

**CITY OF WEST ALLIS
ORDINANCE O-2020-0042**

ORDINANCE TO AUTHORIZE TOWING AND IMPOUNDMENT OF VEHICLES OWNED BY HABITUAL PARKING VIOLATORS

AMENDING SECTIONS 6.015 AND 10.108, AND CREATING SECTION 10.102

WHEREAS, Wis. Stat. 349.139 authorizes cities to enact an ordinance that provides for the immobilization or removal, impoundment, and disposal of vehicles owned by habitual parking violators; and

WHEREAS, it is necessary to focus limited resources by concentrating on repeat offenders when enforcing parking regulations; and

WHEREAS, the City of West Allis Common Council finds that the towing and impoundment of habitual parking violators is necessary to create an incentive for frequent parking regulation violators to comply with parking regulations;

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

SECTION 1: **AMENDMENT** "6.015 Control Of Abandoned Motor Vehicles" of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

6.015 Control Of Abandoned Motor Vehicles

1. Definitions as used in this section:

- a. "Vehicle" shall mean any device, as defined in sec. 340.01(74) of the Wisconsin Statutes, and includes any motor vehicle, trailer, semi-trailer, mobile home or snowmobile.
- b. "Abandoned vehicle" shall mean and include any vehicle that has been allowed to remain standing in the City on any alley, street, highway, public place or private property without the owner's permission, for more than ~~twenty-four (24)~~⁴⁸ hours; or any partially dismantled, damaged, inoperable, unlicensed, unregistered, wrecked or junked vehicle which is stored outside a building on private property; or any vehicle, with a condition that renders it favorable to the harborage of rodents or insects and is stored outside a building on private property; or any vehicle that is in such condition or parked in such a way to render such vehicle a health and safety hazard; ~~or any vehicle standing on any alley, street, highway, or public place in the City whose registered owner has been issued more than ten (10) City of West Allis parking citations which remain outstanding for that vehicle;~~ or any vehicle which is parked or stored on private property on unpaved surfaces which are not determined to be nonconforming uses under the Zoning Code. A vehicle shall not be considered an abandoned vehicle when it is out of ordinary public view. [Ord. O-2007-0032, 9/4/2007]
- c. "Inoperable" shall mean and include any vehicle that is incapable of being propelled under its own power including, but not limited to, a vehicle meeting any of the following criteria:
 - i. Is missing an engine.
 - ii. Is missing a battery.
 - iii. Is missing a transmission.
 - iv. Is missing a wheel.
 - v. Is elevated on blocks or other objects.
 - vi. Is missing a tire or has a deflated tire.
- d. "Partially dismantled" shall mean, but is not limited to, a vehicle meeting any of the following criteria:
 - i. Is missing a door, fender, or hood.
 - ii. Is missing a windshield or window or has a broken windshield or window.
- e. "Junked" shall mean any inoperable vehicle that has no resale value except as a source of parts or scrap.
- f. "Damaged" shall mean any vehicle that is impaired in a manner that would adversely affect its operation.

2. Public Nuisance. Any vehicle allowed to be parked or remain standing in violation of this section is hereby declared to be a public nuisance and may be abated as hereinafter provided.

3. Prohibition. No person owning or having custody of any abandoned vehicle as defined in Subsection (1)(b) shall allow such vehicle to remain on any public or private property within the City.

4. Exemptions. This section shall not apply to any vehicle in an enclosed building; a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise; a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City or, a vehicle out of the ordinary public view.

5. Removal, Impounding and Junking.

- a. The Chief of Police or any member of his or her Department designated by him or her is hereby authorized to remove or have removed any vehicle left on any highway or public property within the City which reasonably appears to be in violation of Subsection (2) above, or to be lost, stolen or unclaimed. Such vehicles shall be impounded, as hereinafter

provided, until lawfully claimed or disposed of in accordance with sec. 342.40 of the Wisconsin Statutes.

