

June 1, 2010

License & Health Committee recommended passage as amended, 4-1, Aids. Barczak, Roadt, Sengstock and Weigel voted Aye, Ald. Czaplewski voted No. (Mover – Sengstock, Seconder – Barczak)

Common Council pass as amended, 7-3, Aids. Barczak, Kopplin, Reinke, Roadt, Sengstock, Vitale and Weigel voted Aye, Aids. Czaplewski, Lajsic and Narlock voted no. (Mover – Czaplewski, Seconder – Barczak)

June 15, 2010

Common Council reconsider and refer back to License & Health Committee, 10-0. (Mover – Weigel, Seconder – Narlock)

License & Health Committee amended (strike 3b), 5-0. (Mover – Sengstock, Seconder – Barczak)

License & Health Committee recommended passage as amended, 4-1, Aids. Barczak, Roadt, Sengstock and Weigel voted Aye, Ald. Czaplewski voted No. (Mover – Sengstock, Seconder – Weigel)

Common Council pass as amended, 7-3, Aids. Barczak, Kopplin, Reinke, Roadt, Sengstock, ^{Lajsic} Vitale and Weigel voted Aye, Aids. Czaplewski, Narlock and Vitale voted no. (Mover – Czaplewski, Seconder – Barczak)

31.
73.
K-1b.

Council: 6-15-10 Reconsider + Refer
back to License + Health Committee



City of West Allis Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

LH:
6-15-10
Amended
S, B 5-0
Recommended for passage as amended
S, W 4-0-1 (Czaplewski-no)

File Number	Title	Status
O-2010-0016	Ordinance	Introduced
An Ordinance to Repeal and Recreate Section 7.032 of the West Allis Revised Municipal Code Relating to Prohibiting Smoking in Certain Areas.		
Introduced: 5/18/2010		Controlling Body: License & Health Committee
		Sponsor(s): License & Health Committee

COMMITTEE RECOMMENDATION

APPROVE As Amended

ACTION DATE:	MOVER	SECONDER	
6-1-10		<input checked="" type="checkbox"/>	Barczak
			Czaplewski
			Kopplin
			Lajsic
			Narlock
			Reinke
	<input checked="" type="checkbox"/>		Roadt
			Sengstock
			Vitale
			Weigel
			TOTAL

AYE	NO	PRESENT	EXCUSED
	<input checked="" type="checkbox"/>		
4	1		

SIGNATURE OF COMMITTEE MEMBER

Chair Vice-Chair Member

COMMON COUNCIL ACTION

pass as amended

ACTION DATE:	MOVER	SECONDER	
6-1-10	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Barczak
			Czaplewski
			Kopplin
			Lajsic
			Narlock
			Reinke
			Roadt
			Sengstock
			Vitale
			Weigel
			TOTAL

AYE	NO	PRESENT	EXCUSED
<input checked="" type="checkbox"/>			
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
<input checked="" type="checkbox"/>			
<input checked="" type="checkbox"/>			
<input checked="" type="checkbox"/>			
<input checked="" type="checkbox"/>			
<input checked="" type="checkbox"/>			
7	3		

CC:

6-15-10 pass as amended C, B 7-3 (Hld. Czaplewski, Narlock + Vitale-no)



City of West Allis

7525 W. Greenfield Ave.
West Allis, WI 53214

Ordinance

File Number: O-2010-0016

Final Action: 6/15/2010

Sponsor(s): License & Health Committee

An Ordinance to Repeal and Recreate Section 7.032 of the West Allis Revised Municipal Code Relating to Prohibiting Smoking in Certain Areas.

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

PART I. Section 7.032 of the Revised Municipal Code of the City of West Allis is hereby repealed and recreated to read:

7.032 SMOKING PROHIBITED IN CERTAIN AREAS.

(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.

(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 subsection:

(a) "City Buildings" means all City-owned or operated buildings and those portions of buildings leased or operated by the City.

(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 Farmer's 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.

(5) Exceptions. The prohibition against smoking shall not apply to those places or areas set forth in subsection 101.123(3) of the Wisconsin Statutes.

(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 subsections (4) or (7) shall forfeit not less than \$100 or more than \$250 for each violation.

(b) Any person in charge who violates subsection 101.123(2m) of the Wisconsin Statutes shall forfeit \$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.

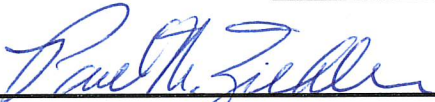
(10) Enforcement. Prior to issuing a citation to a person in charge for a violation of this ordinance, the Police Department shall first issue a written warning notice. Once a person in charge has been issued a warning, she/he may be issued citations for violations of this ordinance but not to exceed \$100 in total for all violations of section 101.123(2m) of the Wisconsin Statutes occurring on a single day.

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

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

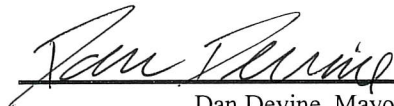
L:\CLERK\ORD\O-2010-0016 FINAL amended .doc

PASSED AS AMENDED 06/15/2010



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

APPROVED AS AMENDED 6/21/10



Dan Devine, Mayor



City of West Allis

7525 W. Greenfield Ave.
West Allis, WI 53214

Ordinance

File Number: O-2010-0016

Final Action: 6/1/2010

Sponsor(s): License & Health Committee

An Ordinance to Repeal and Recreate Section 7.032 of the West Allis Revised Municipal Code Relating to Prohibiting Smoking in Certain Areas.

