property with the consent of the owner or occupant. Any person who violates this section shall forfeit not less than \$25 nor more than \$100 for the first offense and not less than \$50 nor more than \$200 for subsequent offenses.

10. Feeding Wild Animals. Wis. Adm. Code NR 19.60 is adopted as though fully set forth herein. Any material placed solely for the purpose of attracting and feeding wild birds is a public nuisance if it attract rats, mice, raccoons, squirrels, or other vermin.
11. Penalty. Any person who violates a provision in this section for which no specific penalty is provided shall pay a forfeiture of not more than \$500.

SECTION 4: **ADOPTION** “7.22 Lead Hazards” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

7.22 Lead Hazards(*Added*)

Lead Poisoning or Exposure Control. Pursuant to Wis. Stat. 254.154, the City shall enforce the same standards for lead poisoning or lead exposure control as those set forth in Wis. Stat. Ch. 254, Subch. II.

SECTION 5: **ADOPTION** “7.23 Noise And Vibration” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

7.23 Noise And Vibration(*Added*)

1. Enforcement. The local health officer and any law enforcement officer may enforce the provisions of this section. A repeated or ongoing violation of this section is a public nuisance.
2. Noise Regulation. No person may cause or allow any noise tending to unreasonably disturb the peace and quiet of nearby persons unless the noise cannot be prevented or is necessary for the protection or preservation of property or persons.
 - a. The following noises are presumed to be reasonable:
 - i. The noise is specifically allowed by local, state, or federal law.
 - ii. The noise is caused by construction work performed at construction sites between 7:00 a.m. and 10:00 p.m.
 - iii. The person is causing noise by using outdoor property maintenance equipment between 7:00 a.m. and 10:00 p.m.

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hearing:

- i. The mayor or a designee shall describe the variance sought and establish the amount of time for comments by the applicant and the public. Any city staff may provide comments to the council in writing prior to the public hearing, verbally during the beginning of the hearing as the mayor's designee, or verbally during the public comment portion of the hearing.
 - ii. The variance applicant may provide comments to the council.
 - iii. Any member of the public may provide comments to the council.
 - d. Recommendation to the Common Council. After the close of the hearing, the Public Safety Committee shall recommend to the council whether to grant a variance permit and, if granted, impose any conditions necessary to protect the public health, safety and welfare, including a schedule for achieving compliance with those conditions, and an expiration date for the permit. In deciding whether to recommend granting the permit, the Committee shall balance the hardship to the applicant, the community, and other persons; the impact on the health, safety, and welfare of the community; the effect on the property in the area; and any other impact that the granting of the variance may have.
 - e. Common Council Determination. The Common Council shall determine whether to adopt the recommendation of the Committee or make such modification as is deemed appropriate.
 - f. Revocation. Noncompliance with any conditions imposed on the variance shall be grounds to revoke the permit using the same procedure to revoke a license under WAMC 9.51.
 - g. Extension and Modification. Application for extension of time limits or modification of other conditions specified in the variance permit shall be treated like an application for an initial variance.
5. Penalties. Any person violating any provision of this section shall, upon conviction, be subject to a forfeiture of not less than \$100 nor more than \$500 for each offense. Each day that any violation continues shall be considered a separate offense.
6. Severability. If any provision, clause, sentence, paragraph, or phrase of this section or the application thereof to any person or circumstances is held, for any reason, by a court of competent jurisdiction, to be invalid or unconstitutional, such decision shall not affect the validity of other provisions or applications of the provisions of this section which can be given effect without the invalid provision or application, and to this end, the provisions of this section are declared to be severable.

SECTION 6: **ADOPTION** “7.24 Solid Waste And Yard Waste” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

7.24 Solid Waste And Yard Waste(Added)

1. Definitions. All terms and phrases used in state law shall have the same meaning in the context in which they are used in this section. In addition, the following terms have their corresponding meanings in this section:

Term	Meaning
<u>Director</u>	<u>The public works director or their designee</u>
<u>Eligible properties</u>	<u>Detached one-family, two-family, and three-family dwellings, condominium units, and attached one-family dwellings that are located within the City of West Allis</u>
<u>Terrace area</u>	<u>The right-of-way between a roadway and a sidewalk. If no space exists between a sidewalk and roadway, the part of the sidewalk closest to the edge of the roadway. If no sidewalk exists, the right-of-way closest to the edge of the roadway but not extending into the roadway.</u>

2. Designation. The director is authorized to enforce the provisions of this section.

3. Services Funded by the General Tax

- a. Solid Waste Collection. Based on the schedule determined by the board of public works, the director shall collect solid waste from eligible properties that desire the service, and that service shall be funded by the general tax upon the property of the City if all the following applies:

- i. The solid waste is contained in a receptacle approved by the director or properly presented for bulk pickup. Any object presented for bulk pickup may be removed and discarded. Solid waste is properly presented for bulk pickup if all the following applies:

- (1) All solid waste outside the approved receptacle does not exceed a combined 1 cubic yard in volume.
- (2) The solid waste is no more than 3 objects presented in a manner that they can each be removed or emptied by a single person with ordinary effort.
- (3) The solid waste is presented in a manner that ensures it will not be a source of food or harborage for rodents.
- (4) The solid waste is presented in a manner that does not pose a threat of injury to persons or property.
- (5) No object exceeds 50 pounds in weight.

- ii. There are no more than 2 city refuse receptacles and 2 city recycling receptacles per residential unit served.

- iii. All solid waste presented is in a condition so that no dust, ash, liquid, pet waste, or other material leaks out of the receptacle or into the air when the receptacle is tipped into the vehicle collecting that solid waste.

- iv. The solid waste is placed at or near the collection point.

- (1) The collection point for properties abutting an alley is on or near the property line abutting that alley.
 - (2) The collection point for properties not abutting an alley is on the terrace area or driveway apron adjacent to but not extending into the roadway.
 - v. The receptacle is airtight, watertight, and otherwise in a condition that prevents animals from accessing the contents of the receptacle.
 - vi. The receptacle is readily accessible without interference due to vehicles, snow, or other obstructions and presented with the lid closed and its lid hinge located opposite the alley or roadway.
 - vii. Recyclable solid waste is stored within a recycling receptacle, and nonrecyclable solid waste is stored within a refuse receptacle. The following materials may not be included in any receptacles:
 - (1) Yard waste
 - (2) Acids
 - (3) Explosives and ammunition
 - (4) Paints, lacquers, and varnishes
 - (5) Liquid fossil fuels or their containers
 - (6) Combustible alloys or chemicals
 - (7) Medical waste, unless contained within a proper separate container designed for that medical waste
 - (8) Feces and pet waste, unless contained within a separate airtight container
 - (9) Lithium ion batteries
 - viii. The receptacle weight is reasonable and evenly distributed so it can be maneuvered for collection service.
 - ix. The solid waste presented for collection does not create a danger for the public or the persons who are collecting that solid waste.
 - b. Yard Waste Collection. Based on the schedule determined by the board of public works and subject to any conditions imposed by the director, the director shall collect yard waste, except grass clippings, from eligible properties that desire the service, and that service shall be funded by the general tax upon the property of the City.
 - i. Leaves. Leaves may be placed up to 12 inches into the roadway next to the curb or on the shoulder if there is no curb.
 - ii. Yard and Garden Debris. Yard and garden debris such as weeds, flowers, vines, and fibrous stems, may be placed on the roadway next to curb or on the shoulder if there is no curb. Any fruit, seed, vegetable, or similar garbage that decomposes quickly or could be a food source for rodents may be composted or properly bagged and placed in a refuse receptacle, but may not be placed on the roadway or shoulder.
 - iii. Brush. Up to 1 cubic yard of clean woody vegetative material such as sticks, branches, and shrubs no greater than 4 inches in diameter may

be placed in the terrace area.

- c. Drop-Off Services. The director may accept solid waste and yard waste, except grass clippings, when delivered to the director's designated site by owners or occupants of eligible properties and may charge the fee established in the Fee Schedule to receive that solid waste or yard waste.
- 4. Services Funded by the Special Charge. The director may impose upon the property served the appropriate fee listed in the Fee Schedule for any of the following.
 - a. Minimum Receptacles. The director shall deliver 1 refuse receptacle and 1 recycling receptacle to any eligible property if the property owner desires City service to remove solid waste from that property.
 - b. Maximum Receptacles. A property owner may acquire additional receptacles but may not possess more than 2 refuse receptacles and 2 recycling receptacles for each residential unit located on an eligible property.
 - c. Replacement Receptacle. When an existing receptacle is not capable of being presented in an airtight, watertight condition, the director may remove the non-functioning receptacle and deliver a replacement receptacle.
 - d. Improperly Presented for Collection. When solid waste or yard waste is presented for collection in a manner that does not comply with this section, the director shall either:
 - i. Collect the improperly presented solid waste or yard waste for a fee, or
 - ii. Leave the improperly presented solid waste or yard waste in its place and notify the owner or occupant to remove the solid waste and properly dispose of it.
 - e. Ineligible Solid Waste. When solid waste or yard waste that is not eligible for collection services from the City is presented for collection, the director shall either:
 - i. Collect that ineligible solid waste or yard waste for a fee, or
 - ii. Leave the in eligible solid waste or yard waste in its place and notify the owner or occupant to remove the solid waste and properly dispose of it.
 - f. Custom Collection Point. When no occupant in a household is physically able to bring a receptacle to the proper collection point, the director and property owner may agree to utilize a custom collection point on the property that is readily accessible without interference due to vehicles, snow, or other obstructions.
 - g. Overflowing Solid Waste. When any property served by a private refuse and recycling disposal service has a designated waste container that cannot be closed due to excessive solid waste within the container or has solid waste stored outside of the designated waste container, the director or the code enforcement director may cause all solid waste inside and outside that container to be removed. This provision applies to commercial containers located on private or public property, but if the removal is from private property, the director or code enforcement director shall comply with Wis.

Stat. 66.0628(2m) before imposing a fee under this provision.

5. Collection of Fees

- a. Notice. Except as required by Wis. Stat. 66.0628(2m), the director may impose the fees above by providing the service with or without advance notice. As soon as practicable after providing the service, the director shall notify the property owner by first class mail or email of the following:
 - i. The address of the property served
 - ii. The type of service rendered
 - iii. The date upon which the service was provided
 - iv. The cost allocated for the service
 - v. The right to contest the fee.
- b. Appeal. The City adopts this appeal process in lieu of the process under Wis. Stat. Ch. 68.
 - i. Right to Appeal. An aggrieved person may contest a fee imposed under this section by submitting an appeal to the city clerk no later than 30 days after the date on the notice under par. (a).
 - ii. Clerk's Duty. If the clerk receives a timely appeal to any fee imposed under this section, the clerk shall place the appeal on the agenda for the next meeting of the administrative appeal review board.
 - iii. Board's Duty. The administrative appeal review board shall hear any appeal of a fee imposed under this section. The board shall first take evidence from the director, and then take evidence from the aggrieved person. Upon receiving all evidence, the board shall determine whether the fee was properly imposed and affirm, modify, or rescind the fee.
- c. Special Charge. The director may place a fee on the tax roll as a special charge against the property served if that fee has remained unpaid after 30 days have elapsed since the notice of fee was sent and there is no pending appeal. For any fee imposed under this section that was timely appealed, the director may place that fee on the tax roll as a special charge against the property served only in the amount as it is affirmed or modified by the administrative appeal review board.
- d. Fee Cancellation. The director may cancel any fee imposed under this section for good cause. The director shall cancel any fee that is rescinded on appeal.

6. Recycling Program. As a responsible unit under Wis. Stat. 287.09(1)(a), the City maintains the following programs to comply with Wis. Stat. 287.09(2):

- a. Solid Waste Management Program
 - i. Public Education. The director shall, on a regular basis, inform residents of the City of the reasons to recycle, local opportunities to recycle, and the prohibitions in Wis. Stat. 287.07(3) and (4).
 - ii. Recyclable Processing System. The director shall develop a system for the processing and marketing of recyclable materials collected by the City.
 - iii. Nonrecyclable Processing System. The director shall develop

provisions for the management of postconsumer waste that is not separated for recycling or recovery consistent with the highest feasible priority under Wis. Stat. 287.05(12).

b. Notices About Electronic Waste. The director shall provide information to City residents about the prohibitions under Wis. Stat. 287.07(5)(a), why it is important to recycle electronic devices, and opportunities available to those persons for recycling electronic devices.

7. Public Nuisance. The following conditions are public nuisances for which property owners have an affirmative duty to prevent and abate. Any person who maintains a public nuisance under this section may be required to forfeit up to \$500 for each violation. Each day for which an ongoing violation continues shall constitute a separate offense. This provision does not preclude the City from taking any other lawful action to abate a public nuisance.

a. Placement for Collection. No property owner may allow a receptacle to be placed at a collection point facing a roadway earlier than 6:00 p.m. on the day prior to a scheduled collection. No property owner may allow a receptacle to remain at a collection point facing a roadway later than 8:00 p.m. on the scheduled day of collection.

b. Storage Location. Except when a receptacle is presented for collection, no property owner may allow a receptacle to be stored on that person's property unless it is screened or otherwise stored inconspicuously from public view from the front setback of the property.

c. Container Size. No property owner may allow more solid waste to be stored outdoors on the property than the amount the receptacles on that property can hold.

d. Compost. Outdoor composts are public nuisances unless the property owner who maintains an outdoor compost complies with the following regulations:

i. The compost area may not pose an attraction or harborage for rodents or otherwise present a health nuisance.

ii. The compost area may not be located in the front setback.

iii. The composting materials may not be located within 25 feet from any dwelling unit on the premises or any adjoining premises and not within 3 feet from any property line.

iv. No more than 3 compost areas may be located on a property, the total of which may not cover more than 25 square feet of the property.

v. No compost area may be more than 4 feet in height.

vi. Composting material shall be well-aerated so as to be free of offensive or noxious odors.

vii. No food waste or other such putrescibles shall be composted.

e. Offensive Waste. No property owner may allow any infectious waste, hazardous waste, or any other substance of offensive odor, or a liquid of a hazardous, flammable or deleterious nature, or other hazardous, nauseous or unwholesome substances, or any dead carcass, animal, fowl, carrion, meat, fish, entrails, manure or pet waste, offal, refuse matter, rubbish, recyclables,

tires, ashes, earth, sand or other substances or material of any kind or nature in or upon any location or container not designed for the purpose of storing or disposing of that substance.

f. Grass Clippings. No property owner may allow grass clippings to be discharged or placed in or upon any public property, or to store grass clippings on private property in such a manner that the grass clippings yield an offensive or nauseous odor.

8. Solid Waste Regulations. Any person who violates this subsection may be required to forfeit up to \$500 for each violation. Each day for which an ongoing violation continues shall constitute a separate offense.

a. Batteries, Major Appliances, and Oil. Wis. Stat. 287.07(1m) is hereby adopted.

b. Failure to Recycle. No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any material identified under Wis. Stat. 287.07(3) and (4) that is separated for recycling.

c. Separation of Recyclables. The occupants of single-family residences, buildings containing 2 or more dwelling units, and commercial, retail, industrial and governmental facilities in the City shall separate the materials identified in Wis. Stat. 287.07 (3) and (4) from postconsumer waste.

d. Duty on Multi-Family Dwelling Owners. Owners of buildings containing 5 or more dwelling units shall do all of the following:

i. Provide adequate, separate containers for recycling.

ii. Notify tenants at the time of renting or leasing the dwelling and semiannually thereafter of all recycling requirements.

iii. Provide for the collection of recyclable materials separated from solid waste by the tenants and the delivery of the recyclable materials to a recycling facility.

e. Duty on Other Business Property Owners. Owners of commercial, retail, industrial and governmental facilities shall do all of the following:

i. Provide adequate, separate containers for recycling.

ii. Regularly notify all users and occupants of the facilities of all recycling programs.

iii. Provide for the collection of recyclable materials separated from solid waste by the users and occupants and the delivery of the recyclable materials to a recycling facility.

SECTION 7: **ADOPTION** “7.25 Human Health Hazards” of the City Of West Allis Municipal Code is hereby *added* as follows:

ADOPTION

7.25 Human Health Hazards(*Added*)

Per Se Human Health Hazards. Pursuant to Wis. Stat. 254.59(7)(a), the following acts, omissions, places, conditions, and things are specifically declared to be human health hazards under Wis. Stat. 254.59:

1. General. Any substance, activity or condition that is known to have the potential to cause acute or chronic illness, to endanger life, to generate or spread infectious diseases, or otherwise injuriously to affect the health of the public.
2. Air Pollution. The escape of excessive smoke, soot, cinders, acids, fumes, gases, fly ash, industrial dust, or other atmosphere pollutants that endanger human health or create noncompliance with applicable state or federal regulations.
3. Waste. Accumulations of decayed animal or vegetable matter, trash, rubbish, garbage, or bird, animal, or human fecal matter that is not stored in a rodent, animal, and insect-proof container.
4. Holes and Openings. Any hole or opening caused by an improperly abandoned cistern, septic tank, or well; or any improperly abandoned, barricaded, or covered up excavation.
5. Unburied Carcasses. Carcasses of animals, birds, or fish not intended for human consumption or food, which are not buried or otherwise disposed of in a sanitary manner within 48 hours after death.
6. Breeding Places. Stagnant water, rotting lumber, bedding, packing material, scrap metal, or any material or substance in which flies, mosquitos, or disease-carrying insects, rats or other vermin can breed, live, nest or seek shelter.
7. Solid Waste. Any solid waste, as defined in Wisconsin Statutes Section Wis. Stat. 289.01(33), which is stored or disposed of in noncompliance with Wis. Adm. Code Ch. NR 500.
8. Toxic and Hazardous Materials. Any chemical and/or biological material that is stored, used, or disposed of in such quantity or manner that is or has the potential to create a health hazard.
9. Groundwater Pollution. Addition of any chemical and/or biological substance that would cause groundwater to be unpalatable or unfit for human consumption. These substances include but are not limited to the chemical and/or biological substances listed in Chapter NR 809 of the Administrative Code titled "Safe Drinking Water."
10. Private Water Supply. Any private well that is constructed, abandoned or used and/or any pump installed in non-compliance with Chapter NR 812 of the Wisconsin Administrative Code.
11. Noxious Odors. Any use of property, substance or device that emits or causes any foul, offensive, noxious, or disagreeable odor deemed repulsive to the physical senses of ordinary persons or to the public as a whole.
12. Wastewater. The presence of wastewater or sewage effluent from buildings on any exposed ground surface, caused by a damaged, malfunctioning, improperly constructed or inadequately maintained private sewage system or private sewage lateral; also any wastewater or sewage effluent that is not handled and disposed of in compliance with all applicable county and state codes.