- b. Any vehicle parked on highways in violation of this section which poses a hazard to other vehicles or pedestrians may be towed, pursuant to sec. 349.13(3) of the Wisconsin Statutes.
- c. Any vehicle parked on a highway or other public property in violation of this section that does not fall under Subsection (5)(b) shall have placed upon it a placard or other similar emblem that warns the vehicle owner that the vehicle will be towed ~~if not removed~~ within seventy-two (72) hours ~~if not removed~~. Said placard shall be at least five (5) inches by seven (7) inches, bright orange in color and contain a warning that the vehicle will be towed. An officer or building inspector shall also send a letter to the registered owner's last known address informing the owner that the vehicle is in violation, has been placarded and must be removed by a date and time certain that coincides with the date and time on the placard or the vehicle will be towed at the owner's expense.
- d. For vehicles parked on private property in violation of this section, an officer or building inspector shall mail or cause to be mailed, by first class mail, a notice of condemnation to the owner of the property on which the vehicle is located and, if the vehicle is owned by someone other than the property owner, or if the vehicle's last registered owner has been issued more than ten (10) City of West Allis parking citations which remain outstanding for that vehicle and said vehicle is left standing on any alley, street, highway, or public place, to the last registered owner of the vehicle at his or her last known address. The notice shall include a description of the vehicle(s) and premise(s), an explanation for the issuance, a statement concerning the time period by which the vehicle(s) must be removed or its condition(s) corrected, a statement of the consequences if the City removes the vehicle(s), an explanation of the right to petition the Municipal Court for a hearing within seven (7) days, and a statement that any vehicle owner or property owner who does not file a petition for a hearing waives the right to assert that the vehicle did not meet the criteria for a vehicle that is subject to removal under this section and informing the property and or registered owner that the vehicle must be brought into compliance within seven (7) days. Additionally, the officer or building inspector shall place a placard on the vehicle(s) that bears the word "Condemned" and post a copy of the placard in a conspicuous place on the vehicle at any time after the officer or building inspector declares the vehicle(s) a nuisance. **[Ord. O-2007-0032, 9/4/2007]**
 - i. A property owner or motor vehicle owner may request a hearing before the Municipal Court within seven (7) days of receiving the mailed condemnation notice. Any request shall be written and shall explain why the vehicle should not be removed from the premises.
 - ii. Upon receipt of the hearing request, the Municipal Court shall halt the condemnation of the vehicle owner, pending the decision of the Municipal Court.
 - iii. If the Municipal Court upholds the condemnation of the vehicle, the property owner or vehicle owner may appeal the decision within twenty (20) days to the circuit court.
 - iv. If a property owner or vehicle owner does not file a timely written request for a hearing with the Municipal Court, he or she waives the right to assert that the vehicle did not meet the criteria for a vehicle that is subject to removal under this section.

Within seven (7) days of the date the vehicle was placarded, if the owner has not filed a petition, removed the vehicle or corrected its condition, an officer or building inspector may have the vehicle removed and impounded or destroyed. If the violation is not timely corrected, the officer or building inspector may issue a citation to the vehicle owner, the property owner, or property occupant alleging a violation of this section from the date the vehicle was to have been brought into compliance after notice.

6. Disposal of Unclaimed or Abandoned Vehicles.
 - a. Any vehicle impounded under this section shall be disposed of in accordance with the provisions of sec. 342.40 of the Wisconsin Statutes.
 - b. If the Chief of Police determines that the cost and towing charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked or sold to a licensed salvage dealer prior to expiration of the impoundment period, upon determination that the vehicle is not stolen or otherwise wanted for evidence or other reason.
7. Costs. The owner of any abandoned, partially dismantled, damaged, inoperable, wrecked, junked or discarded motor vehicle and, in the case of any such vehicle parked on private property in violation of this section, the owner or occupant of the property is responsible for all costs of impounding and disposing of the vehicle. Such costs shall be in addition to the forfeiture provided for violation of this section and may be charged against the property owner and assessed as other special taxes are upon notification by the municipal court to the City treasurer.
8. Penalties. Any person violating this section shall forfeit not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500), together with the costs of prosecution and, in default of payment thereof, shall be imprisoned in the County Jail or House of Correction of Milwaukee County until such forfeitures and costs are paid, such imprisonment shall not exceed the number of days set forth in sec. 800.095(4) of the Wisconsin Statutes. Each day a violation of this section continues shall constitute a separate offense.

