



# City of West Allis

## Legislation Details (With Text)

**File #:** O-2005-0008 **Version:** 2

**Type:** Ordinance **Status:** Passed

**File created:** 1/18/2005 **In control:** Safety and Development Committee (INACTIVE)

**On agenda:** **Final action:** 2/1/2005

**Title:** An Ordinance to Create Section 18.002, Repeal and Recreate Section 18.03(2), Amend Section 18.04 (1), Create Section 18.04(6), and Amend Section 18.05 of the West Allis Revised Municipal Code Relating to the Designation of and Recovery of Costs for a Chronic Nuisance Premises

**Sponsors:** Michael J. Czaplewski

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
2/1/2005	1	Safety and Development Committee (INACTIVE)		
2/1/2005	2	Common Council	Passed as Amended	Pass
2/1/2005	2	Safety and Development Committee (INACTIVE)		Pass
1/18/2005	1	Common Council		
1/18/2005	1	Common Council	Held	Pass
1/18/2005	1	Safety and Development Committee (INACTIVE)		Pass

An Ordinance to Create Section 18.002, Repeal and Recreate Section 18.03(2), Amend Section 18.04(1), Create Section 18.04(6), and Amend Section 18.05 of the West Allis Revised Municipal Code Relating to the Designation of and Recovery of Costs for a Chronic Nuisance Premises

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

PART I. 18.002 of the West Allis Revised Municipal Code is hereby created to read:

### 18.002 LEGISLATIVE DECLARATION.

The Common Council finds that any premises that has generated three (3) or more calls for service for nuisance activities within a 60-day period has received more than the level of general and adequate service and has placed an undue and inappropriate burden on the taxpayers of the City. The Common Council therefore directs the Police Chief, Fire Chief, Health Commissioner, Forester, Weed Commissioner, Building Inspector, the Director of Public Works, and the City Attorney or their designees, as provided in this section, to charge the owners of such premises the costs associated with abating the violations at the premises at which nuisance activities chronically occur.

PART II. 18.03(2) of the Revised Municipal Code of the City of West Allis is hereby repealed and recreated to read:

18.03(2) Nuisances Affecting Morals and Decency.

(a) For the purposes of this section: "Nuisance activity" means any of the following activities, behaviors or conduct whenever engaged in by premises owners, operators, occupants or persons associated with the premises:

(1) Disorderly Houses. All disorderly houses, gambling houses, and building or structures kept or resorted to for the purpose of gambling, or any drug or criminal gang houses as defined in

§ 823.113, (1) and (1)(b) Wis. Stats., and all buildings or structures where the sale, manufacture, or delivery of drug paraphernalia as defined in § 961.571(1)(a), Wis. Stats. occurs.

(2) Gambling Devices. The keeping of gambling devices as defined in § 9.08(1)(e) of the Revised Municipal Code.

(3) Unlicensed Sale of Liquor and Beer. All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured, or rectified without a permit or license as provided by the ordinances of the City.

(4) Continuous Violation of City Ordinances. Any place or premises within the City where City ordinances or State laws relating to public health, safety, peace, morals, or welfare are repeatedly violated.

(5) Illegal Drinking. Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of State laws.

(6) Establishment Violating Laws Related to Obscenity, Etc. Any place or premises within the City where the laws related to obscenity and related offenses set forth in § 944.20 to 944.34 of the Wisconsin Statutes occur.

(7) An act of harassment as defined in § 947.013, Wis. Stats.

(8) Disorderly conduct as defined in § 947.01, Wis. Stats.

(9) Battery, substantial battery or aggravated battery as defined in § 940.19, Wis. Stats.

(10) Littering of premises as defined in § 7.05 of the West Allis Revised Municipal Code.

(11) Theft as defined in § 943.20, Wis. Stats.

(12) Arson as defined in § 943.02, Wis. Stats.

(13) Possession, manufacture or delivery of a controlled substance or related offenses as defined in Chapter 961 Wis. Stats.

(14) Gambling as defined in § 945.02, Wis. Stats.

(15) Keeping a prohibited ordinance does not mention "dangerous" animal as defined in § 7.12(1) of the

West Allis Revised Municipal Code.

(16) Trespass to land as defined in § 943.13, Wis. Stats. or criminal trespass to dwelling as defined in § 943.14, Wis. Stats.