13. Nonfunctioning and maintenance of building fixtures, including nonfunctioning water supply systems, toilets, urinals, lavatories or other fixtures considered necessary to ensure a sanitary condition in a public building; any public restroom which is soiled by human waste or other waste and maintained in a filthy and/or unclean manner.
14. Unhealthy or Unsanitary Condition. Any condition or situation which renders a structure or any part thereof unsanitary, unhealthy, and unfit for human habitation, occupancy, or use or renders any property unsanitary or unhealthy.
15. Surface Water Pollution. The pollution of any stream, lake or other body of surface water within the City of West Allis that creates noncompliance with Wis. Adm. Code Chs. NR 102 and NR 103.
16. Inhabitability Conditions. Any property that has any of the following conditions:
 - a. Lacks hot or cold running water.
 - b. Heating facilities not in safe operating condition or are not capable of maintaining a temperature, in all living areas of the property or unit, of at least 67 degrees Fahrenheit during all seasons of the year in which the property or unit may be occupied. Temperatures in living areas shall be measured at the approximate center of the room, midway between floor and ceiling.
 - c. Not served by electricity, or the electrical wiring, outlets, fixtures, or other components of the electrical system are not in safe operating condition.
 - d. Any structural or other conditions that constitute a substantial hazard to the health or safety of the tenant, or create an unreasonable risk of personal injury as a result of any reasonably foreseeable use of the property or unit other than negligent use or abuse of the property or unit by a tenant.
 - e. Not served by plumbing facilities in good operating condition.
 - f. Not served by sewage disposal facilities in good operating condition.
 - g. Lacks working smoke detectors or carbon monoxide detectors.
 - h. Infestation of rodents or insects.
 - i. Excessive mold.

SECTION 8: **ADOPTION** “7.99 Penalty” of the City Of West Allis
Municipal Code is hereby *added* as follows:

ADOPTION

7.99 Penalty(*Added*)

Unless a specific penalty is prescribed, any person who violates any provision of this chapter or willfully violates or obstructs the execution of Wis. Stat. Ch. 252, Wis. Adm. Code Ch. DNS 145, any state statute or rule that relates to the public health, county ordinance that relates to the public health, or order from the state department of health shall forfeit not more than \$500.

SECTION 9: **REPEAL** “7.01 City Health Commissioner” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~7.01 City Health Commissioner (Repealed)~~

1. How Appointed. See Section 2.24 of this Code.
2. Powers and Duties. **[Ord. 6075, 2/16/1994]**
 - a. State Regulations. The Health Commissioner of the City shall have the powers and duties provided in Sec. 251.06(3) of the Wisconsin Statutes, the rules and regulations of the State Department of Health and Social Services, the regulations of the West Allis Board of Health and the ordinances of the City.
 - b. General Powers. In addition to the powers and duties set forth in Chapter 251 of the Wisconsin Statutes, the Health Commissioner shall:
 - i. Make an annual survey and maintain a continuous sanitary supervision over his territory.
 - ii. Make a sanitary inspection periodically of all school buildings and places of public assemblage, and report thereon to those responsible for the maintenance thereof.
 - iii. Promote the dissemination of information pertaining to the causes, nature and prevention of prevalent diseases and the preservation and improvement of health.
 - iv. Take steps necessary to secure prompt and full reports by physicians of communicable diseases and prompt and full registration of births and deaths.
 - v. Keep and deliver to his successor a record of all official acts.
3. Right to Enter Premises. The Health Commissioner, and any persons acting under him, is hereby authorized to enter into and examine, at any time, all buildings, lots and places of all descriptions, within the City of West Allis, for the purpose of ascertaining the condition thereof, so far as the public health may be affected thereby, and it shall be the duty and right of said Health Commissioner to enter and examine, or cause to be entered and examined, all such buildings, lots and places for the purpose of ascertaining the condition thereof, so far as public health may be affected thereby, and whenever, in his judgment, he shall deem it necessary.
4. Assistance From Police and Others. The police and all magistrates and other civil officers and all citizens shall aid, to the utmost of their power, the Health Commissioner in the discharge of his duties and, on his requisition, the Chief of Police shall serve or detail one or more policemen to serve the notices issued by the Commissioner and to perform such other duties as he may require.
5. Interfering With Commissioner. No person, firm or corporation shall resist or obstruct the Commissioner of Health, or any of his assistants, while in the discharge of any

duty, or who shall refuse or neglect to obey any direction given by the said officer, or his agents, in matters pertaining to his duties.

SECTION 10: **REPEAL** “7.02 Contagious Diseases” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

R E P E A L

~~7.02 Contagious Diseases~~ (*Repealed*)

1. Definition. Communicable diseases. Such diseases as are, in fact, communicable, and so determined by the State Board of Health, by rule, shall be within the term "communicable disease," as used in this section.
2. Contact Cases in Schools. Upon the appearance of any dangerous communicable disease, the local Health Commissioner shall give written notice to the principal or teacher of each school, and the librarian of each library, of the names of all families where the disease exists. If the rules of the State Board of Health provide for the exclusion from school of persons who live in homes where such disease exists, the Health Commissioner shall request the principal of the school to exclude from school all such persons, until a written order signed by the Health Commissioner, permitting attendance, is presented. When the principal or teacher of a school has been notified of the prevalence of a dangerous communicable disease in the School District, or when the principal or teacher of the school knows or suspects that a dangerous communicable disease is present in the school, he shall, at once, notify the Health Commissioner who must then investigate the matter.
3. Duty to Report Communicable Diseases. It shall be the duty of every physician called to attend a person sick with any of the diseases declared to be dangerous and communicable by the State Board of Health, within twenty-four (24) hours thereafter, to report, in writing or telephone, the name and residence of such persons to the Health Department of the City; and, where a physician is not called, it shall be the duty of the owner or agent of the building, in which such person resides, or of the head of the family or guardian in which such disease occurs to report, in writing or telephone, the name and residence of the patient to the Health Commissioner.
4. Quarantine and Placarding. When the Health Commissioner shall suspect or be informed of the existence of any communicable disease, he shall at once investigate and make or cause such examinations to be made, as are necessary. The diagnosis (report) of a physician, or the notification or confirmatory consent of a parent or caretaker of the patient, or a reasonable belief in the existence of such disease shall be sufficient evidence; and, having any of these, the Health Commissioner shall immediately quarantine, placard, isolate or require restrictions in such manner and upon such persons and for such time as the State Board of Health provides in its rules. The Health Commissioner shall be responsible for the prompt placing and removal of signs, shall investigate evasion of the laws and rules upon communicable disease and

- shall so act as to protect the public.
5. Interference with Placards. No person shall interfere with or obstruct the Health Commissioner or his duly authorized agent in the posting of any placard stating the existence of a case of any communicable disease in or on any place or premises, or the suspected existence of or contact with any such disease, nor shall any person conceal, mutilate, destroy or remove any such placard, except by the permission of the Health Commissioner. Whenever any duly posted placard has been concealed, mutilated, destroyed or removed, it shall be the duty of the occupant of the premises whereon such placard was posted to immediately notify the Health Commissioner thereof.
 6. Public Funerals Prohibited in Certain Cases. A public or church funeral shall not be held for any person who has died of the communicable diseases designated by the State Board of Health as continuing to be dangerous during the funeral.
 7. Parents Duty to Neglected and Affected School Children. Parents shall not permit children afflicted with a dangerous communicable disease to attend school. Neglect or refusal on the part of any principal or teacher to comply with the requirements of this section shall be sufficient cause for his dismissal.
 8. Enforcement of State Regulations. The statutes of the State of Wisconsin, particularly Chapter 143 thereof, and the regulations of the State Board of Health pertaining to communicable diseases, shall be enforced in the City by the Health Commissioner.

SECTION 11: **REPEAL** “7.03 Health Nuisances” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

R E P E A L

~~7.03 Health Nuisances~~ (*Repealed*)

1. Nuisance Defined. Whatever is dangerous to human life or health, and whatever renders soil, air, water or food impure or unwholesome; whatever building or part or cellar thereof, if overcrowded, or not provided with adequate means of ingress or egress, or is not sufficiently supported, ventilated, sewerred, drained, lighted or cleaned is hereby declared to be a nuisance and unlawful, and every person having aided in creating or contributing to the same, or who may support or continue to retain any of them shall be guilty of a violation of this section and shall, upon conviction thereof, pay for all the expense of the abatement or removal of any of such nuisances.
2. Inspection of Premises. The Health Commissioner or his agents may enter into and examine any place at any time to ascertain health conditions, and no person shall refuse to allow such entrance at reasonable hours.
3. Abatement or Removal. If a health nuisance be found on private property, the Health Commissioner shall order, in writing, its abatement or removal within twenty-four (24) hours; and, if the owner or occupant fails to comply, he shall be in violation of this subsection, and the Commissioner or his agents may abate or remove the nuisance.

4. **Cost of Abatement.** The cost of abatement or removal of a nuisance by health officers may be collected from the owner or occupant, or person causing, permitting or maintaining the nuisance, or such cost may be charged against the premises and, upon certificate of the health official, assessed against the real estate, as are other special taxes.
5. **Expectorating in Public Places.** No person shall spit, expectorate or deposit any sputum, spittle, phlegm, mucous, tobacco juice or wads of tobacco upon any sidewalk, crosswalk, alley or lane, or upon the floor, stairway, aisle of any theater, public hall or building, lodge hall, hotel or factory or any street car, bus or other public conveyance within the corporate limits of the City.
6. **Maintenance of Privies.**
 - a. **Where Prohibited.** No person, firm or corporation shall build or maintain any privy vault or vaults on any lot, part of lot or land fronting on any street or alley within the corporate limits of the City in which water pipes and sewers have been laid.
 - b. **Restrictions on Location.** Any privy vault or vaults maintained on any lot, part of lot or land fronting on any street, alley or public ground, which is not provided with public sewers and water pipes, shall not be located within four (4) feet of the line of any lot, part of lot or land and shall be maintained water tight and in such sanitary conditions, as required by the Plumbing Inspector.
 - c. **Cleaning.**
 - i. Any person, firm or corporation engaged in the business of emptying, cleaning, covering and removing the contents of any privy vault or cesspool shall obtain a license and perform said work, as required by the rules and regulations of the Commissioner of Health of the City.
 - ii. No owner, occupant or agent of any premises, upon which a privy is maintained, shall be permitted to clean or remove the contents without the aid of a licensed scavenger, unless written permission is obtained from the Commissioner of Health and the work performed in the manner as therein directed.
 - iii. The Commissioner of Health shall order the owner or agent of premises, upon which an offensive privy is maintained, to clean the same within the time directed by said order, and in case the owner or agent cannot be found, the Health Commissioner shall cause such offensive privy to be cleaned and the expense therefor to be collected as in cases of the removal or abatement of nuisances.
7. **Cleaning of Rugs and Carpets.**
 - a. **Restrictions.** No person shall beat, shake or sweep any rugs, carpets, mats or similar articles in any public thoroughfare or in any court or area within fifteen (15) feet of any building or buildings occupied by more than two (2) families.

SECTION 12: **REPEAL** “7.032 Smoking Prohibition In Certain Areas” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~7.032 Smoking Prohibition In Certain Areas~~ (*Repealed*)

1. Findings. The Common Council of the City of West Allis finds that:
 - a. It is recognized that smoking of cigarettes and tobacco products is hazardous to an individual's health and affects the health of nonsmokers when they are in the presence of smoking.
 - b. Numerous scientific studies have found that tobacco smoke is a major contributor to indoor pollution.
 - c. Reliable scientific studies, including studies conducted by the Surgeon General of the United States, have shown that breathing sidestream or secondhand smoke is a significant health hazard to nonsmokers; particularly to children, the elderly, individuals with cardiovascular disease and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease.
 - d. Health hazards induced by breathing sidestream or secondhand smoke include lung cancer, respiratory infection, decreased respiratory function, decreased exercise tolerance, bronchoconstriction and bronchospasm.
 - e. Air pollution caused by smoking is an offensive annoyance and irritant and smoking results in serious and significant physical discomfort to nonsmokers.
 - f. The purported health benefits from electronic smoking devices have not been scientifically proven, and use of these devices has not been proven safe, either for their users or for bystanders. More than one study has concluded that exposure to vapor from electronic smoking devices may cause passive or secondhand vapor inhalation. Clinical studies about the safety and efficacy of electronic smoking devices have not been submitted to the FDA for the more than four hundred (400) brands of electronic smoking devices that are on the market, and consumers have no knowledge of whether electronic smoking devices are safe; what types of concentration of potentially harmful chemicals the products contain; and what dose of nicotine the products deliver. The World Health Organization has strongly advised consumers against the use of electronic smoking devices until they are "deemed safe and effective and of acceptable quality by a competent national regulatory body." The World Medical Association has determined that electronic smoking devices "are not comparable to scientifically-proven methods of smoking cessation" and that "neither their value as therapeutic aids for smoking cessation nor their safety as cigarette replacements is established." A study has shown that heavy exposure to electronic smoking device vapor damages DNA in cell cultures and causes genetic instability that may lead to cancer. **[Ord. O-2016-0002,**

7/5/2016]

- g. Research indicates electronic smoking devices may lead youth to try other tobacco products. In addition, research indicates that youth who use electronic smoking devices are more likely to use tobacco products, including cigarettes, than those youth who do not use electronic smoking devices. **[Ord. O-2016-0002, 7/5/2016]**
 - h. Electronic smoking devices are currently unregulated and have been proven to emit nicotine, ultra-fine particles, volatile organic compounds and other toxins. Inhalation of nicotine is proven to be dangerous to everyone, especially children and pregnant women. Exposure to ultrafine particles may exacerbate respiratory illnesses, such as asthma, and may constrict arteries which could trigger a heart attack. The volatile organic compounds, such as formaldehyde and benzene, found in electronic smoking device aerosols, as well as conventional cigarette smoke, are proven carcinogens. **[Ord. O-2016-0002, 7/5/2016]**
 - i. A Harvard University health study found high levels of diacetyl in 39 of 51 unique flavors of chemicals used in electronic smoking devices. Diacetyl is associated with bronchiolitis obliterans and other severe respiratory diseases among workers who have inhaled heated vapors containing diacetyl. **[Ord. O-2016-0002, 7/5/2016]**
 - j. Existing studies on electronic smoking devices' vapor emissions and cartridge contents have found a number of dangerous substances including: carcinogens such as formaldehyde, acetaldehyde, lead, nickel, and chromium; PM 2.5, acrolein, tin, toluene, and aluminum which are associated with a range of negative health effects such as skin, eye, and respiratory irritation, neurological effects, damage to reproductive systems, and premature death from heart attacks and stroke; inconsistent labeling of nicotine levels in electronic smoking device products; and in one instance, diethylene glycol, an ingredient used in antifreeze and toxic to humans. **[Ord. O-2016-0002, 7/5/2016]**
2. Purpose. This ordinance is adopted for the purpose of:
- a. Protecting the public health, safety, comfort and general welfare of the people of the City of West Allis.
 - b. Clarifying and expanding upon the state's Smoking Ban Law enacted by 2009 Act 12 under the authority created by subsection 101.123(2)(c) of the Wisconsin Statutes and subsection 101.123(4m) as created by the Act.
 - c. Assisting owners, operators and managers in complying with state law and this ordinance.
3. Definitions. Except as set forth below, the definitions of subsection 101.123(1) of the Wisconsin Statutes are hereby adopted. In this section:
- a. "City Buildings" means all City-owned or operated buildings and those portions of buildings leased or operated by the City.
 - b. "Electronic smoking device" means an electronic device that can be used to deliver an inhaled dose of nicotine or any other substance intended for human

consumption that may be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. It includes any such device whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, vape pen or any other product name or descriptor. **[Ord. O-2016-0002, 7/5/2016]**

- c. "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. Smoking also includes the use of an electronic smoking device which creates an aerosol or vapor in any manner or in any form or the use of any oral smoking device. **[Ord. O-2016-0002, 7/5/2016]**

4. Prohibition Against Smoking. No person may smoke in any of the following:

- a. Any place prohibited by subsection 101.123(2) of the Wisconsin Statutes, which are expressly adopted and incorporated herein.
- b. Any City building, including the grounds of the Farmers' Market. The grounds of the Farmers' Market shall include all areas where food is displayed or offered for sale except on dates for events specifically designated by the Common Council as community events. This prohibition shall not apply to designated smoking units of Beloit Road Housing.
- c. Any enclosed indoor area in any place prohibited by Subsection 101.123(2) of the Wisconsin Statutes.
- d. Any City park or grounds while being used by the West Allis-West Milwaukee School District for school-related events.
- e. Within the pool area at the Liberty Heights Pool. The pool area shall include the entire area inside the chain-link fencing. **[Ord. O-2012-0001, 1/17/2012]**
- f. Within one hundred (100) feet of any playground, equipment, or recreational area owned by the City or the West Allis/West Milwaukee School District specifically designed to be used by children that has play equipment installed. Such prohibition shall not apply to a person located on private property. **[Ord. O-2016-0002, 7/5/2016]**

5. Exceptions. The prohibition against smoking shall not apply to any of the following: **[Ord. O-2016-0002, 7/5/2016]**

- a. Those places or areas set forth in Subsection 101.123(3) of the Wisconsin Statutes.
- b. For the purpose of smoking electronic smoking device liquids in an electronic smoking device only, premises that are validly licensed under Section 9.74 of the Code as of November 1, 2016, and that prohibit minors from entering or remaining on the premises. Such exception shall become invalid if the premises is no longer validly licensed at any time or is unoccupied for a period greater than one (1) year. **[Ord. O-2016-0044, 9/6/2016]**

6. Interpretation. Whenever the provisions of the Wisconsin Statutes and this section conflict, the provisions of this section shall apply.