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

PART I. Section 7.032 of the Revised Municipal Code of the City of West Allis is hereby repealed and recreated to read:

7.032 SMOKING PROHIBITED IN CERTAIN AREAS.

(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.

(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 subsection:

(a) "City Buildings" means all City-owned or operated buildings and those portions of buildings leased or operated by the City.

(b) "Enclosed Indoor Area" means all space between a floor and a ceiling that is bounded by walls, doors, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent. A 0.011 gauge screen with an 18 by 16 mesh count is not a wall.

(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 Farmer's 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.

(5) Exceptions. The prohibition against smoking shall not apply to those places or areas set forth in subsection 101.123(3) of the Wisconsin Statutes.

(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 subsections (4) or (7) shall forfeit not less than \$100 or more than \$250 for each violation.

(b) Any person in charge who violates subsection 101.123(2m) of the Wisconsin Statutes shall forfeit \$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 \$100 in total for all violations of section 101.123(2m) of the Wisconsin Statutes occurring on a single day.

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

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

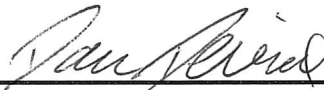
ATTO-Repeal&Recreate Sec 7.032 Prohibiting Smoking in Certain Areas-Vers 1

PASSED AS AMENDED 06/01/2010



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

APPROVED AS AMENDED 6/4/10



Dan Devine, Mayor



City of West Allis

7525 W. Greenfield Ave.
West Allis, WI 53214

Ordinance

File Number: O-2010-0016

Final Action:

Sponsor(s): License & Health Committee

An Ordinance to Repeal and Recreate Section 7.032 of the West Allis Revised Municipal Code Relating to Prohibiting Smoking in Certain Areas.

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

PART I. Section 7.032 of the Revised Municipal Code of the City of West Allis is hereby repealed and recreated to read:

7.032 SMOKING PROHIBITED IN CERTAIN AREAS.

(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.

(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 subsection:

(a) "City Buildings" means all City-owned or operated buildings and those portions of buildings leased or operated by the City.

(b) "Enclosed Indoor Area" means all space between a floor and a ceiling that is bounded by walls, doors, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent. A 0.011 gauge screen with an 18 by 16 mesh count is not a wall.

(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 Farmer's 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.

(c) Any Enclosed Indoor Area in any place prohibited by subsection 101.123(2) of the Wisconsin statutes.

(5) Exceptions. The prohibition against smoking shall not apply to those places or areas set forth in subsection 101.123(3) of the Wisconsin Statutes.

(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 subsections (4) or (7) shall forfeit not less than \$100 or more than \$250 for each violation.

(b) Any person in charge who violates subsection 101.123(2m) of the Wisconsin Statutes shall forfeit \$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 \$100 in total for all violations of section 101.123(2m) of the Wisconsin Statutes occurring on a single day.

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

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

ATTO-Repeal&Recreate Sec 7.032 Prohibiting Smoking in Certain Areas-Vers 1

PASSED _____

APPROVED _____

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

Dan Devine, Mayor

**NOTICE OF NEWLY
ENACTED ORDINANCE**

Please take notice that the City of West Allis enacted Ordinance No. O-2010-0016, An Ordinance to Repeal and Recreate Section 7.032 of the West Allis Revised Municipal Code Relating to Prohibiting Smoking in Certain Areas, on June 4, 2010. The ordinance adopts provisions of Wisconsin Statute 101.123 and further prohibits smoking in city buildings, the Farmers Market grounds, enclosed indoor areas in any place as prohibited in Wisconsin Statute 101.123(2), city parks when being used by the West Allis-West Milwaukee School District for school-related events, and extended premises under 9.02(5) of the Revised Municipal Code or any outdoor dining area of a food establishment as defined in subsection 7.04(1)(c) of the Revised Municipal Code. Further, the ordinance allows for the designation of outside areas for smoking and creates penalties for persons who violate the ordinance's provisions. The full text of Ordinance No. O-2010-0016 may be obtained at the City Clerk/Treasurer's Office, 7525 W. Greenfield Ave., West Allis, WI 53214 and through the Legislative Information Center on the City's Website at <http://www.ci.west-allis.wi.us>. Clerk/Treasurer's telephone: (414) 302-8200.

Paul M. Ziehler,
City Administrative Officer,
Clerk/Treasurer

Published: 6/17/10

**NOTICE OF
NEWLY ENACTED ORDINANCE**

Please take notice that the City of West Allis enacted Ordinance No. O-2010-0016, An Ordinance to Repeal and Recreate Section 7.032 of the West Allis Revised Municipal Code Relating to Prohibiting Smoking in Certain Areas, on June 21, 2010. The ordinance adopts provisions of Wisconsin Statute 101.123 and further prohibits smoking in city buildings, the Farmers Market grounds, enclosed indoor areas in any place as prohibited in Wisconsin Statute 101.123(2), and city parks when being used by the West Allis-West Milwaukee School District for school-related events. Further, the ordinance allows for the designation of outside areas for smoking and creates penalties for persons who violate the ordinance's provisions. The full text of Ordinance No. O-2010-0016 may be obtained at the City Clerk/Treasurer's Office, 7525 W. Greenfield Ave., West Allis, WI 53214 and through the Legislative Information Center on the City's Website at <http://www.ci.west-allis.wi.us>. Clerk/Treasurer's telephone: (414) 302-8200.

Paul M. Ziehler,
City Administrative Officer,
Clerk/Treasurer

Published: 7/1/10