[Ord. 6302, 4/1/1977; Ord. 6310, 5/6/1977; Ord. 6346, 11/17/1997; Ord. 6585, 9/18/2001; Ord. O-2005-0007, 1/18/2005]

SECTION 2: **ADOPTION** "10.102 Habitual Parking Violators" of the City Of West Allis Municipal Code is hereby added as follows:

ADOPTION

10.102 Habitual Parking Violators(*Added*)

1. Pursuant to Wis. Stat. 349.139, the removal, impoundment, and disposal of motor vehicles owned by habitual parking violators is authorized.
2. The City may remove and impound any motor vehicle if all of the following applies:
 - a. The City has cited the owner of the motor vehicle for 5 or more nonmoving traffic violations that occurred more than 60 days previously and for which the owner has neither paid the forfeiture for each of these violations nor scheduled an appearance in court in response to each of these citations.
 - b. The City has mailed to the last-known address of the vehicle owner at least one notice that specifies:
 - i. For each citation counted:
 - (1) The date on which the citation was issued
 - (2) The license number or vehicle identification number of the vehicle involved
 - (3) The place where the citation may be paid
 - (4) The amount of the forfeiture
 - (5) The means by which the citation may be contested.
 - ii. That any motor vehicle owned by him or her may be removed and impounded if, within 60 days after the owner has received 5 or more citations and at the time the vehicle is removed and impounded, the owner has neither paid the forfeiture for each violation that occurred more than 60 days previously nor scheduled an appearance in court in response to each citation issued more than 60 days previously for which the forfeiture has not been paid.
3. Any parking enforcer who discovers any motor vehicle to which this section applies that is legally or illegally parked on any portion of the street, highway, or publicly owned or leased parking facility may cause the motor vehicle to be removed to a suitable place of impoundment. Upon removal of the motor vehicle, the parking enforcer shall follow the notification procedure specified in Wis. Stat. 341.65(2)(b).
4. The City may contract with a 3rd party for the performance of services related to removal of motor vehicles. The services shall be rendered only at the request of a parking enforcer.
5. The towing or storage charges associated with the removal or impoundment of a vehicle, and any charges associated with disposal of a vehicle shall be set forth in the Fee Schedule.
6. The City may dispose of any vehicles impounded under this section pursuant to state law.

SECTION 3: **AMENDMENT** “10.108 Trespass Parking” of the City Of West Allis Municipal Code is hereby *amended* as follows:

AMENDMENT

10.108 Trespass Parking

1. Prohibited. ~~No person shall park any motor vehicle or permit any motor vehicle to be parked upon private property of another without the express permission of such other~~ No person may leave or park any motor vehicle on private property without the consent of the owner or lessee of the property.
2. ~~Commercial Property During Regular Business Hours. When applied to property used in whole or in part for business or commercial purposes during the regular hours of operation of the business, "express permission" is deemed to be extended to all bona fide customers and business visitors and shall be denied to all others, provided that the parking area is posted to give reasonable notice of the restricted parking~~ (reserved).
3. ~~Other Property. When applied to noncommercial property and to commercial property not included in Subsection (2), "express permission" is deemed to mean only the explicit and direct consent of the owner or person in control of such property~~ (reserved).
4. ~~Withdrawal of Permission. Permission to park on any property which has been extended by operation of this section may be withdrawn by the owner or person in control of the property at any time by personal notice to a particular customer or business visitor~~ (reserved).
5. Owners or lessees of public or private property may permit parking by certain persons and limit, restrict or prohibit parking as to other persons if the owner or lessee posts a sign on the property indicating for whom parking is permitted, limited, restricted or prohibited. No person may leave or park any motor vehicle on public or private property contrary to a sign posted thereon.

SECTION 4: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 5: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 6: **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. Angelito Tenorio	_____	_____	_____	_____
Ald. Vince Vitale	_____	_____	_____	_____
Ald. Tracy Stefanski	_____	_____	_____	_____
Ald. Marty Weigel	_____	_____	_____	_____
Ald. Suzzette Grisham	_____	_____	_____	_____
Ald. Danna Kuehn	_____	_____	_____	_____
Ald. Thomas Lajsic	_____	_____	_____	_____
Ald. Dan Roadt	_____	_____	_____	_____
Ald. Rosalie Reinke	_____	_____	_____	_____
Ald. Kevin Haass	_____	_____	_____	_____

Attest

Presiding Officer

Rebecca Grill, City Clerk, City Of West Allis

Dan Devine, Mayor City Of West Allis