7. Outside Areas. Any person in charge of a restaurant, tavern, private club, or retail establishment that is subject to this ordinance may designate an outside area that is a reasonable distance from the entrance to said establishment where customers, employees, or persons associated with the establishment may smoke. The designated smoking area shall contain receptacles for trash and cigarette butts and shall be kept in a neat and orderly manner, and all trash or cigarette butts shall be placed in a proper receptacle.
8. Statute Adopted. Except as expressly altered by this section, the provisions of Section 101.123 of the Wisconsin Statutes are hereby adopted and incorporated herein.
9. Penalty.
 - a. Any person who violates Subsection (4) or (7) shall forfeit not less than one hundred dollars (\$100.) nor more than two hundred fifty dollars (\$250.) for each violation.
 - b. Any person in charge who violates Subsection 101.123(2m) of the Wisconsin Statutes shall forfeit one hundred dollars (\$100.) for each violation.
 - c. In addition to the forfeiture, any person who violates the provisions of this ordinance shall pay the costs of prosecution, except for the crime laboratories and drug law enforcement surcharge under Subsection 165.755(1)(a) of the Wisconsin Statutes. Each day of violation shall constitute a separate offense.
10. Enforcement. Prior to issuing a citation to a person in charge for a violation of this ordinance, the Police Department shall first issue a written warning notice. Once a person in charge has been issued a warning, she/he may be issued citations for violations of this ordinance but not to exceed one hundred dollars (\$100.) in total for all violations of Section 101.123(2m) of the Wisconsin Statutes occurring on a single day.
11. No person shall use an electronic smoking device on school grounds. [Ord. O-2016-0002, 7/5/2016]

~~{Ord. O-2010-0016, 6/15/2010}~~

SECTION 13: **REPEAL** “7.033 Toxic Substances” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~7.033 Toxic Substances (Repealed)~~

1. State Laws Adopted.
 - a. The following provisions of the Wisconsin Statutes, as may be amended from time to time, describing, defining and prohibiting conduct, are hereby adopted by reference and made part of this subsection as if fully set forth herein:
Sec. 254.12- Use or sale of lead-bearing paints.
Sec. 254.154- Local authority.

Sec. 254.166- Response to reports of lead poisoning or lead exposure.

Sec. 254.30- Enforcement; penalties.

2. Definitions: For the purpose of this section, the definitions of words and phrases contained in Chapter 254 of the Wisconsin Statutes, and Chapter 163 of the State of Wisconsin Department of Health Services Administrative Code, as the same may be from time to time amended, are hereby adopted and by reference made part hereof with the same force and effect as if fully set forth herein.
3. Interpretation.
 - a. Whenever the word “department” is used, it shall be taken to mean West Allis Health Department for the purposes of inspection or enforcement; however the City of West Allis does not assume the role of the lead state agency for health risk assessment when promulgating rules, regulations, or limits for testing, testing limits, screening methods, or other analogous duties referenced in Chapter 254 of the Wisconsin Statutes
 - b. Whenever the phrase “may promulgate rules” is used, it shall be taken to mean that the West Allis Health Department will follow the State or Federal established rules or guidelines for the specified testing, action, inspection, or activity.
4. Lead Hazards Prohibited.
 - a. No owner of any premises or dwelling shall create or allow to exist on that property any lead hazard. Upon notification of the existence of a lead hazard at any property, the owner shall abate such hazard within thirty (30) days, or such time as specified by the West Allis Health Department.
 - b. Warning Required. The owner of any premises or dwelling that contains a lead hazard shall post an easily read warning label measuring at least eight (8) inches by ten (10) inches on all outside entrance doors. The warning label shall state: WARNING: LEAD HAZARD. EXTREME DANGER TO CHILDREN AND PREGNANT WOMEN.
5. Abatement. Whenever the West Allis Health Department issues orders to abate a lead hazard, the owner of the premises or dwelling subject to the order shall do all of the following:
 - a. Tenants to be Relocated. Tenants shall be relocated away from any premises where abatement activities are being carried out. Rental payments shall be suspended for the duration of an abatement project on a pro-rata basis.
 - b. Written Plan to be Submitted. A specific written plan for the abatement process shall be submitted to the Health Commissioner prior to commencement of any abatement project. The plan shall outline the scope of the work to be done, how the abatement is to be accomplished, who will be doing the work and how waste will be removed and discarded. When the abatement work is to be done by anyone other than the owner of the property, the Health Commissioner shall require information which demonstrates the competence of that person and may require posting of an appropriate performance bond.
 - c. Site Inspection. The Health Commissioner or designee may inspect premises

- or dwelling at which lead hazard abatement work is being performed at any time during the abatement process. Before the abated premises may be reoccupied, the Health Commissioner shall inspect the premises and perform whatever tests are necessary to assure removal of any lead poisoning hazards.
6. Enforcement; Penalties: The City of West Allis adopts Wisconsin Statute Sec. 254.30.

SECTION 14: **REPEAL** “7.035 Noise Control Regulations” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

R E P E A L

~~7.035 Noise Control Regulations~~ (*Repealed*)

1. Statement of Purpose. The City of West Allis recognizes that excessive noise and vibration are serious threats to the public health and welfare, public safety, quality of life and property values. Current science and technology permit abatement of noise and vibration sources which were not available in the past. Therefore, it is the policy of the City to prevent and abate excessive noise and vibration which may jeopardize the public health, safety or welfare or which would cause harm to property values or which would impair the quality of life within the City.
2. Definitions. All terminology used in this section, not defined below or elsewhere within the West Allis Revised Municipal Code, shall be given the definitions provided by applicable publications of the American National Standards Institute (hereinafter "ANSI") or its successor body.
 - a. "A-Weighted Sound Level" means the sound pressure level in decibels as measured on a sound level meter using the "A" weighting network. The level so read is designated as db(A) or dB(A).
 - b. "Ambient Noise" means the sound level of the all-encompassing sound associated with a given environment, being usually a composite of sounds from many sources from near and far.
 - c. "Authorized Emergency Vehicle" means the definition of this term as set forth in Sec. 340.01(3), Wis. Stats., and any subsequent modification, revision, or amendment of that term as set forth in that section of the Wisconsin Statutes.
 - d. "Commercial District" means any area of the City designated on the official West Allis Zoning Map, as commercial.
 - e. "Construction" means any activity necessary or incidental to the erection, demolition, assembling, altering, installing, repairing or equipping of buildings, roadways, or utilities, including land clearing, grading, excavating and filling.
 - f. "Day" means the hours between 7:00 a.m. and 9:59 p.m.
 - g. "dB(A)" means the symbol designation of a noise level, reported in decibels,

using the A-weighting network of a sound level meter, as defined in ANSI S1.4, Specification for Sound Level Meters. For example, noise will be reported as seventy-two (72) dB(A). For purposes of this section, the noise shall be measured using the slow exponential time weighting characteristic of the sound level meter unless otherwise noted.

- h. "Decibel" means a unit of measure of the volume of a sound.
- i. "Emergency Work" means short-term operations which are necessary to protect the public health, safety and welfare of the citizens, including emergency utility and public works operations.
- j. "Impulse Noise" means any sound of short duration, usually less than one (1) second, with an abrupt increase, rapid decay, and a peak value that exceeds the ambient noise level by more than ten (10) dB(A). Examples of sources of impulse noise include explosions, drop forge impacts, and the discharge of firearms.
- k. "Industrial District" means any area of the City designated on the official West Allis Zoning Map as industrial.
- l. "Maximum Sound Level" (hereinafter "Lmax") means the maximum sound level over a measurement interval determined by using a sound level meter set to "fast" response time.
- m. "Motor Vehicle" means any vehicle, including a combination of two (2) or more vehicles or an articulated vehicle, that is self-propelled, except a vehicle operated exclusively on a rail.
- n. "Night" means the hours between 10:00 p.m. and 6:59 a.m.
- o. "Noise Disturbance" means any sound or vibration which:
 - i. May disturb or annoy reasonable persons of normal sensitivities; or
 - ii. Causes, or tends to cause, an adverse effect on the public health and welfare; or
 - iii. Endangers or injures people; or
 - iv. Endangers or injures personal or real property.
- p. "Person" means any individual, association, partnership, joint venture, company, or corporation.
- q. "Place of Public Entertainment" means any building that is open to the public for entertainment purposes.
- r. "Plainly Audible Sound" means any sound for which the information content is unambiguously communicated to the listener, such as, but not limited to, understandable speech, comprehension of whether a voice is raised or normal, repetitive bass sounds, or comprehension of musical rhythms, without the aid of any listening device.
- s. "Power Tool" means any device powered mechanically, by electricity, by gasoline, by diesel fuel, or by any other fuel, which is intended to be used, or is actually used for, but shall not be limited to, the performance of such functions as cutting, nailing, stapling, sawing, vacuuming or drilling.
- t. "Real Property Boundary" means an imaginary line along the ground surface and its vertical extension which separates the real property owned by one

- person from that owned by another person, but not including intra-building real property divisions.
- u. "Residential District" means any area of the City, designated on the official West Allis Zoning Map as residential.
 - v. "Root Mean Square" (hereinafter "RMS") means the square root of the mean-square value of an oscillating waveform, where the mean-square value is obtained by squaring the value of amplitudes at each instant of time and then averaging these values over the sample time.
 - w. "Sound" means a temporal and spatial oscillation in pressure, or other physical quantity, in a medium resulting in compression and rarefaction of that medium and which propagates at finite speed to distant locations. The description of sound may include any characteristics of such sound, including duration, intensity, and frequency.
 - x. "Sound Level Meter" means an instrument, either Type I or Type II, as defined by the most current ANSI specifications. A sound level meter for purposes of this section shall contain at least an A-scale and both fast and slow response.
 - y. "Sound Pressure" means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space as produced by sound energy.
 - z. "Sound Reproduction Device" means any device, instrument, mechanism, equipment or apparatus for the amplification of any sounds from any radio, computer, stereo, CD player, musical instrument, television, loudspeaker or other sound-making or sound-producing device or any device or apparatus for the reproduction or amplification of the human voice or other sound.
 - aa. "Stationary Noise" means noise the source of which is either affixed to or operated upon a fixed point of land, building, or other real property.
 - ab. "VdB" means the vibration level as measured in decibels. The reference velocity in the United States is one (1) micro-inch per second. It is calculated as $VdB = 20 \times \log_{10}(v / (1 \times 10^{-6} \text{ in./sec.}))$, where "v" is the RMS velocity amplitude, calculated as the average of the squared amplitude of the vibration, measured in inches per second.
 - ac. "Vibration" means a temporal and spatial oscillation of displacement, velocity, and acceleration in a solid material.
 - ad. "Vibration Velocity Level" (hereinafter "Lv") means ten (10) times the common logarithm of the ratio of the square of the amplitude of the RMS vibration velocity to the square of the amplitude of the reference RMS vibration velocity.
3. Scope and Enforcement. This section, in addition to other ordinances and statutes, shall apply to the control of noise and vibration originating within the City of West Allis. The West Allis Health Department is the primary agency responsible for the enforcement of this section, and the West Allis Police Department may also enforce the provisions of this section. The City of West Allis's policy is to comply with this section in its own operations and in the operations of its contractors and subcontractors.
 4. Determining Sound Levels. Sound levels shall be measured using the following

procedures:

- a. All persons conducting sound measurements to assess compliance with this section must be trained in the current techniques and principles of sound measurement equipment and instrumentation.
 - b. Sound level shall be measured with a Type 1 or Type 2 sound level meter that shall, as a minimum standard, conform to the specifications of ANSI S1.4-1983 (Revised 2001) with Amendments S1.4A-1995 for Type 1 or Type 2 sound level meters and be capable of both fast and slow meter response.
 - c. The following steps must be followed when preparing to take sound level measurements:
 - i. The sound level meter manufacturer's specific instructions for preparation and use of the sound level meter shall be followed.
 - ii. The sound level meter shall be calibrated periodically, in accordance with the manufacturer's instructions.
 - iii. When outdoor measurements are taken, a windscreen shall be placed over the microphone of the sound level meter in accordance with the manufacturer's instructions.
 - iv. The sound level meter shall be placed at an angle to the sound source, as specified by the manufacturer's instructions, and placed at least four (4) feet above the ground. The meter shall be placed so as not to be interfered with during the taking of sound measurements.
 - v. Impulsive noise shall be measured with the sound level meter set for fast meter response; all other noise shall be measured with the sound level meter set for slow meter response.
 - vi. All sound level measurements shall be made using an "A" weighted network of the sound level meter.
5. Determining Vibration Levels. Vibration levels shall be measured using the following procedures:
- a. All persons conducting vibration measurements to assess compliance with this section must be trained in the current techniques and principles of vibration measurement equipment and instrumentation.
 - b. The instrument manufacturer's specific instructions for preparation and use of the instrument shall be followed.
6. Maximum Permissible Sound Levels.
- a. General Limitations. Except as enumerated in Subsection (8) of this section below, in the following zoning districts, the noise emitted from any source of stationary noise shall not exceed the following dB(A) limits at any point beyond one hundred twenty-five (125) feet outside of the real property boundary of the source of the stationary noise or beyond one hundred twenty-five (125) feet of the noise source on public property:

Sound Pressure Level		
Zone	Time	Decibel (dB(A) Level

Residential, Park District	10:00 p.m. to 6:59 a.m.	55 dB(A)
	7:00 a.m. to 9:59 p.m.	65 dB(A)
Commercial, Manufacturing	10:00 p.m. to 6:59 a.m.	60 dB(A)
	7:00 a.m. to 9:59 p.m.	70 dB(A)

- b. A reduction of five (5) dB(A) will apply to each of the limitations set forth under Subsection (6)(a) for all impulse noises.
 - c. When the ambient level is two (2) dB(A) or more above a noise limitation, a source may add no more than three (3) dB(A) to the ambient level.
7. Public Nuisance. Excessive noise and vibration, as defined in this section, is hereby deemed and declared to be a public nuisance and may be subject to summary abatement procedures, as provided in Section 7.03(3) and Section 18.04 of this Code. Such abatement shall be in addition to administrative proceedings, forfeitures, and penalties provided in this section.
8. Noise Disturbance Prohibited. No person shall make, continue, or cause to be made or continued, any noise disturbance. No person shall make, continue, or cause to be made or continued any noise which exceeds the noise limitations as set forth in this section.

Unamplified, noncommercial public speaking and public assembly activities conducted at conversational voice levels on any public property or public right-of-way shall be exempt from the operation of this article if such sound is not plainly audible beyond one hundred fifty (150) feet or does not infringe on the legitimate rights of others.

- a. Sound Reproduction Devices. No person shall operate, play, or permit the operation of or playing of any sound reproduction device at night that is plainly audible across a real property boundary. No person shall operate, play, or permit the operation of or playing of any sound reproduction device during the day that is plainly audible from one hundred fifty (150) feet beyond the real property line of the premises from which it emanates or from the source if located in a public street, public park, or other public place.
- b. Sound Amplification Device. No person shall use or operate any sound amplification device, loudspeaker, public address system, or similar device at night that is plainly audible across a real property boundary. No person shall use or operate any sound amplification device, loudspeaker, public address system, or similar device during the day that is plainly audible at a distance of one hundred fifty (150) feet.
- c. Loading and Unloading. No person shall load, unload, open, close, or otherwise handle boxes, crates, containers, building materials, garbage cans, or similar objects at night, in a manner that is plainly audible across a real property boundary.
- d. Domestic Power Tools. No person shall operate or permit the operation of any

mechanically powered saw, drill, sander, grinder, lawn or garden tool, leaf blower, or similar device at night.

- i. This subsection does not apply to snowblowers being used to remove snow that has fallen within the past twenty-four (24) hours.
- e. Tampering. No person shall remove or render inoperative any noise control device, element of design, or noise label of any product other than for the purpose of maintenance, repair, or replacement; no person shall modify or replace any noise control device to increase the sound pressure level of the device.
- f. Multifamily dwellings. No person shall make, continue, or cause to be made or continued any noise disturbance at night that is plainly audible in another occupied space within any multifamily dwelling within the real property boundary.
- g. Places of Public Entertainment. No person shall operate, play or permit the operation or playing of any sound reproduction device, sound amplifier, or similar device, or any combination thereof, which produces, reproduces, or amplifies sound in any place of public entertainment at a sound level greater than one hundred (100) dB(A), as read by the slow response on a sound level meter at any point that is normally occupied by a customer, unless a conspicuous and legible sign which is at least two hundred twenty-five (225) square inches in area is placed outside such place, near each public entrance, stating: "WARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT."
- h. Train Warning Devices. No person owning or operating any railroad, or any of its agents and employees, shall cause the ringing of any bell or the blowing of any whistle or horn within the City limits on any locomotive under his/her control, except in the event of an emergency to avoid an impending accident or where otherwise permitted by state or federal law.
- i. Motor Vehicles.
 - i. Light Motor Vehicles. No person shall create or cause or permit noise levels from the operation of any motor vehicle of ten thousand (10,000) pounds' gross vehicle weight rating or less, including but not limited to passenger automobiles, light trucks or motorcycles, in excess of eighty (80) dB(A) at any location within the corporate limits of the City of West Allis. Measurement shall be made at a distance of fifteen (15) feet or more from the closest approach of the vehicle.
 - ii. Heavy Motor Vehicles. No person shall create or cause or permit noise levels from the operation of any motor vehicle of more than ten thousand (10,000) pounds' gross vehicle weight rating in excess of eighty-six (86) dB(A) in a zone with a speed limit of more than thirty-five (35) miles per hour. Measurement shall be made at a distance of fifty (50) feet from the closest approach of the vehicle in use.
 - iii. Stationary Testing.
 - (1) Light Motor Vehicles. Motor vehicles of ten thousand (10,000) pounds' gross vehicle weight rating or less shall not

exceed ninety-five (95) dB(A) at twenty (20) inches in a stationary run-up test. Such tests shall conform to the Society of Automotive Engineers Recommended Practices SAE J1169, a copy of which is on file in the office of the Health Commissioner.