(17) Any conspiracy to commit, as defined in § 6.02(5) of the West Allis Revised Municipal Code or § 939.31, Wis. Stats., or attempt to commit, as defined in § 939.32, Wis. Stats., any of the activities, behaviors or conduct enumerated in subsections (1) to (16).

(18) Discharge of a firearm or air rifle as defined in § 6.01(1) and (2) of the West Allis Revised Municipal Code.

(19) Loitering as defined in § 6.02(9) of the West Allis Revised Municipal Code.

(20) Persons associated "with" means any person who, whenever engaged in nuisance activity, enters, patronizes, visits or attempts to enter, patronize or visit, or wishes to enter, patronize or visit, a premises or person present on the premises, including any officer, director, customer, agent, employee, or independent contractor of a premises owner.

Part III. 18.04(1) of the Revised Municipal Code of the City of West Allis is hereby amended to read:

#### 18.04 ABATEMENT OF PUBLIC NUISANCES.

(1) Enforcement. The Police Chief, Fire Chief, Health Commissioner, Forester, Weed Commissioner, Building Inspector, the Director of Public Works, and the City Attorney or their designees shall enforce those provisions of this chapter that come within the jurisdiction of their offices; and they shall make periodic inspections and the inspections upon complaint to insure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the official has inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself or herself that a nuisance does in fact exist.

(a) Whenever the Police Chief, Fire Chief, Health Commissioner, Forester, Weed Commissioner, Building Inspector, the Director of Public Works, and the City Attorney or their designees identifies that three (3) or more nuisance activities have occurred at a premises on separate days during a 60-day period, that individual may notify the premises owner in writing that the premises has become a chronic public nuisance. This notice shall be deemed properly delivered if sent by either first class mail to the premises owner's last known address or if delivered in person to the premises owner. If the premises owner cannot be located, the notice shall be deemed to be properly delivered if a copy is left at the premises owner's usual place of abode in the presence of some competent member of the family at least fourteen (14) years of age or a competent adult currently residing there.

(b) The notice shall contain: the legal description or street address of the premises; a description of the nuisance activities that have occurred at the premises; a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises; a statement that the premises owner shall within ten (10) days respond to the appropriate office with either an appeal of the designation or to propose a written course of action to abate the nuisance activities.

(c) Whenever the Police Chief, Fire Chief, Health Commissioner, Forester, Weed Commissioner, Building Inspector, the Director of Public Works, and the City Attorney or their designees determines that an additional

nuisance activity has occurred at a premises for which notice has been issued, and either this nuisance activity has occurred not less than thirteen (13) days after notice has been issued or a course of action submitted pursuant to this section has not been completed, the appropriate office may calculate the cost of enforcement for this and any subsequent nuisance activities and may refer such cost to the Clerk/Treasurer. The premises owner shall be notified of the decision to refer the cost of enforcement. Delivery of this notice, along with a copy of the referral letter to the Clerk /Treasurer shall be made as set forth in paragraph (a) of this section and shall contain: the street address or legal description sufficient for identification of the premises; a statement that the cost of enforcement has been referred to the Clerk/Treasurer with a concise description of the nuisance activities and the relevant sections of the code; and a notice of the premises owner's right to appeal pursuant to § 18.04(6).

(d) Violation. Each subsequent incident of nuisance activity shall be deemed a separate violation.

Part IV. 18.04(6) of the Revised Municipal Code of the City of West Allis is hereby created to read:

#### 18.04 ABATEMENT OF PUBLIC NUISANCES.

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(6) Appeal. Appeal of the determination of the Police Chief, Fire Chief, Health Commissioner, Forester, Weed Commissioner, Building Inspector, the Director of Public Works, and the City Attorney or their designees that a nuisance or chronic nuisance premises exists or the action of the Clerk/Treasurer imposing a special charge against the premises, may be submitted to the Administrative Appeals Review Board pursuant to § 2.48 of the Revised Municipal Code.

Part V. 18.05 of the Revised Municipal Code of the City of West Allis is hereby amended to read:

#### 18.05 COSTS OF ABATEMENT AND ENFORCEMENT.

In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuation, or maintenance of a public nuisance, the cost of abating the public nuisance and the cost associated with enforcement once a premises has been designated a "chronic nuisance premises" under § 18.04 of the Revised Municipal Code, shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance; and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

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

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

ATTO-AmendChapter18