(2) Heavy Motor Vehicles. Motor vehicles of more than ten thousand (10,000) pounds' gross vehicle weight rating shall not exceed eighty-eight (88) dB(A) measured at fifty (50) feet in a stationary run-up test. Stationary run-up tests shall conform to the Society of Automotive Engineers SAE Standard J366b, a copy of which is on file in the office of the Health Commissioner.

j. Refuse Collection Vehicles and Compacting Equipment.

- i. No person shall collect refuse or permit the collection of refuse with a refuse collection truck at night.
- ii. No person shall operate or permit the operation of the compacting equipment mechanism of any motor vehicle which compacts refuse at night.

k. Vibration. No person shall operate or permit the operation of any device or combination of devices that creates vibration which exceeds the amounts listed in the table below, as measured at or across a real property boundary of the premises from which it emanates or from the source if located in a public street, public park, or other public place.

Event Frequency	L _v (VdB)
Frequent (more than 70 events per day)	72
Occasional	75
Infrequent (less than 30 events per day)	80

9. Exemptions. The provisions of this section shall not apply to the following:

- a. The emission of sound for the purpose of alerting persons to the existence of an emergency, or the emission of sound in the performance of emergency work, or the emission of sound brought about by emergency conditions where such sound is a byproduct of activities necessary for the preservation of public safety or the protection of the health, safety and welfare of any person or property.
- b. Warning devices necessary for the protection of public safety, the emission of any noise necessary for the protection of the health, safety, or welfare of person or property or to any noise which is either necessary or required by law.
- c. The operation of authorized emergency vehicles.
- d. Public works projects, at or adjacent to the construction site, as authorized by

the United States government, the State of Wisconsin, and/or other political subdivisions.

e. Limited Exemptions for Construction Noise. The provisions of this section shall not apply to equipment used in commercial construction activities when such equipment has sound control devices no less effective than those provided in the original equipment, a muffled exhaust, and are in compliance with the pertinent standards of the United States Environmental Protection Agency.

i. No person shall operate or permit the operation of any equipment used in construction work at night or on Sunday.

(1) Emergency Work. The hour limitations in this subsection shall not apply to emergency work.

f. Special events permitted under section 6.032 of this Code.

g. Aircraft operations.

h. Any fireworks display permitted under and operated in compliance with Wis. Stat. Section 167.10.

i. Any bells or chimes of any building clock, public or private school building, church, synagogue, or other place of religious worship.

10. Notice of Violation.

a. When the ambient noise or vibration level of a noise producing device equals or exceeds the decibel limits provided in this section, the Health Commissioner or his/her designee shall serve a notice, by first-class mail, on the owner and occupant of the premises that is creating or maintaining the noise. The notice shall be dated, contain a description of the violation, require the person to remove or abate the condition described in the order within the time specified therein, and advise such person of the right to apply for a variance permit and the office or person to whom the variance permit application shall be filed.

b. For violations of Subsection (8)(a) through (g), officers of the West Allis Police Department may issue a citation without prior notice of the violation.

11. Variance.

a. Application for Variance Permit. The owner or occupant of the premises may seek a variance from the regulations under this section. A new or renewal application for a variance shall be filed with the clerk along with payment of the fee listed on the Fee Schedule. The proper filing of an application shall toll all penalties provided in this section for any such violation until a final decision has been issued on the merits of such application. Such application shall specify the grounds upon which the variance permit is sought and the date by which the source of any excess noise or vibration for which the variance is sought shall be brought into compliance with this section.

b. Public Hearing. Upon receiving an application under this subsection, the clerk shall schedule the matter for a public hearing before the common council. The clerk shall notify the variance applicant by mail or email of the hearing at least 10 days before the hearing. The clerk shall notify any property owners within

200 feet of the subject property by mail or email at least 10 days before the hearing.

c. Procedure at Hearing

- i. The mayor or a designee shall describe the variance sought. Then, the variance applicant may provide comments to the council.
- ii. After the variance applicant has an opportunity to comment, any member of the public may provide comments to the council.
- iii. Any city staff may provide comments to the common council in writing prior to the public hearing, verbally during the beginning of the hearing as the mayor's designee, or verbally during the public comment portion of the hearing.
- iv. (Reserved).
- v. The amount of time for comments by the applicant and the public shall be set by the mayor prior to the beginning of the hearing.
- vi. (Reserved).
- vii. (Reserved)

d. Recommendation to the Common Council.

- i. After the close of the hearing, the Public Safety Committee shall recommend to the council a variance permit should be issued and, if issued, impose any conditions necessary to protect the public health, safety and welfare, including a schedule for achieving compliance with any noise and vibration limitations and an expiration date for the permit. In deciding whether to recommend granting the permit, the Committee shall balance the hardship to the applicant, the community, and other persons; the impact on the health, safety, and welfare of the community; the effect on the property in the area; and any other impact that the granting of the variance may have.

e. Common Council Determination.

- i. (Reserved).
- ii. (Reserved).
- iii. The Common Council shall determine whether to adopt the recommendation of the Committee or make such modification as is deemed appropriate.

f. Revocation. Noncompliance with any conditions imposed on the variance shall be grounds to revoke the permit using the same procedure to revoke a license under WAMC 9.51.

g. Extension and Modification. Application for extension of time limits or modification of other conditions specified in the variance permit shall be treated like an application for an initial variance.

12. Penalties. Any person violating any provision of this section shall, upon conviction, be subject to a forfeiture of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each offense, together with 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. Each day that any violation continues shall be considered a separate offense.

13. Severability. If any provision, clause, sentence, paragraph, or phrase of this section or the application thereof to any person or circumstances is held, for any reason, by a court of competent jurisdiction, to be invalid or unconstitutional, such decision shall not affect the validity of other provisions or applications of the provisions of this section which can be given effect without the invalid provision or application, and to this end, the provisions of this section are declared to be severable.

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SECTION 15: **REPEAL** “7.05 Refuse Collection” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~7.05 Refuse Collection~~ (*Repealed*)

1. Definitions. As used in this Section.

- a. "Bulk refuse" means solid waste, exclusive of construction waste, which cannot be readily stored in approved containers. It includes, but is not limited to, furniture.
- b. "Commercial" means a business enterprise, except manufacturing, and the activities associated therewith. It includes, for the purpose of this Section, all mixed units (buildings, housing, business and residential), churches, public and parochial education institutions and charitable organizations.
- c. "Commercial container" means a receptacle for the storage of refuse on a multi-family or commercial premises, which is constructed, maintained and located as provided in Subsection (4)(b) below.
- d. "Composting" means a controlled biological reduction of organic yard waste to humus.
- e. "Condominium" means a premises subject to a condominium declaration under Chapter 703 of the Wisconsin Statutes, including household activities associated therewith.
- f. "Construction waste" means solid waste resulting from building construction, alteration or repair.
- g. "Department" means the Public Works Department of the City.
- h. "Director" means the Director of the Public Works Department and his duly authorized deputies and agents. **[Ord. O-2004-0012, 4/5/2004]**
- i. "Garbage" means discarded materials resulting from the handling, processing, storage and consumption of food.
- j. "Hazardous substance" means the meaning given in Wis. Stats. § 292.01(5).
- k. "Hazardous waste" has the meaning given in Wis. Stats. § 291.01(7).

- l. "Infectious waste" means solid waste which contains pathogens with sufficient virulence and quantity so that exposure to the waste by a susceptible host could result in an infectious disease. It includes isolation wastes, cultures and stocks of infectious agents and associated biologicals, human blood and blood products, pathological waste, contaminated sharps, contaminated animal carcasses, body parts and bedding.
- m. "Inorganic waste" means concrete, asphalt, brick, block, stone, ground and, for purposes of this subsection, sod.
- n. "Manufacturing" has the meaning given in Wis. Stats. § 70.995(a).
- o. "Multi-family" means a premises improved with a building containing four (4) or more dwelling units, including household activities associated therewith.
- p. "Person" means any person, firm, partnership, association, corporation, company or organization, which is acting as a group or unit.
- q. "Premises" means a designated parcel or tract of land and any buildings and structures thereon, established by plat, subdivision or otherwise as permitted by law, which is used or developed as a unit.
- r. "Refuse" means all components of the solid waste stream including, but not limited to, garbage, rubbish, trash and ashes.
- s. "Residential" means a premises improved with a condominium unit or a building containing three (3) or fewer dwelling units, including the household activities associated therewith.
- t. "Residential container" means a receptacle that is approved and issued by the Department for the storage of residential refuse between collections and required for the collection of residential refuse by the Department.
- u. "Rubbish" means solid waste, excluding ashes and garbage., consisting of both combustible and noncombustible solid waste materials. It is specifically limited to small hand-carried objects which can be readily stored in approved refuse containers.
- v. (Reserved)
- w. "Solid Waste" means garbage, rubbish, ash, bulk refuse, yard and construction wastes and all other unwanted or discarded substances and material resulting from community activities.
- x. "Yard waste" means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than six (6) inches in diameter; however, it does not include stumps, roots or shrubs with intact root balls.

2. Collection.

- a. Paid by General Tax. The Department will collect refuse from residential premises or a detached single-family residential unit on a commercial premises funded through the general tax without a separate fee against the property served, except the Department will not collect refuse under this subsection if that refuse is any of the following:
 - i. Prepared or stored in violation of subsection (3).
 - ii. Collected from a multi-family, commercial, or manufacturing

premises.

- iii. Collected from a residential premises or detached single-family residential unit on a commercial premises if that unit is an adult family home under Wis. Stat. 50.01(1) or community-based residential facility under Wis. Stat. 50.01(1g).

- b. Paid by Special Assessment. The Department may collect refuse for a fee or special assessment against the property served for any refuse collection that is not paid by the general tax.

3. Preparation, Storage and Disposal.

- a. Residential. Except as provided in Paragraph (b) below, residential wastes shall be prepared and stored as follows:

- i. Garbage. Garbage shall be drained of all free liquid and packaged by securely wrapping in several thicknesses of paper, placed in plastic bags or other similar means and stored in residential containers.
- ii. Rubbish. Rubbish shall be stored in residential containers. Rubbish which may become airborne shall be securely wrapped and/or placed in plastic bags prior to being stored in a residential container.
- iii. Bulk Refuse. Small amounts of bulk refuse will be removed as ordinary refuse. Furniture and other bulk refuse not conforming to size and weight requirements may be collected, in accordance with Subsection (5) below.

- iv. Construction Wastes. Small quantities of construction wastes resulting from the direct activity of the owner or occupant of the building shall be collected by the Department if securely tied in compact bundles, where applicable, not exceeding four (4) feet in length and seventy-five (75) pounds in weight. Lumber with protruding nails will not be collected. Construction wastes resulting from the activities of a contractor or other non-occupant of the premises will not be collected by the Department.

- v. Inorganic Waste. Small quantities of inorganic wastes resulting from the direct activity of the owner or occupant of the property may be collected as part of the normal refuse collection, except as provided for under Subsection (5) below.

- vi. Yard Waste. Yard waste shall not be collected by the Department. Residents wishing to dispose of certain types of yard waste generated on their properties may do so at a site(s) approved by the Director.

- vii. Ashes. Ashes and similar material shall be dampened and placed in a secure, disposable container and stored with residential refuse.

- viii. Animals. Small dead animals shall be enclosed in a plastic bag and placed in a secure cardboard box or other secure, disposable container.

- ix. Manure and Other Noxious Wastes. Animal and fowl manure and/or other noxious wastes from residential properties shall be prepared and stored as residential refuse. Excessive quantities will not be collected

from residential properties.

x. Deleterious Substances. Any substance whose collection, destruction or disposal would be harmful or dangerous to personnel or equipment shall not be included with refuse for collection. The term "deleterious substances" includes, but is not limited to, acids, blasting material, ammunition, paints, lacquers and varnishes, liquid fossil fuels or their containers, and combustible alloys or chemicals. Such deleterious substances shall be disposed of in accordance with rules promulgated by the Director.

xi. Infectious Wastes. Infectious wastes from residential properties shall not be included with refuse for collection and shall not be collected by the Department. Such wastes shall be prepared and disposed of in accordance with federal and state laws and rules promulgated by the Director.

b. Multi-family, Commercial and Manufacturing. Garbage and refuse shall be stored in commercial containers. All other solid wastes shall be stored in accordance with laws, statutes, ordinances and regulations as applicable.

4. Containers.

a. Weight. The Department may decline to collect refuse from any residential container weighing over 75 pounds.

b. Location. Containers shall be stored on the residential premises where the refuse is generated and not upon any other private property, or any street, alley or other public ground; except as provided herein for refuse collection from the premises. Containers shall not be stored on the front side of any home. All containers shall be placed in one area for collection. If a premise abuts an alley, containers shall be placed at the alley edge for collection. Properties not serviced by an alley collection shall locate refuse containers at the curb/street edge of the property on the scheduled day of collection. The Director may, for a fee listed in the Fee Schedule, pick up refuse containers from another location for any household in which no occupant is physically able to comply with the requirements of this paragraph. Containers shall be readily accessible to collectors without interference due to vehicles, snow or other obstructions. Containers shall not be stored in any location which creates or may create a public health hazard. Containers shall not be placed at the curb for collection before 6:00 p.m. on the day prior to the scheduled day of refuse collection and must be removed by 8:00 p.m. on the scheduled day of refuse collection.

c. Multi-family, commercial and manufacturing containers shall be constructed, maintained and located as follows:

i. Construction. Containers shall be of substantial metal or plastic construction with covers which render the container waterproof.

ii. Location. Containers shall be located on the premises where the waste is generated or other private property in accordance with Chapter 12 of this Code; provided; however, the Board of Public Works pursuant

- to Section 11.165 of this Code may permit containers to be located on public property if a premises does not contain a suitable location for collection as determined by the Board. Containers shall not be located within any building on the premise, unless specific written approval is obtained from the Director.
- iii. Capacity Required. The owner, occupant or managing agent of each premises shall provide sufficient containers to ensure adequate storage capacity for twice the normal collection period.
 - iv. Multiple use. Where multiple businesses located upon a single premises utilize a designated refuse storage container and such properties have more than one refuse container, the names and/or addresses of the businesses must be visibly located on the container assigned for their use.
- d. Special Charge. If a residential property does not have a residential container for refuse collection for each dwelling unit, the City shall furnish to that residential customer a residential container for each dwelling unit and assess the cost thereof as a special charge upon the real estate, pursuant to Wis. Stat. § 66.0627(2).
5. Other Collection. Excessive quantities of refuse or refuse not prepared and stored for collection, as provided in Subsection (2) above, shall not be collected by the Department as part of its regular collection services. The owner or occupant of a premises where any such refuse is stored shall be responsible for its disposal. Such owner or occupant may apply to the Department for special collection of any such refuse, including delivery of such refuse to City collection sites. The Director shall promulgate rules governing special collection services and establish fees based upon actual costs for such services.
6. Composting. Yard waste, as herein defined, may be composted on any residential premises for use on the premises. Compost piles or bins shall be well-maintained so as not to pose an attraction or harborage for rodents or otherwise present a health nuisance. Compost piles or bins for composting shall not be located in front of any building or in any required yard under Chapter 12 and one (1) must be at least twenty-five (25) feet from any dwelling unit on the premises or any adjoining premises and at least three (3) feet from any property line. Each pile or bin may occupy a surface area no greater than twenty-five (25) square feet and may not exceed four (4) feet in height. No more than three (3) such piles and/or bins shall be permitted on any premises. Composted material shall be well-aerated so as to be free of offensive or noxious odors. No food waste or other such putrescibles shall be composted.
7. Public Nuisance. Refuse which is prepared or stored on any premises in a manner which creates or may create a public health hazard, safety hazard or blighting condition is hereby declared to be a public nuisance. The Director or Health Commissioner shall order, in writing, the immediate abatement or removal of any such nuisance. If the owner or occupant of the premises fails to comply with such order within the time prescribed, they shall be in violation hereof and the Director or Health Commissioner may cause the immediate abatement or removal of the nuisance. The

cost of such abatement or removal by the Director or Health Commissioner may be collected from the owner or occupant of the premises or upon certification by the Director or Health Commissioner, assessed for real estate as other special taxes. Such costs shall be in addition to any forfeiture imposed for violation hereof. [Ord. O-2004-0012, 4/5/2004]

8. General Regulations.

- a. It shall be unlawful for a person to place, throw or leave any solid, infectious or hazardous waste, slop, dirty water or other liquid of offensive odor, or a liquid of a hazardous, flammable or deleterious nature, or other hazardous, nauseous or unwholesome substances, or any dead carcass, animal, fowl, carrion, meat, fish, entrails, manure, offal, refuse matter, rubbish, recyclables, yard waste, tires, ashes, earth, sand or other substances or material of any kind or nature in or upon any sewer, stream, ditch or other watercourse, sidewalk, gutter, street, alley or upon any private premises or public place, park or grounds in the City of West Allis.
- b. It shall be unlawful for a person to allow grass clippings to be discharged or placed in or upon any sewer, stream, ditch or other watercourse, sidewalk, gutter, street, alley or upon any public place, park or grounds in the City of West Allis, or to store grass clippings on private property in such a manner that the grass clippings yield an offensive or nauseous odor.
- c. It shall be unlawful for a person to allow any slop, dirty water, or hazardous, flammable or deleterious liquid or any liquid of offensive odor or of otherwise nauseous or unwholesome character, to flow from any premises into or upon any street, gutter, sidewalk, alley, road or other public ground, or upon any vacant land in the City of West Allis.
- d. It shall be unlawful for a person to allow fruit from a tree or a shrub located on such person's premises to drop onto and remain upon any street, gutter, sidewalk, alley, road or other public ground.
- e. It shall be unlawful for a person to pick through, sort, scavenge or remove refuse from any premises in the City of West Allis when such refuse is stored in approved containers or otherwise stored for collection in accordance with this ordinance and any applicable Department rules, unless permission has been first obtained from the owner of the premises. This prohibition does not apply to city employees engaged in the collection process or enforcement of the provisions of this section.

9. Penalties. Any person violating the provision of this section shall be subject to the penalties provided in Section 7.16 of this chapter.

10. Director to Establish Rules. The Department is hereby designated as the agency to administer the provisions of this section, and the Director shall prepare, promulgate and enforce such additional rules, regulations and conditions required by this section or deemed necessary for its implementation. Such rules, regulations and conditions shall be subject to approval by the Board of Public Works and shall be filed with the City Clerk.

11. Applicability. The requirements of this section apply to all persons within the City of

West Allis. All property owners shall ensure that their tenants or occupants comply with this section at the property or properties the owner owns regardless of whether the owner occupies the premises. [Ord. O-2016-0025, 5/3/2016]

~~[Ord. 6129 (repeal and recreate), 10/18/1994; Ord. 6166, 6/20/1995; Ord. 6533 (repeal and recreate), 10/3/2000]~~

SECTION 16: **REPEAL** “7.051 Recycling” of the City Of West Allis
Municipal Code is hereby *repealed* as follows:

REPEAL

~~7.051 Recycling (Repealed)~~

1. Purpose. The purpose of this section is to promote recycling and resource recovery through the administration of an effective recycling program, as provided in § 287.11 of the Wisconsin Statutes, and Chapter NR 544, Wis. Administrative Code. **[Ord. 6534, 10/3/2000]**
2. Statutory Authority. This section is adopted as authorized under § 287.09(3)(b) of the Wisconsin Statutes. **[Ord. 6534, 10/3/2000]**
3. Abrogation and Greater Restrictions. It is not intended by this section to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this section imposes greater restrictions, the provisions of this section shall apply.
4. Interpretation. In their interpretation and application, the provisions of this section shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this section may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this section is required by Wisconsin Statutes, or by a standard in Chapter NR 544, Wis. Administrative Code, and where the section provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and the Chapter NR 544 standards in effect on the date of the adoption of this section, or in effect on the date of the most recent text amendment to this section.
5. Applicability. The requirements of this section apply to all persons within the City of West Allis. All property owners shall comply or shall ensure that their tenants or occupants comply with this section at the property or properties the owner owns regardless of whether the owner occupies the premises. **[Ord. O-2016-0025, 5/3/2016]**
6. Administration. The Director of Public Works shall administer the provisions of this section.

7. Rules. The Director is hereby authorized to prepare, promulgate and enforce such rules and regulations as may be required or deemed necessary for the administration and enforcement of this section. Such rules and regulations shall be subject to the approval of the Board of Public Works and shall be kept on file in the office of the City Clerk.
8. Definitions. As used in this Section:
- a. "Bi-metal container" means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.
 - b. "Container board" means corrugated paperboard used in the manufacture of shipping containers and related products.
 - c. "Department" means the Public Works Department.
 - d. "Director" means the Director of Public Works or his agents.
 - e. "Foam polystyrene packaging" means packaging made primarily from foam polystyrene that satisfies one of the following criteria:
 - i. Is designed for serving food or beverages.
 - ii. Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.
 - iii. Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.
 - f. "HDPE" means high-density polyethylene, labeled by the SPI code #2.
 - g. "LDPE" means low-density polyethylene, labeled by the SPI code #4.
 - h. "Magazines" means magazines and other materials printed on similar paper.
 - i. "Major appliance" means a residential or commercial air conditioner, furnace, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, stove, water heater, boiler or dehumidifier.
 - j. "Multiple-family dwelling" means a property containing five (5) or more residential units, including those which are occupied seasonally.
 - k. "Newspaper" means a newspaper and other materials printed on newsprint.
 - l. "Non-residential facilities and properties" means commercial, retail, industrial, institutional and governmental facilities and properties, churches, public and parochial education institutions, charitable organizations and, for purposes of this section, includes all mixed-used facilities (properties or buildings housing business and residential units). This term does not include multiple-family dwellings.
 - m. "Office paper" means high-grade printing and writing papers from offices in nonresidential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high-grade. This term does not include industrial process waste.
 - n. "Other resins or multiple resins" means plastic resins labeled by the SPI code #7.
 - o. "Person" means any person, firm, partnership, association, corporation, company or organization acting as a group or unit, as well as an individual.
 - p. "PETE" means polyethylene terephthalate, labeled by the SPI code #1.
 - q. "Plastic container" means an individual, separate, rigid plastic bottle, can, jar

- or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale.
- r. "Post-consumer waste" means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in § 291.01(7) of the Wisconsin Statutes, waste from construction and demolition of structures, scrap automobiles or high-volume industrial waste, as defined in § 289.01(17) of the Wisconsin Statutes. **[Ord. 6534, 10/3/2000]**
 - s. "PP" means polypropylene, labeled by the SPI code #5.
 - t. "PS" means polystyrene, labeled by the SPI code #6.
 - u. "PVC" means polyvinyl chloride, labeled by the SPI code #3.
 - v. "Recyclable materials" includes lead-acid batteries; major appliances; waste oil; yard waste; aluminum containers; corrugated paper or other container board; foam polystyrene packaging; glass containers; magazines; newspaper; office paper; rigid plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins; steel containers, waste tires; and, bi-metal containers.
 - w. "Residential properties" means any property containing four (4) or fewer dwelling units and the household activities associated therewith but does not include any community-based residential facility or adult family home. "Residential properties" also includes properties developed as condominiums.
 - x. "Solid waste" has the meaning specified in § 289.01(33) of the Wisconsin Statutes. **[Ord. 6543, 10/3/2000]**
 - y. "Solid waste facility" has the meaning specified in § 289.01(35) of the Wisconsin Statutes. **[Ord. 6543, 10/3/2000]**
 - z. "Solid waste treatment" means any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. "Treatment" includes incineration.
 - aa. "SPI" means Society of the Plastic Industry.
 - ab. "Waste tire" means a tire that is no longer suitable for its original purpose because of wear, damage or defect.
 - ac. "Yard waste" means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than six (6) inches in diameter; however, it does not include stumps, roots or shrubs with intact root balls.
9. Separation of Recyclable Materials. Property owners shall ensure that all tenants and occupants of properties the owner owns comply with this section. Tenants and occupants of residential properties, multiple-family dwellings, and nonresidential facilities and properties shall separate the following materials from post-consumer waste: **[Ord. 6543, 10/3/2000; Ord. O-2016-0025, 5/3/2016]**
- a. Lead acid batteries.
 - b. Major appliances.
 - c. Waste oil.
 - d. Yard waste.
 - e. Aluminum containers.

- f. Bi-metal containers.
- g. Corrugated paper or other container board.
- h. Glass containers.
- i. Magazines.
- j. Newspaper.
- k. Rigid plastic containers made of PETE (#1) and HDPE (#2).
- l. Steel containers.
- m. Waste tires.

In addition to the separation of the above listed recyclables, nonresidential properties shall also separate office paper from the waste stream.

10. Preparation, Storage, and Collection of Recyclable Materials. Once separated in accordance with Paragraph (9) above, recyclable materials, to the greatest extent possible, shall be clean and kept free of contaminants such as food, oil or grease and other nonrecyclable wastes. The Department shall collect recyclable materials from residential properties which are prepared and stored as provided in this subsection. Recyclables which are prepared for collection, as described herein, should be screened from public view. Recyclables placed at the curb or alley edge for collection may not be set out before 6:00 p.m. on the day prior to the scheduled day of recyclable collection. The Director may, for a fee listed in the Fee Schedule, pick up recycling containers from another location for any household in which no occupant is physically able to comply with the requirements of this paragraph.
 - a. Aluminum containers, bi-metal containers, glass containers, rigid plastic containers (SPI code #1-2) and steel containers shall be prepared and stored in a container as approved by the Director and placed at the curb or alley edge on the day of collection.
 - b. Corrugated paper or other container board shall be flattened, reduced to a size no greater than two feet by two feet (2' x 2'), securely bundled and placed at the curb or alley edge on the day of collection.
 - c. Magazines and newspaper shall be securely bundled or contained in a typical Kraft (grocery) paper bag and placed at the curb or alley edge on the day of collection.
 - d. Lead acid batteries will not be removed by the Department. Persons shall dispose of such batteries by returning them to a retail distributor or recycling facility.
 - e. Major appliances will not be removed by the Department. Persons shall contact a private hauler appropriately licensed by the state for the transfer and disposal of said appliances.
 - f. Waste oil must be disposed of at an approved waste oil recovery site.
 - g. Yard waste shall be managed in accordance with the provisions of Section 7.05 of this Chapter.
 - h. Antifreeze shall be disposed of at a drop-off site designed by the Director.
 - i. Waste tires may be returned to the retailer or at a drop-off site designated by

the Director.

- j. The Director shall promulgate rules governing special collection and/or drop-off services and establish fees based upon the actual costs providing such services.

11. Responsibilities of Owners or Designated Agents of Multiple-Family Dwellings.

Owners or designated agents of multiple-family dwellings shall do all of the following to recycle materials specified in Paragraphs (9)(e) through (l):

- a. Provide adequate, separate containers for the recyclable materials.
- b. Notify tenants in writing at the time of renting or leasing the dwelling and at least semi-annually thereafter about the established recycling program.
- c. Provide for the collection of the materials separated from the solid waste by the tenants and the delivery of the materials to a recycling facility.
- d. Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

12. Responsibilities of Owners or Designated Agents of Nonresidential Facilities and Properties. Owners or designated agents of nonresidential facilities and properties shall do all of the following to recycle the materials specified in Paragraphs (9)(e) through (m), including office paper.

- a. Provide adequate, separate containers for the recyclable materials.
- b. Notify tenants in writing at the time of renting or leasing the dwelling and at least semi-annually thereafter about the established recycling program.
- c. Provide for the collection of the materials separated from the solid waste by the tenants and the delivery of the materials to a recycling facility.
- d. Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.

13. Prohibitions on disposal of recyclable material separated for recycling. **[Ord. 6143, 12/6/1994]**

- a. No person may dispose of, in a solid waste disposal facility or burn in a solid waste treatment facility, any of the material specified in Paragraphs (9)(e) through (m), which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.
- b. This prohibition may be waived by the Director for specific recyclables, if the Wisconsin Department of Natural Resources has granted a variance in accordance with § 287.11(2m) of the Wisconsin Statutes, or NR 544.14, Wisconsin Administrative Code. **[Ord. 6543, 10/3/2000]**

14. Scavenging. **[Ord. 6143, 12/6/1994]**

- a. It shall be unlawful for any person, other than authorized employees of the

Department, to pick through, sort, scavenge or remove recyclable materials from a private residential property, when such recyclables are sorted and stored for collection as prescribed in this section.

- b. It shall be unlawful for any person other than those approved by the owner or manager to pick through, sort, scavenge or remove recyclable materials from multiple-family dwellings and/or private nonresidential facilities or properties.

15. Enforcement. **[Ord. 6143 (repeal, recreate & renumber), 12/6/1994]**

- a. For the purpose of ascertaining compliance with the provisions of this section, any authorized officer, employee or representative of the Department may inspect recyclable materials separated for recycling, post-consumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and nonresidential facilities and properties and any records relating to recycling activities, which shall be kept confidential, when necessary, to protect proprietary information. No person may refuse access to any authorized officer, employee or authorized representative of the Department, who requests access for purposes of inspection and who presents appropriate credentials. No person may obstruct, hamper or interfere with such an inspection.
- b. Any person who violates any provision of this section is subject to a forfeiture, as set forth in Subsection (c). The issuance of a citation or summons and complaint shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation or summons and complaint under this section.
- c. Penalties for violation of this ordinance may be assessed as follows:
 - i. Any person who violates paragraph (13) shall be subject to a forfeiture of fifty dollars (\$50) for the first violation, two hundred dollars (\$200) for a second violation, and not more than two thousand dollars (\$2,000) for a third or subsequent violation.
 - ii. Any person who violates a provision of this section, except paragraph (13), shall be subject to a forfeiture of not less than ten dollars (\$10) nor more than one thousand dollars (\$1,000) for each violation.
 - iii. Each and every day that a violation continues constitutes a separate offense.
 - iv. In addition to the forfeiture, the costs of prosecution shall be imposed; and, in default of payment of said forfeiture and costs, punishment shall be suspension of the defendant's operating privilege, pursuant to secs. 343.30 and 345.47 of the Wisconsin Statutes, or by imprisonment in the Milwaukee County House of Correction or Milwaukee County Jail until payment of the forfeiture and costs, but not in excess of the number of days set forth in sec. 800.095(4) of the Wisconsin Statutes.

~~[Ord. 6114, 8/2/1994]~~

SECTION 17: **REPEAL** “7.055 Waste Oil Receptacle Regulations” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

R E P E A L

~~7.055 Waste Oil Receptacle Regulations~~ (*Repealed*)

1. Authority of Department. The Director of Public Works may, with the approval of the Board of Public Works, from time to time establish appropriately sited and equipped locations for the depositing of used or waste motor oil for the purposes of disposal of the same.
2. Regulations for Use of Disposal Site.
 - a. Only waste motor oil shall be deposited for disposal at such sites. Other forms of grease or fat shall not be disposed of at such sites.
 - b. All waste oil deposited for disposal at such sites shall be deposited within the receptacle provided. The leaving of waste oil at the disposal site in containers other than the receptacle provided shall be prohibited.
 - c. No person shall spill or cause to be spilled any waste motor oil on the ground, either at such waste oil disposal site or anywhere else in the City of West Allis.
3. Violations of this section shall be punished, as provided by Section 7.16(d) of the Revised Municipal Code.

SECTION 18: **REPEAL** “7.06 Noxious Chemicals” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

R E P E A L

~~7.06 Noxious Chemicals~~ (*Repealed*)

1. Use of Buildings Regulated. It shall be unlawful to construct, erect or rebuild any building, structure or factory in the City to be used for the purpose of manufacturing or compounding odd chemicals, extracts or any other substances which give off or emit any nauseous or offensive odors or smells, unless a permit therefor is first obtained, as herein provided.
2. Building Permit Required. Application for a permit is to be made to the Building Inspector, who shall issue a permit upon satisfactory proof being filed in his office that all the requirements of the municipal building, electrical, wiring, heating, ventilating and plumbing codes are duly met, and that the safety requirements of the Industrial Commission of the State of Wisconsin are complied with. The Building Inspector shall have the power to impose such additional safeguards and requirements as he deems necessary and advisable to properly protect the inhabitants of the City.

3. Storage Prohibited. It shall be unlawful to use any structure, building or factory in the City for the storing of nitric, sulphuric or other acids or chemicals which emit fumes or vapors injurious to health and comfort of the inhabitants of the City.

SECTION 19: **REPEAL** “7.07 Heating Of Occupied Buildings” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

R E P E A L

~~7.07 Heating Of Occupied Buildings~~ (*Repealed*)

1. Minimum Room Temperatures.
 - a. Every owner or manager of any apartment, hotel, flat or other building, which is leased or rented for residential occupancy (living and sleeping) within the City, shall and is hereby directed to maintain, or to otherwise make available for optional use by any tenants or occupants, sufficient heat for a minimum temperature of 70° Fahrenheit at a distance three (3) feet above floor level whenever the outside temperature shall fall below 50° Fahrenheit.
 - b. Every owner or manager of hospitals, day care centers, nursing homes, elementary schools or natatoriums within the City shall and is hereby directed to maintain, or to otherwise make available for optional use by any tenants or occupants, sufficient heat to comply with Section Ind. 64.05, Wisconsin Administrative Code.
 - c. Every owner or manager of any building which is leased or rented for any other purpose within the City shall and is hereby directed to maintain, or to otherwise make available for optional use by any tenants or occupants, sufficient heat for a minimum temperature of 63° Fahrenheit at a distance three (3) feet above floor level whenever the outside temperature shall fall below 50° Fahrenheit, except that factories, machine shops, printing establishments and garages shall maintain sufficient heat for a minimum temperature of 56° Fahrenheit.
2. Enforcement by Health Commissioner. It shall be the duty of the Health Commissioner of the City or his duly authorized agents to investigate all complaints pertaining to this section and to prosecute all violations thereof.
3. Emergencies. When emergency conditions are found to exist, the Health Commissioner may, subject to the approval of the Common Council, establish such revisions thereto as he shall deem reasonable and necessary to alleviate any such emergency. Actions under this section shall, when appropriate, take into account the applicable provisions of the state and federal governments, including Section Ind. 64.05, Wisconsin Administrative Code.

SECTION 20: **REPEAL** “7.08 Slaughter Houses And Slaughtering” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

R E P E A L

~~7.08 Slaughter Houses And Slaughtering~~ (*Repealed*)

1. Slaughter Houses Prohibited. No person, firm or corporation shall keep or maintain any slaughterhouse within the limits of the City.
2. Slaughtering Prohibited. No person, firm or corporation shall slaughter or cause to be slaughtered, within the limits of the said City, any cow, steer, calf or beef cattle, pig, hog, sheep or lamb.

SECTION 21: **REPEAL** “7.09 Sale Of Meat” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

R E P E A L

~~7.09 Sale Of Meat~~ (*Repealed*)

1. Inspections. No meat, sausage or meat product of any kind used for human consumption shall be sold or offered for sale in the City which has not been slaughtered or processed in a slaughter house regularly inspected by the Federal Bureau of Animal Industry or in a slaughter house subject to regulations and inspections equivalent thereto, and does not bear the stamp of the Bureau or the Inspection Department on each primal part, package or container thereof. The Health Commissioner shall determine what constitutes equivalent regulations and inspections. No unwholesome or tainted meat shall be offered for sale or sold in the City. The Health Commissioner may reject, condemn and seize any and all meat which does not bear the stamp of an inspector of the Federal Bureau of Animal Industry or an equivalent thereto and may condemn and seize any tainted, unwholesome or uninspected meat.
2. Processing of Wild Game. It shall be unlawful for any person, firm or corporation operating a food establishment to cut and process wild game, or to have in their possession any wild game with intent to cut and process such game, unless the following requirements are met:
 - a. Storage is provided in a compartment refrigerated at or below 40° F. from receipt of wild game until delivery. Such refrigerated storage and the cutting and processing of wild game shall be in a compartment separate and distinct from any compartment used for the storage or processing of any other food products; and,

- b. All equipment and utensils used for cutting and processing wild game shall be cleansed before use in connection with other food products.
3. Smoked Fish. No person, firm or corporation shall sell or offer for sale any smoked fish which has been processed more than seven (7) days previously. Unless the date of processing is conspicuously posted at the point of sale, it shall be conclusively presumed that the fish were processed more than seven (7) days previously.

SECTION 22: **REPEAL** “7.10 Food Products Regulations” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~7.10 Food Products Regulations~~ (Repealed)

1. Authority of Health Officer. The health officer of the City is authorized to make, promulgate and enforce such rules and regulations relative to the manufacture, storage, display, sale, handling and transportation of food and food products as may be necessary to fully protect the same from contamination or other unhealthful or unsanitary conditions.
2. Inspection of Premises. The health officer of the City or his duly authorized agent may enter and examine the premises of any bakery, confectionery, cannery, packing house, candy factory, ice cream factory, ice factory, restaurant, hotel, coffee house, chop house, tea room, grocery, meat market, sausage factory, delicatessen store or other place in which food is prepared, produced, manufactured, packed, stored or served for sale, or any basket, wagon or other vehicle, hand steamer or street stand from which food is vended or peddled.
3. Merchandise Display on Sidewalks. It shall be unlawful for the occupant of any store or place of business in the City to occupy, for the purpose of exhibiting merchandise, any part whatsoever of the public sidewalk in front or adjoining such place of business. "Public sidewalk" is defined to include the entire area dedicated as and for a public sidewalk, including both paved and unpaved portions; provided, however, that upon written application, the Common Council may allow such use of the public sidewalk by special permit. Such special permit shall specify the date, time and place allowed for such use of the public sidewalk and whatever further regulations, terms and conditions may be appropriate for the protection of health and safety. **[Ord. 6434, (deleted 7.11), 5/4/1999]**

SECTION 23: **REPEAL** “7.12 Animals, Fowls And Birds” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~7.12 Animals, Fowls And Birds (Repealed)~~

~~1. Keeping of Certain Animals Prohibited. [Ord. 6158, 4/18/1995; Ord. O-2015-0014, 2/17/2015]~~

~~a. Definitions.~~

- ~~i. Wild Animal. Those species of animal that are not typically domesticated by humans and usually live in nature. Wild animals include, but are not limited to, animals belonging to any or all of the following orders and families.~~

~~(1) Class Mammalia.~~

~~(A) Order Chiroptera (bats).~~

~~(B) Order Artiodactyla (e.g., hippopotamuses, giraffes, camels, deer, cattle, swine, sheep, goats, alpaca, and llama).~~

~~(C) Order Carnivora.~~

~~(a) Family Felidae (e.g., lions, tigers, cougars, leopards, ocelots, servals), but not domestic cats.~~

~~(b) Family Canidae (e.g., wolves, wolf-dog hybrids, coyotes, foxes, jackals), but not domestic dogs.~~

~~(c) Family Ursidae (e.g., bears).~~

~~(d) Family Mustelidae (e.g., weasels, skunks, martens, minks, wild ferrets), but not the domestic ferret species, mustela putorius furo.~~

~~(e) Family Procyonidae (e.g., raccoons, coatis).~~

~~(f) Family Hyaenidae (e.g., hyenas).~~

~~(g) Family Viverridae (e.g., civets, genet).~~

~~(h) Family Mephitidae (e.g., skunks).~~

~~(i) Family Herpestidae (e.g., mongooses).~~

~~(D) Order Edentata (e.g., anteaters, armadillos, sloths).~~

~~(E) Order Marsupialia (e.g., opossums, kangaroos, wallabies), except sugar gliders.~~

~~(F) Order Perissodactyla (e.g., rhinoceroses, tapirs, horses, donkeys).~~

~~(G) Order Primates (e.g., lemurs, monkeys, chimpanzees, gorillas), except humans.~~

~~(H) Order Proboscidea (e.g., elephants).~~

~~(I) Order Rodentia (e.g., squirrels, beavers, porcupines, prairie dogs), but not guinea pigs, rats, mice, gerbils and hamsters.~~

~~(2) Class Reptilia.~~

- (A) Order Squamata.
 - (a) Family Helodermatidae (e.g., Gila Monsters and Mexican beaded lizards).
 - (b) Family Varanidae (e.g., monitor lizard).
 - (c) Family Elapidae (e.g., coral snakes, cobras, mambas).
 - (d) Family Viperidae (e.g., copperheads, cottonmouths, rattlesnakes).
 - (e) Subfamily Atractaspidinae (e.g., burrowing asps).
- (B) Order Crocodilia (e.g., crocodiles, alligators, caimans, gavials).
- (C) Any constricting snake greater than four (4) feet in length or twenty (20) pounds in weight.
- (D) Any venomous snake.
- (3) Class Aves.
 - (A) Order Falconiformes (e.g., eagles, hawks, vultures).
 - (B) Order Rheiformes (e.g., rheas).
 - (C) Order Struthioniformes (e.g., ostriches).
 - (D) Order Casuariiformes (e.g., cassowaries and emus).
 - (E) Order Strigiformes (e.g., owls).
 - (F) Order Galliformes (e.g., turkeys, chickens).
 - (G) Order Anseriformes (e.g., ducks, geese).
- (4) Class Arachnida.
 - (A) Order Scorpiones.
 - (B) Any of the following members of Order Araneae, Family Therididae:
 - (a) Argentina red widow spider: *Latrodectus coralinus*.
 - (b) Brown widow spider: *Latrodectus geometricus*.
 - (c) Red-black widow: *Latrodectus hasselti*.
 - (d) Red widow spider: *Latrodectus bishop*.
 - (e) Black widow spider: *Latrodectus mactans*.
 - (f) Western widow: *Latrodectus Hesperus*.
 - (C) Brown recluse spider: *Loxosceles reclusa*.
- (5) Class Chilopoda.
 - (A) Any of the following members of Order Scolopendromorpha, Family Scolopendridae:
 - (a) Amazon giant banded centipede: *Scolopendra giganea*.
 - (b) Arizona Tiger Centipede: *Scolopendra viridis*.
 - (c) Florida keys centipede: *Scolopendra*

alternans.

(B) Any other venomous chilopoda that is not native to Wisconsin.

(6) Any species of the class Insecta that is not native to Wisconsin.

(7) Any federal or state endangered or threatened species.

ii. Person. Any person, firm, partnership, association, corporation, company, or organization of any kind.

iii. Possess. To own, possess, keep, harbor, or have custody or control of an animal.

b. Intent. It is the intent of the City of West Allis to protect the public against health and safety risks that wild animals pose to the community. By their very nature, wild animals are potentially dangerous and do not adjust well to a captive environment.

c. Possession of Wild Animals. No person shall possess a wild animal.

i. Exceptions. This subsection shall not apply to institutions accredited by the American Zoo and Aquarium Association, licensed veterinarians, licensed veterinary hospitals or clinics, licensed circuses, licensed or accredited research or medical institutions, licensed or accredited educational institutions, an animal certified as having been specially trained to assist an individual with a disability, any government-owned or -operated facility, volunteers working on behalf of a government-owned or -operated facility, a person with a valid federal permit to possess a particular wild animal, or a person temporarily transporting a wild animal through the City if the transit time is not more than twenty-four (24) hours and the wild animal is at all times maintained within a confinement sufficient to prevent the wild animal from escaping.

ii. Registration. Any person that meets the exceptions listed in Subsection (1)(c) 1 shall register each wild animal that he/she possesses and is kept within the City of West Allis with the Health Commissioner.

iii. Escape. If a wild animal escapes the possession of a person, the person shall notify the West Allis Police Department immediately of the following information: the type of wild animal; a description of the wild animal, including size, color, and name of the animal; the nature of how the wild animal escaped; the name and address of the wild animal's owner or custodian; and the location and time where the wild animal was last observed. If the wild animal returns to the possession of a person after notification to the West Allis Police Department, the person shall notify the West Allis Police Department immediately that the wild animal has returned to the person's possession.

(1) Costs. Upon the escape of a wild animal, any person possessing such wild animal shall be responsible for the costs

of the capture or destruction of the wild animal and any City response to the report of escape.

- d. Keeping of Ferrets. All domestic ferrets kept or harbored in the City of West Allis shall be vaccinated against rabies in compliance with the Compendium of Animal Rabies Control of the National Association of State Public Health Veterinarians. Upon request by a law enforcement officer or employee of the West Allis Health Department, the person owning or keeping the ferret shall demonstrate proof of vaccination.

2. Keeping of Rabbits. **[Ord. 6158, 4/18/95; Ord. O-2015-0014, 2/17/2015]**

- a. Rabbits shall be kept in compliance with the provisions of this subsection. The keeping of more than two (2) adult rabbits in any outside or yard area of any dwelling or any building structure accessory thereto is prohibited. For purposes of this ordinance rabbits shall not be considered adults until they have reached the age of five (5) months.
- b. The Health Commissioner may grant exceptions to the number of rabbits allowed in Subsection (2)(a) on a case-by-case basis upon written application. The Health Commissioner's decision to grant or deny an exception shall be based upon the number of rabbits to be kept; the reason(s) for the request; an informal survey of neighborhood residents; and any other factors the Health Commissioner deems relevant.
- c. Persons to whom an exception is granted are required to obtain a rabbit permit from the Health Department. The cost shall be listed in the Fee Schedule, and the permit shall be for one (1) calendar year. Permits may be revoked or denied renewal for cause. The revocation procedure shall be the same as set forth in Section 9.51 of this Code. Any permittee or applicant that requires a reinspection during the licensing year due to the Health Department finding a violation of this section, or state statute or state regulation relating to rabbit health or sanitation, or finding a health nuisance, as defined in Section 7.03 of the Revised Municipal Code, shall pay the fee listed in the Fee Schedule.
- d. Appeals of the decision of the Health Commissioner shall be submitted in writing to the Public Safety Committee of the Common Council within thirty (30) days of notification of the Health Commissioner's decision. The Public Safety Committee shall schedule a hearing on the matter within thirty (30) days of receiving the appeal. The hearing shall be conducted as set forth in Wis. Stat. Section 68.11. The Public Safety Committee shall issue a written decision within twenty (20) days of completion of the hearing, and a copy of the decision shall be mailed to the appellant. The Public Safety Committee's decision shall be the final determination.

3. Cruelty to Animals Prohibited.

- a. Cruelty Prohibited. No person shall cruelly beat, frighten, overburden or abuse any animal or bird, or use any device or chemical substance, except in connection with efforts to control species determined by the Health Commissioner to be a public health hazard or nuisance, if pain, suffering or death may be caused. Reasonable force, however, may be used to drive off

vicious or trespassing animals.

- b. Improper Transport, Abandonment Prohibited. No person shall carry or transport in any vehicle or over any street, alley, sidewalk or public ground in the City any animal or bird so tied and placed as to inflict torture thereto, nor shall animals be abandoned for any reason within the City.
- c. Food and Water. No person owning or having custody of any animal or bird shall neglect or fail to provide it with necessary nourishing food at least once daily and provide a constant supply of clean water to sustain the animal or bird in good health.
- d. Proper Shelter Required. No person shall fail to provide any animal or bird in his charge with shelter from inclement weather to insure the protection and comfort of the animal or bird. When sunlight is likely to cause overheating or discomfort to any animal or bird, shade shall be provided by natural or artificial means to allow protection from the direct rays of the sun. Dogs and cats kept outdoors for more than one hour at a time must be provided with moisture-proof and windproof shelter of a size which allows the animal to turn freely and to easily sit, stand and lie in a normal position and to keep the animal clean, dry and comfortable. Automobiles or garages shall not be used as animal shelters, except that during winter months a dog house may be placed inside a garage for shelter. Whenever the outdoor temperature is below 40° Fahrenheit, clean bedding material shall be provided in such shelters for insulation and to retain the body heat of the animal.
- e. Leashes. Chains, ropes or leashes shall be so placed or attached that they cannot be entangled with another animal or object, and shall be of sufficient length in proportion to the size of the animal to allow the animal proper exercise and convenient access to food, water and shelter. Such leash shall be located so as not to allow such animal to trespass on public property or private property belonging to others nor in such a manner as to cause harm or danger to persons or other animals.
- f. Enforcement. This section and sections 7.121 (Dogs and Dog Licenses), 7.122 (Cats and Cat Licenses), 7.123 (Animal Fancier Permit), and 9.61 (Animal Sales and Services License) may be enforced by the Health Commissioner, law enforcement (police) officers, or the Animal Control Officers of the Milwaukee Area Animal Domestic Control Corporation. **[Ord. O-2003-0055, 8/5/2003]**

- 4. Waste Products and Fecal Accumulations. The owner or person in charge of any animal shall not permit solid fecal matter of such animal to be deposited on any street, alley or other public or private property, unless such fecal matter is immediately removed therefrom by said owner or person in charge. At all times when an animal is exercised away from the premises of the owner or person in charge, that individual shall have available for use, and prominently displayed, an appropriate device for removing, containing and transporting feces which may be deposited, until such feces can be properly disposed of by wrapping and placing them into an appropriate refuse container. The owner or person in charge of any private property shall not permit solid

fecal matter of animals to accumulate on such property, including the space between the street or curb and the sidewalk adjacent to such property, for a period in excess of twenty-four (24) hours.

5. Animal Bites.

- a. Whenever a dog, cat or other domesticated animal, or wild animal held captive, bites a person within the City of West Allis, and such bite penetrates or lacerates the skin of the person bitten, such dog, cat, other domesticated animal or wild animal held captive, shall be restricted to the premises of its owner, if within the City, or to a veterinarian's care within Milwaukee County, as a suspect rabies case for a period of ten (10) days.
- b. If during the restricted time, said animal shows signs of illness, lameness or paralysis, the owner or veterinarian shall immediately report such condition to the West Allis Health Department.
- c. During the restricted period, said animal shall not be removed from the restricted premises except to be placed under a veterinarian's care. No such animal shall be placed back into community living before it has been inspected and released by the West Allis Health Department. If the animal has spent the ten (10) day confinement period in the care of a veterinarian, upon its release, a veterinarian's report regarding the disposition of said dog shall be made to the West Allis Health Department.
- d. In the case of an animal bite, the Health Commissioner may issue such other rules and orders which, in his judgment, are necessary to safeguard the health and welfare of any person suffering an animal bite.

6. Elimination of Pigeon Harborages.

- a. Homeless pigeon harborages are hereby declared to constitute a public nuisance.
- b. Homeless pigeon harborages shall mean any place where pigeons, which do not wear any type of ownership identification tag or band, or are not confined in an escape proof cage or pen, are permitted to live, gather or nest.
- c. It shall be the duty of the owner of any premises in the City, or his agent, to make such premises reasonably pigeon proof to prevent such premises from being a homeless pigeon harborage.
- d. In all cases where the Health Commissioner finds a homeless pigeon harborage existing, he shall serve upon the owner of such premises, or his agent, an order requiring such owner or agent, within ten (10) days of receipt of said order, to eliminate such harborage and to take whatever steps are deemed necessary by the Health Commissioner to prevent its recurrence, including the covering of openings, eaves or other places in any building with appropriate wire screenings or other suitable material to prevent pigeons from entering into such building or gathering or nesting thereon. In the event such owner or agent shall neglect or refuse to comply with such order to the satisfaction of the Health Commissioner, such owner or agent shall be subject to the penalties provided for violation of this section; and, in addition, the Health Commissioner may cause the elimination work to be done and the cost thereof shall be assessed against the real estate involved as a special tax and

collected as are other special taxes.

7. Pigeon Keeping. [Ord. 6171, 6/20/1995]

a. Definitions. As used in this ordinance, the following terms shall have the following meanings, unless the context clearly indicates a different meaning is intended:

- i. "Pigeon" means a member of the family Columbidae, and shall include "Racing Pigeons," "Fancy Pigeons" and "Sporting Pigeons," as defined in this section.
- ii. "Racing Pigeon" means a pigeon which, through selective breeding, has developed the distinctive characteristics as to enable it to return to its home after having been released a considerable distance therefrom, and which is accepted as such by the American Racing Pigeon Union, Inc., or the International Federation of Racing Pigeon Fanciers. Also, commonly known as Racing Homer, Homing Pigeon or Carrier Pigeon.
- iii. "Fancy Pigeon" means a pigeon which, through selective breeding, has developed certain distinctive physical and performing characteristics as to be clearly identified and accepted as such by the National Pigeon Association, the American Pigeon Club or the Rare Breeds Pigeon Club. Examples: Fantails, Pouters, Trumpeters.
- iv. "Sporting Pigeon" means a pigeon which, through selective breeding, has developed the ability to fly in a distinctive manner, such as aerial acrobatics or endurance flying. Examples: Rollers, Tipplers.
- v. "Loft" means a structure for the keeping or housing of pigeons which is located inside a house or garage.
- vi. "Mature Pigeon" means a pigeon aged six (6) months or older.
- vii. "Owner" means the person who keeps or has the care, custody or control of a pigeon or pigeons.

b. Conditions for Keeping of Pigeons. The keeping, breeding, maintenance and flying of pigeons shall be permitted, on the following conditions:

- i. The loft shall be of such sufficient size and design and constructed of such material, that it can be maintained in a clean and sanitary condition.
- ii. There shall be at least one (1) square foot of floor space in any loft for each mature pigeon kept therein.
- iii. The construction and location of the loft shall not conflict with the requirements of any Building Code or Zoning Code of the City.
- iv. All feed for said pigeons shall be stored in such containers as to protect against intrusion by rodents and other vermin.
- v. The loft shall be maintained in a sanitary condition and in compliance with all applicable health regulations of the City.
- vi. All pigeons shall be confined to the loft, except for limited periods necessary for exercise, training and competition; and, at no time shall pigeons be allowed to perch or linger on the buildings or property of

others.

vii. All pigeons shall be fed within the confines of the loft.

viii. No one shall release pigeons to fly for exercise, training or competition, except in compliance with the following rules:

(1) The owner of the pigeons must be a member in good standing of an organized pigeon club, such as the American Racing Pigeon Union, Inc., the International Federation of Racing Pigeon Fanciers, the National Pigeon Association, the American Tippler Society, the International Roller Association, the Rare Breeds Pigeon Club, or a local club which has rules that will help preserve the peace and tranquility of the neighborhood.

(2) Pigeons will not be released for flying within four (4) hours of feeding.

ix. No owner may have more than twenty-five (25) pigeons in a residentially zoned area.

x. No person may own any type of pigeon other than those defined in sec. 7.12(7)(a).

c. Pigeon Permit. Any person owning a pigeon in the City of West Allis shall first obtain a permit. The Health Commissioner may issue an original or renewal pigeon permit upon submission of a completed application, payment of a fee listed in the Fee Schedule and inspection and approval of the premises for which the permit is to be issued. As part of the inspection process, the Health Commissioner shall conduct an informal survey of neighborhood residents to determine their concerns, if any, regarding pigeons being kept in the area. All permits shall expire on March 31, following the date of issuance, unless sooner revoked for cause. permit may be issued for any premises upon which three (3) or more dwelling units are located. Any permittee or applicant that requires a reinspection during the licensing year due to the Health Department finding a violation of this section, or state statute or state regulation relating to bird health or sanitation, or finding a health nuisance, as defined in Section 7.03 of the Revised Municipal Code, shall pay a reinspection fee listed in the Fee Schedule.

d. Right of Entry for Inspection. The Health Commissioner or his designee may enter and inspect any property or loft at any reasonable time for the purpose of investigating either an actual or suspected violation or to ascertain compliance or noncompliance with this ordinance.

e. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of this ordinance.

8. Feeding of Wild Animals. [Ord. O-2010-0017, 5/18/2010; Ord. O-2011-0080, 2/21/2012]

- a. Definitions.
 - i. As used in this section, "feeding" means to place any material to feed or attract animals in or from the wild.
 - ii. As used in this section, "wild animal" is defined as any nondomesticated animal that lives in nature, including, but not limited to squirrels, raccoons, and deer.
 - b. The feeding of wild animals is prohibited in the City of West Allis.
 - c. This subsection shall not apply to wild birds. Feeding of wild birds shall be done in a manner to ensure that other wild animals are unable to access the bird feed. Premises upon which bird feed is provided shall be cleaned at least once during each twenty-four-hour period to remove food material that has fallen to the ground. The Health Commissioner or his/her designee may order a property owner/occupant to cease the feeding of wild birds if an inspection reveals that evidence of rat activity is present on the property where bird feeding is occurring or on an adjacent property within three hundred (300) feet of the property line where rat activity is present. Such order shall be mailed or served in person to the property owner(s) of the affected properties and posted in a conspicuous place on the affected properties. Any person who continues to feed wild birds after receiving such an order shall be subject to the penalties in Section 7.16. Any person affected by the order may petition the Health Commissioner to lift the order if sixty (60) days have passed since the issuance of the order and the person can demonstrate to the Health Commissioner or his/her designee that no rat activity exists on the property. **[Ord. O-2014-0020, 4/1/2014]**
 - d. This subsection shall not apply to feeding a cat by a person who relinquished possession of that cat in accordance with WAMC 7.122(1)(a), but only if the feeding takes place under direct observation of the person feeding the cat between the hours of sunrise and sunset.
9. Dogs Prohibited at Rogers Playground. **[Ord. O-2011-0015; 5/17/2011]**
- a. No person shall allow any dog to enter or remain at the Rogers Playground, located at South 56th Street and West Rogers Street in the City of West Allis.

SECTION 24: **REPEAL** "7.121 Dogs And Dog Licenses" of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~7.121 Dogs And Dog Licenses~~ (*Repealed*)

- 1. Licenses for Dogs.
 - a. Any person owning, keeping or harboring a dog more than five (5) months of age on January 1 of any year, shall annually, or within thirty (30) days from date such dog becomes five (5) months of age, pay in a manner provided by

- the City Treasurer, a dog license fee in obtaining a license for such dog.
- b. The yearly license fee shall be listed in the Fee Schedule, with separate fee amounts for each neutered male dog, each spayed female dog, and each dog not neutered or spayed, except dogs kept in a kennel licensed under the provisions of Sec. 174.053, Wis. Stats., and dogs exempt under Sections 174.054 to 174.055, Wis. Stats. The Fee Schedule shall separately list fees for any dog that became five (5) months of age after July 1 of the license year. The provisions of this subsection notwithstanding, whenever the Milwaukee Area Domestic Animal Control Commission (MADACC) shall declare an amnesty period for late dog license fee charges, the fee, if any, set by MADACC shall apply for the period of the amnesty.
 - c. In the event that a license tag issued for a dog shall be lost, the owner may obtain a duplicate tag upon payment of the amount listed in the Fee Schedule.
 - d. Upon payment of the required dog license fee, the City Treasurer shall execute and issue to the owner a license and a durable tag with an identifying number, county in which issued and the license year. The license year shall commence on January 1 and end the following December 31.
 - e. Dogs must wear identification tags at all times when off the premises of the owners, except when participants in an organized show or training situation. The fact that a dog is without a license attached to its collar shall be presumptive evidence that the dog is unlicensed.
 - f. The City Treasurer shall assess and collect an additional fee listed in the Fee Schedule where such owner has failed and neglected to obtain a license prior to April 1, or within thirty (30) days after the dog has reached licensable age, and all monies so received or collected by any collecting officer shall be paid to the City Treasurer as revenue to the City of West Allis.
 - g. The City Treasurer shall not issue such dog licenses described above without proof of proper rabies shots. The City Treasurer shall not issue a new dog license for a neutered or spayed dog without proof of alteration.
2. Keeping of More Than Two Dogs Prohibited. **[Ord. O-2012-0039, 11/20/2012]**
- a. Except as provided in Section 7.123 of this Code, no person shall harbor, keep, raise or maintain at any time more than two (2) dogs per building or dwelling unit in the City; provided, however, that for the purposes of this ordinance, puppies shall not be considered dogs until after they have reached the age of five (5) months.
 - b. A service dog, as defined in Wisconsin Statute Section 951.01(5), shall not be counted for purposes of this section if such dog is kept at a building or dwelling unit to assist a person also living at such building or dwelling unit.
3. Leash Required. Any person who owns, harbors or keeps a dog shall lead the dog with a leash of suitable strength measuring not more than 6 feet in length when the dog is located on a street, sidewalk, or alley, school grounds, a public park, or other public grounds or on private property without the permission of the owner or person in lawful control of the property. This provision does not apply to property designated by the City as a dog park.

SECTION 25: **REPEAL** “7.122 Cats And Cat Licenses” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~7.122 Cats And Cat Licenses~~ (*Repealed*)

1. Licenses for Cats.

- a. Any person owning, keeping or harboring a cat more than five (5) months of age on January 1 of each year, shall annually or within thirty (30) days from the date such cat becomes five (5) months of age, pay, in a manner provided by the City Treasurer, a cat license fee and obtain a license for such cat. A person is not required to license a cat if all the following applies:
 - i. The person took custody of an abandoned or stray cat on their property,
 - ii. The person delivered the cat to an entity contracting with the City under Wis. Stat 173.15 (1),
 - iii. The entity released that cat under Wis. Stat. 173.23(1m)(a) to the same person who took custody of it,
 - iv. The person paid the full cost of custody, care, vaccination, microchip implanting, spay or neuter surgery, and any other treatment prior to the entity releasing the cat to that person,
 - v. The person relinquishes possession of the cat on the same parcel where the person took custody of it, and
 - vi. No other cat has been released on the parcel.
- b. The yearly license fee shall be listed in the Fee Schedule, with separate fee amounts for each neutered male cat, each spayed female cat, and each cat not neutered or spayed. The Fee Schedule shall separately list fees for any cat that became five (5) months of age after July 1 of the license year. The provisions of this subsection notwithstanding, whenever the Milwaukee Area Domestic Animal Control Commission (MADACC) shall declare an amnesty period for late cat license fee charges, the fee, if any, set by MADACC shall apply for the period of the amnesty.
- c. In the event that a license tag issued for a cat shall be lost, the owner may obtain a duplicate tag upon payment of the amount listed in the Fee Schedule.
- d. Upon payment of the required cat license fee, the City Treasurer shall execute and issue to the owner a license and a durable tag with an identifying number, county in which issued and the license year. The license year shall commence on January 1 and end the following December 31.
- e. Cats must wear identification tags at all times when off the premises of the owners, except when participating in any organized show or training situation. The fact that a cat is without a license attached to its collar shall be presumptive evidence that the cat is unlicensed.

- f. The City Treasurer shall assess and collect an additional fee listed in the Fee Schedule where such owner has filed and neglected to obtain a license prior to April 1, or within thirty (30) days after the cat has reached licensable age, and all monies so received or collected by any collecting officer shall be paid to the City Treasurer as revenue to the City of West Allis.
 - g. The City Treasurer shall not issue such cat licenses described above without proof of proper rabies shots. The City Treasurer shall not issue a new cat license for a neutered or spayed cat without proof of alteration.
- 2. Keeping of More than Four Cats Prohibited. Except as provided in Section 7.123 of this Code, no person shall harbor, keep, raise or maintain at any time more than four (4) cats per building or dwelling unit in the City; provided, however, that for the purposes of this order, kittens shall not be considered cats until after they have reached the age of five (5) months.
- 3. Cats Running at Large.
 - a. Running at large prohibited; definition. No owner or keeper shall permit any cat to run at large on the public streets, alleys, public grounds or parks within the City. A cat shall not be deemed at large if accompanied by or under the control of any person. A cat shall not be deemed at large if the person took custody of a that cat as an abandoned or stray animal and relinquished possession of the cat in accordance with sub. (1)(a). No person shall permit any such animal to escape or go upon any sidewalk, parkway or private lands or premises without the permission of the owner of such premises.
 - b. Police to apprehend and confine. The Chief of Police shall designate an officer to apprehend, with the cooperation of the Milwaukee Area Domestic Animal Control Commission, any cats running at large on the streets, alleys, public grounds or parks of the City and shall confine such cats when apprehended in such place as may be provided by the Milwaukee Area Domestic Animal Control Commission. **[Ord. 6524 (repeal & recreate) 7/5/2000; Ord. O-2008-0041, 9/18/2008]**
 - c. Disposition of unclaimed cats. The possession of any licensed cat so seized or impounded may be obtained by the owner upon payment of the fee listed in the Fee Schedule to the City of West Allis, plus the daily boarding fee to the Milwaukee Area Domestic Animal Control Commission, for keeping the cat for each day or fraction thereof during which the cat was impounded. The possession of any unlicensed cat may be obtained by the owner after obtaining a license and paying the fee provided herein. If any cat has been impounded for seven (7) days and has not been reclaimed by its owner, the cat may be disposed of by the Milwaukee Area Domestic Animal Control Commission in the most humane manner. **[Ord. 6524 (repeal & recreate) 7/5/2000]**

SECTION 26: **REPEAL** “7.123 Animal Fancier Permit” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~7.123 Animal Fancier Permit (Repealed)~~

1. ~~Animal Fancier Defined. "Animal fancier" is any person in a residential dwelling unit who shall keep, harbor, raise or possess any combination of more than two (2) dogs over the age of five (5) months and/or four (4) cats over the age of five (5) months, to a maximum of four (4) dogs and/or six (6) cats.~~
2. ~~Permit Required. The Health Commissioner may issue an original or renewal animal fancier permit upon submission of a completed application, payment of the fee listed on the Fee Schedule and inspection of the premises for which the permit is to be issued. All permits shall expire on December 31 following the date of issuance, unless revoked for cause prior to that date. The late fee listed on the Fee Schedule shall be paid whenever the annual fee for a renewal is paid on or after April 1 or after the permit year. No permit may be issued for any premises upon which three (3) or more dwelling units are located. The cost for a duplicate permit shall be listed in the Fee Schedule.~~
3. ~~Conditions for Issuing and Maintaining of Permit. Upon application for issuance or renewal, an inspection shall be made to determine compliance with the following provisions:~~
 - a. ~~All animals shall be maintained in a healthy condition or, if ill, shall be given appropriate treatment immediately.~~
 - b. ~~The quarters in which the animals are kept shall be maintained in a clean condition and good state of repair.~~
 - c. ~~Animal pens or enclosures shall be large enough to provide freedom of movement to the animals contained therein.~~
 - d. ~~Food supplies shall be stored in rodent-proof containers. Food and water containers shall be kept clean.~~
 - e. ~~Litter and/or bedding material shall be changed as often as necessary to prevent odor nuisance.~~
 - f. ~~Feces shall be removed daily from yards, pens and enclosures, and shall be wrapped and stored in tightly covered metal containers until final disposal. Exception may be made for feces which are properly composted in a manner which creates no vermin, odor or aesthetic nuisance.~~
 - g. ~~Yards, pens, premises and animals shall be kept free of insect infestations.~~
 - h. ~~No nuisance caused by odor, noise or animals running at large shall be permitted.~~
4. ~~Revocation of Permit. The Health Commissioner may revoke an animal fancier permit for serious and/or repeated noncompliance with the provisions of this section. Appeal~~

of revocation shall be made in writing to the Common Council and execution of the revocation shall be stayed pending action by the Council.

5. Reinspection Fees. Any licensee or applicant that requires a reinspection during the licensing year due to the Health Department finding a violation of this section, or state statute or state regulation relating to animal health or sanitation, or finding a health nuisance, as defined in Section 7.03 of the Revised Municipal Code, shall pay a reinspection fee as listed in the Fee Schedule.

SECTION 27: **REPEAL** “7.127 Containment Of Dogs” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

R E P E A L

~~7.127 Containment Of Dogs~~ (*Repealed*)

1. Definitions.
 - a. Unless otherwise noted in this section, all words and phrases have the same meaning as those found in WAMC 7.125(1).
 - b. "City Officer" means a City employee working within his or her official capacity.
 - c. "Electric Fence" means an electrical system, whether by underground wire or a wireless perimeter, that is designed to keep a pet or other domestic animal within a set of predefined boundaries by using an audible tone, mild electric shock, vibration, and/or similar means, and without the use of an actual physical barrier. An electric fence shall not be sufficient to comport with the requirements of WAMC 7.125(3)(a).
 - d. "Public Right-of-Way" means all of the area dedicated to public use existing between property lines adjacent thereto and is intended to include, but not limited to, roadways, streets, parkways, alleys and sidewalks.
2. Dogs Running At Large. Wis. Stat. 174.042, as it may be amended in the future, is hereby adopted as though fully set forth herein.
3. Containment of Dogs via Electric Fence. Any dog owner who utilizes an electric fence to help contain a dog is required to install, place, or maintain the electronic fence boundary at a distance of at least three (3) feet from any public right-of-way to ensure a safe distance between pedestrians and the dog.
4. Penalty. Any person who violates any part of this section shall forfeit for each violation an amount as indicated in Subsection 7.16, plus the costs of prosecution necessitated by enforcement of this subsection. Every day that any violation of this section continues shall be deemed a separate offense.
5. Exemptions. Any dog owner who has installed an electric fence prior to the enactment of this ordinance shall be exempt from the requirements of this section. In order to utilize this exemption to a violation of this section, a dog owner who utilizes an electric

fence to contain a dog must provide documentation to the requesting City officer or City Clerk's office, which memorializes the date of installation of the electric fence. Failure to provide documentation will result in this exemption being void. Any alteration, additions, upgrades, or improvements made to the electric fence after the date of enactment of this section shall void this exemption and require the dog owner to comply with the requirements of this section.

SECTION 28: **REPEAL** “7.128 Rabies Control Program” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

R E P E A L

~~7.128 Rabies Control Program~~ (*Repealed*)

~~Wis. Stat. 95.21, as it may be amended from time to time, is hereby adopted as though fully set forth herein.~~

SECTION 29: **REPEAL** “7.13 Stagnant Water Pits, Holes And Excavations” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

R E P E A L

~~7.13 Stagnant Water Pits, Holes And Excavations~~ (*Repealed*)

1. Definitions. "Hazardous depression is defined as any excavation, pit, hole, gully, ditch or depression of any nature whatsoever wherein water is accumulated and retained for more than twenty-four (24) hours; or, wherein trash, debris or odorous or otherwise objectionable material accumulates; or, which, in the judgment of the Health Commissioner otherwise constitutes a danger to the public health, welfare or safety. Drainage ditches installed or maintained by the City are not included. "Building Excavation" is defined as the excavation made for the basement or foundation of a building.
2. Public Nuisance. Hazardous depressions are hereby determined to constitute a public hazard and a nuisance.
3. Abatement.
 - a. Hazardous depressions. In all cases where the Health Commissioner finds a hazardous depression constituting a public hazard or nuisance, he shall serve upon the owner of the premises, where located, a notice requiring the abatement thereof within ten (10) days of the date of the notice by filling in the depression, together with such additional measures as are, in the judgment of the Health Commissioner, necessary for abatement. In the event the owner of

the premises shall neglect or refuse to abate in the manner prescribed in the notice, the Health Commissioner shall cause the abatement work to be done and the cost thereof, on the Health Commissioner's certificate, shall be assessed against the premises as a special tax and collected as are other special taxes. Filling, in all cases, shall be done with materials and in a manner approved by the Director of Public Works to insure that natural drainage is not unduly blocked or hampered.

- b. Building excavations. Building excavations shall be fenced unless construction commences immediately after the excavation is completed. If a building excavation constitutes a hazardous depression, it shall be subject to abatement by the Health Commissioner, as herein before set forth. Provided, that in any event, if construction on the building excavation is not commenced within six (6) months after breaking ground, the Building Inspector shall serve an order upon the owner of the premises and the holder of any encumbrance of record that the erection of a building begin forthwith or that the excavation be filled within (15) days to lot grade. In the event the owner or encumbrance holder neglects or refuses to abate such hazard or nuisance in accordance with the order, the Building Inspector shall, either through available public agency or by contract or arrangement with private persons, fill the excavation in a manner approved by the Director of Public Works as to drainage, and the cost thereof shall be charged against the real estate and shall be a lien on such real estate and be assessed and collected as a special tax.

SECTION 30: **REPEAL** “7.159 Appeal By Operator” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~7.159 Appeal By Operator~~ (*Repealed*)

~~Any establishment operator aggrieved by an order of the Department may make appeal to the Public Safety Committee of the Common Council within thirty (30) days after issuance of the order. A written request for appeal, briefly stating the basis upon which it is requested, shall be submitted to the Health Commissioner, who shall notify the Committee of the appeal and schedule a hearing at which the operator has the option of appearing. The Health Commissioner, or a representative, shall attend the hearing but shall have no vote. The findings of the Committee to reaffirm, set aside or modify the order shall be conveyed to the appellant by the Health Commissioner, in writing, within fifteen (15) working days of the hearing.~~

SECTION 31: **REPEAL** “7.16 Penalties” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~7.16 Penalties (Repealed)~~

~~Every person, firm or corporation convicted of a violation of any of the provisions of this chapter shall, for each offense, be punished by a forfeiture of not less than twenty-five dollars (\$25.) nor more than one thousand dollars (\$1,000.), together with the cost of prosecution; in default of payment of such forfeitures and costs, by imprisonment in the Milwaukee County House of Correction or Milwaukee County Jail until payment of such forfeitures and costs, but not in excess of the number of days set forth in sec. 800.095(1)(b)(1) of the Wisconsin Statutes, or by suspension of operating privileges, pursuant to sees. 343.30 and 345.47 of the Wisconsin Statutes. Each and every day during which a violation continues constitutes a separate offense. In addition, where appropriate, legal or equitable actions may be commenced to enjoin any person, firm, or corporation from violating any of the provisions of this chapter.~~

~~{Ord. 6114, 8/2/1994; Ord. 6171, 6/20/1995; Ord. No. O-2008-0054, 5/5/2009; Ord. O-2010-0017, 5/18/2010; Ord. O-2011-0005, 2/1/2011; O-2014-0006, 2/4/2014}~~

SECTION 32: **REPEAL** “7.18 Human Health Hazards” of the City Of West Allis Municipal Code is hereby *repealed* as follows:

REPEAL

~~7.18 Human Health Hazards (Repealed)~~

- ~~1. Adoption of State Statutes. Except as otherwise provided herein, the provisions of Wisconsin Statutes Sections 254.55 through 254.595, as amended, relating to the regulation of human health hazards are adopted by reference.~~
- ~~2. Definitions.~~
 - ~~a. "Groundwater" means all water found beneath the surface of the City of West Allis located in sand, gravel, lime, rock or sandstone, geological formations, or any combinations of these formations.~~
 - ~~b. "Human Health Hazard" means a substance, activity or condition that is known to have the potential to cause acute or chronic illness, infectious disease, or death if exposure to the substance, activity or condition is not abated.~~
 - ~~c. "Imminent Health Hazard" means a condition that exists or has the potential to exist which should, in the opinion of the Health Commissioner or designee, be abated or corrected immediately, or at least within a twenty-four-hour period, to prevent possible severe damage to human health and/or the environment.~~
 - ~~d. "Person" means any individual, firm, corporation, partnership, or other organization.~~
 - ~~e. "Pollution" means the contaminating or rendering unclean or impure the air,~~

- land, or waters of the City of West Allis, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal, or plant life.
- f. "Stagnant water" means any water that is not continuously in movement by natural or mechanical means that remains in its same location for more than three days.
 - g. "Wastewater" means water contaminated by waste materials, urine, feces, toilet paper, other human bodily fluids, water from washing or cleaning, or any other material intended to be deposited in a receptor of human waste, industrial waste, sludge, sewage or any combination thereof.
3. Prohibition. No person shall create, construct, cause, continue, maintain, or permit any human health hazard or imminent human health hazard within the City of West Allis.
 4. Responsibility. The property owner is responsible for maintaining the property in a hazard-free manner and for the abatement of any human health hazard or imminent human health hazard that has been determined to exist on the property.
 5. Human Health Hazards Enumerated. The following acts, omissions, places, conditions, and things are specifically declared to be human health hazards, but such enumeration shall not be construed to exclude other human health hazards:
 - a. Air Pollution. The escape of excessive smoke, soot, cinders, acids, fumes, gases, fly ash, industrial dust, or other atmosphere pollutants that endanger human health or create noncompliance with applicable state or federal regulations.
 - b. Waste. Accumulations of decayed animal or vegetable matter, trash, rubbish, garbage, or bird, animal, or human fecal matter that is not stored in a rodent, animal, and insect-proof container.
 - c. Holes and Openings. Any hole or opening caused by an improperly abandoned cistern, septic tank, or well; or any improperly abandoned, barricaded, or covered up excavation.
 - d. Unburied Carcasses. Carcasses of animals, birds, or fish not intended for human consumption or food, which are not buried or otherwise disposed of in a sanitary manner within 48 hours after death.
 - e. Breeding Places. Stagnant water, rotting lumber, bedding, packing material, scrap metal, or any material or substance in which flies, mosquitos, or disease-carrying insects, rats or other vermin can breed, live, nest or seek shelter.
 - f. Solid Waste. Any solid waste, as defined in Wisconsin Statutes Section 289.01(33), which is stored or disposed of in noncompliance with Chapter NR 500 of the Wisconsin Administrative Code.
 - g. Toxic and Hazardous Materials. Any chemical and/or biological material that is stored, used, or disposed of in such quantity or manner that is or has the potential to create a health hazard.
 - h. Groundwater Pollution. Addition of any chemical and/or biological substance that would cause groundwater to be unpalatable or unfit for human consumption. These substances include but are not limited to the chemical and/or biological substances listed in Chapter NR 809 of the Administrative Code titled "Safe Drinking Water."

- i. Private Water Supply. Any private well that is constructed, abandoned or used and/or any pump installed in non-compliance with Chapter NR 812 of the Wisconsin Administrative Code.
 - j. Noxious Odors. Any use of property, substance or device that emits or causes any foul, offensive, noxious, or disagreeable odor deemed repulsive to the physical senses of ordinary persons or to the public as a whole.
 - k. Wastewater. The presence of wastewater or sewage effluent from buildings on any exposed ground surface, caused by a damaged, malfunctioning, improperly constructed or inadequately maintained private sewage system or private sewage lateral; also any wastewater or sewage effluent that is not handled and disposed of in compliance with all applicable county and state codes.
 - l. Nonfunctioning and maintenance of building fixtures, including nonfunctioning water supply systems, toilets, urinals, lavatories or other fixtures considered necessary to ensure a sanitary condition in a public building; any public restroom which is soiled by human waste or other waste and maintained in a filthy and/or unclean manner.
 - m. Unhealthy or Unsanitary Condition. Any condition or situation which renders a structure or any part thereof unsanitary, unhealthy, and unfit for human habitation, occupancy, or use or renders any property unsanitary or unhealthy.
 - n. Surface Water Pollution. The pollution of any stream, lake or other body of surface water within the City of West Allis that creates noncompliance with Chapters NR 102 and NR 103 of the Wisconsin Administrative Code.
6. Inspection. The Health Commissioner or designee may inspect or cause to be inspected any property where a human health hazard or immediate human health hazard is suspected to exist.
7. Enforcement. If the Health Commissioner or designee finds a human health hazard, the hazard shall be ordered abated or removed within a reasonable time period. Notice of the abatement order shall be mailed to the property owner and occupant by certified mail, return receipt requested. Such notice shall be in writing and include a description of the real estate involved, a statement of violations, the corrective actions required, and the penalty for failure to comply with the order. Additionally, the Health Commissioner may post the abatement order on the affected property.
8. Designation of Unfit Building. If the Health Commissioner or designee discovers an unfit dwelling, dwelling unit, building, or section of a building, the Health Commissioner or designee shall designate it as a human health hazard and placard it with a sign, at each entrance or exit to it, stating that it may not be used for human habitation, occupancy, or use. The following conditions shall constitute grounds for declaring a dwelling, dwelling unit, building or section of a building unfit, but such enumeration shall not be construed to exclude other conditions:
- a. One which is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin infested that it creates a serious hazard to the health or safety of the occupants or of the public.
 - b. One which lacks sanitation facilities adequate to protect the health or safety of the occupants or of the public.

- c. One which, because of its general condition or location, is unsanitary or otherwise dangerous to the health or safety of the occupants or of the public.
- d. One which has been implicated as the source of a confirmed case of asbestosis.
- e. One which has been confirmed to be a lead hazard, as defined in Wisconsin Statutes Section 254.11(8g); is the residence of an individual with a confirmed case of lead poisoning, as defined in Wisconsin Statutes Section 254.11(9); and is unlikely to have the lead hazard be adequately and safely temporarily contained, in the opinion of the inspector, until lead hazard abatement occurs.
- f. One which lacks potable water or a properly functioning septic system or well or an adequate and functioning heating system.

9. Occupation of Unfit Building.

- a. No person shall continue to occupy, rent, or lease a dwelling, dwelling unit, building, or section of a building for human habitation or occupancy which are declared unfit for human habitation or occupancy by the Health Commissioner or designee.
- b. Any dwelling, dwelling unit, building, or section of a building condemned as unfit for human habitation or occupancy, and so designated and marked by the Health Commissioner or designee, shall be vacated within a reasonable time, as specified by the Health Commissioner or designee.
- c. No dwelling, dwelling unit, building, or section of a building which has been condemned and marked as unfit for human habitation or occupancy shall again be used for human habitation until written approval is secured from and such placard is removed by the Health Commissioner or designee. The Health Commissioner or designee shall remove such placard whenever the defect or defects upon which the condemnation and placarding were based have been eliminated.
- d. No person shall deface or remove the Health Commissioner's placard from any dwelling, dwelling unit, building, or section of a building which has been condemned as unfit for human habitation or occupancy.
- e. No person shall enter or remain in a dwelling, dwelling unit, building, or section of a building that has been condemned and placarded as unfit for human habitation without the written permission of the Health Commissioner or designee. Any person granted permission shall comply with the permission conditions.

10. Abatement. If the owner or occupant fails to comply in the time specified in the order, the Health Commissioner or designee or a person working on the City's behalf may enter the property to abate or remove the human health hazard pursuant to the procedures of this section or any applicable state statutes. The City shall recover the expenses incurred thereby from the owner or occupant of the premises or from the person who has caused or permitted the nuisance by billing the owner, occupant, and/or person who has caused or permitted the nuisance and placing the expenses on the property tax roll if said expenses are not paid within thirty (30) days, pursuant to Wisconsin Statutes Section 66.0627.

11. Appeal of Order.

- a. For the purposes of this section, pursuant to Wisconsin Statutes Section 68.16, the City of West Allis is specifically electing not to be governed by Chapter 68 of the Wisconsin Statutes.
- b. The owner or occupant of the property determined to be or containing a human health hazard may request a hearing before the Board of Health within seven (7) days of receiving the mailed abatement order. Any request shall be written, shall be filed at the West Allis Health Department, shall explain why the property is not or does not contain a human health hazard, and shall include any evidence that the property owner or occupant wishes to submit in support of the request. Upon receipt of the hearing request, the matter shall be placed on the agenda for the Board of Health to review within thirty (30) days. The appellant shall receive notice of the date, time, and place of the Board of Health meeting by first-class mail at least ten (10) days prior to the date of the meeting. The notice shall also include a notification to the appellant of an opportunity to be heard, respond to, and challenge the abatement order; present and cross-examine witnesses under oath; and be represented by counsel of the appellant's choice and at the appellant's expense.
- c. If the appellant fails to appear at the Board of Health meeting, or if the appellant appears at the Board of Health meeting but no longer wishes to pursue the appeal, the appeal shall be dismissed, and the Health Commissioner or designee may enforce the abatement order. If the appellant appears at the Board of Health meeting and wishes to contest the abatement order, an evidentiary hearing shall be scheduled.
- d. If the matter proceeds to hearing before the Board, the following procedures shall apply:
 - i. The Health Commissioner or designee shall first present evidence in support of the abatement order.
 - ii. After the Health Commissioner or designee rests, the appellant may present evidence in opposition of the abatement order.
 - iii. The Health Commissioner or designee and appellant may subpoena and present witnesses. All witnesses shall testify under oath or affirmation and shall be subject to cross-examination.
 - iv. The Health Commissioner or designee and appellant shall each be limited to one (1) hour for testimony unless the Chair, subject to approval of the Board, extends the time to assure a full and fair presentation.
 - v. Questions by Board members or the advising City Attorney and answers to such questions shall not be counted against the time limitations.
 - vi. At the close of testimony, the Health Commissioner or designee and appellant shall be given a reasonable time to make arguments upon the evidence produced at hearing.
- e. At all stages of the proceedings, the following procedures shall apply:

- i. The appellant shall be entitled to appear in person or by an attorney of his/her own expense.
- ii. The Health Commissioner or designee may be represented by a prosecuting City Attorney.
- iii. The Board 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 Board of Health 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 Board 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.
- f. At the close of the hearing, the Board shall deliberate and reach a decision whether to uphold the determination that the property is a human health hazard. The appellant shall be notified in writing of the Board's determination. If the Board upholds the determination that the property is a human health hazard, the property owner or occupant shall comply with the abatement order. If the appellant further contests the determination, the appellant may seek review of the decision with the circuit court within thirty (30) days of the mailing date of the written determination.
- g. If a property owner or occupant does not file a timely written request for a hearing with the Board of Health, the owner or occupant waives the right to assert that the property did not meet the criteria for abatement under this section.

12. Imminent Human Health Hazard Procedure.

- a. If the Health Commissioner or designee determines that an imminent human health hazard exists within the City and that great and immediate danger exists to the public health and safety, the Commissioner or designee may, without notice or hearing, issue an order reciting the existence of an imminent human health hazard constituting imminent danger to the public and requiring immediate action be taken, as s/he deems necessary, to abate the hazard. Notwithstanding any other provisions of this subsection, the order shall be effective immediately. Any person to whom such order is directed shall comply with the order immediately. Such order shall be posted on the property and mailed, by registered mail with return receipt requested, to the owner and/or occupant. In lieu of mailing, the owner and/or occupant may be personally served with the order.
- b. Whenever the owner and/or occupant shall refuse or neglect to remove or

abate the condition meeting the criteria set forth in Subsection (12)(a), above, and described in the order, the Commissioner or designee shall, in his/her discretion, or a person working on the City's behalf shall enter upon the premises and cause the nuisance to be removed or abated. The City shall recover the expenses incurred thereby from the owner or occupant of the premises or from the person who has caused or permitted the nuisance by billing the owner, occupant or person who has caused or permitted the nuisance and placing the expenses on the property tax roll if said expenses are not paid within thirty (30) days, pursuant to Wisconsin Statutes Section 66.0627.

13. Additional Enforcement. In addition to the penalties listed within this section, the City Attorney or designee or the Health Commissioner or designee may pursue a nuisance enforcement action against a person creating, maintaining, or permitting an imminent human health hazard or human health hazard under Chapter **18** of this Code or Wisconsin Statutes Chapter 821; a human health hazard action under Wisconsin Statutes Section 254.595; or any other legal or equitable action allowed by law.
14. Right of Health Commissioner or Designee to Inspect and Suspend Work. To ensure that abatement or correction is being properly remedied and performed in a safe manner or for any other reason, the Health Commissioner or designee may inspect the property at reasonable times and order work or abatement procedures be suspended, if necessary, to investigate or review the condition or abatement progress.
15. Severability. If any part of this section is found to be unconstitutional or otherwise invalid, the validity of the remaining parts shall not be affected.

~~{Ord. O-2017-0038, 9/19/2017}~~

SECTION 33: **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

_____.

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

Attest

Presiding Officer

Tracey Uttke, City Clerk, City Of
West Allis

Dan Devine, Mayor, City Of West
Allis