



City of West Allis

Legislation Text

File #: O-2007-0041, Version: 1

An Ordinance to Amend Subsection 18.03(2)(a)(15), Repeal and Recreate Section 18.04 and Amend Section 18.05 of the West Allis Revised Municipal Code Relating to Public Nuisances, Abatement of Public Nuisances and Costs of Abatement and Enforcement.

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

PART I. Subsection 18.03(2)(a)(15) of the Revised Municipal Code of the City of West Allis is hereby amended to read:

18.03 PUBLIC NUISANCES.

* * *

(2) Nuisances Affecting Morals and Decency.

(a) For the purpose 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:

* * *

15. Keeping an animal in violation of Section 7.12 of the West Allis Revised Municipal Code.

* * *

PART II. Section 18.04 of the Revised Municipal Code of the City of West Allis is hereby repealed and recreated to read:

18.04 ABATEMENT OF PUBLIC NUISANCES.

(1) Enforcement.

(a) The Police Chief, Fire Chief, Health Commissioner, Forester, Weed Commissioner, Building Inspector or the Director of Public Works or one of their designees shall enforce those provisions of this chapter that come within the jurisdiction of their offices, or the City Attorney may represent their interests; and they shall make periodic inspections and inspections upon complaint to ensure 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.

(b) Whenever the Police Chief, Fire Chief, Health Commissioner, Forester, Weed Commissioner, Building Inspector or the Director of Public Works or one of their designees identifies that three (3) or more nuisance activities have occurred at a premises on separate days during a sixty (60) day period, that individual or the City Attorney may notify the premises owner in writing that the premises have 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.

(c) 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.

(d) Whenever the Police Chief, Fire Chief, Health Commissioner, Forester, Weed Commissioner, Building Inspector, the Director of Public Works, their designees, or the City Attorney 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 fourteen (14) 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 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 Section 18.04(6).

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

(2) Summary Abatement.

(a) If the inspecting official determines that a public nuisance exists within the City and that there is great and immediate danger to the public health and safety, the official may, without notice or hearing, issue an order reciting the existence of a public nuisance constituting imminent danger to the public and requiring immediate action be taken, as he deems necessary, to abate the nuisance. 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.

(b) Whenever the owner and/or occupant shall refuse or neglect to remove or abate the condition meeting the criteria set forth in subsection (2)(a), above, and described in the order, the inspecting official shall, in his discretion, enter upon the premises and cause the nuisance to be removed or abated and 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 and/or occupant and placing the expenses on the property tax roll if said expenses are not paid within thirty (30) days.

(3) Abatement After Notice.

(a) If the inspecting official determines that a public nuisance exists, but that such nuisance does not threaten great and immediate danger to the public, the official shall issue an order reciting the existence of a public nuisance, and requiring the owner and/or occupant of the premises to remove or abate the condition described in the order within the time period specified therein. The order shall be served personally on the owner of the premises, as well as the occupant, or, at the option of the inspecting official, the notice may be mailed to the last known address of the owner and occupant, to be served by regular mail with return receipt. If the owner and the occupant cannot be served, the order may be served by posting it on the main entrance of the premises and by publishing as a Class 1 notice under Wisconsin Statutes Chapter 985. The time limit specified in the order runs from the date of service or publication.

(b) If the owner or occupant fails or refuses to comply within the time period prescribed, the inspecting official shall enter upon the premises and cause the nuisance to be removed or abated and 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.

(4) Other Methods Not Excluded. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the laws of the State or the ordinances of the City of West Allis. Where the provisions of this chapter conflict with another section of the West Allis Revised Municipal Code, the more stringent provision shall apply.

(5) Court Order. Except when necessary under sub. (2), an official shall not use force to obtain access to private property to abate a public nuisance but shall request permission to enter upon private property if such premises are occupied and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.

(6) Appeal. Appeal of the determination of the Police Chief, Fire Chief, Health Commissioner, Forester, Weed Commissioner, Building Inspector, the Director of Public Works, 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 Section 2.48 of the Revised Municipal Code.

(7) Relief from order. Any person affected by an order for Abatement After Notice as provided under this section shall, pursuant to Chapter 68 of the Wisconsin Statutes, within thirty (30) days of the date of service or publication of the order, apply to the Administrative Appeals Review Board for review of the order to abate or remove the nuisance, or be forever barred. The Board shall determine the reasonableness of the order for abatement of the nuisance. Any person aggrieved by the determination of the Administrative Appeals Review Board shall appeal to the Circuit Court as provided in Wisconsin Statutes Chapter 68.

PART III. Section 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 costs of abating the public nuisance and the costs associated with enforcement once a premises has been designated a "chronic nuisance premises", or is summarily abated under

Section 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 costs shall be assessed against the real estate as a special charge.

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

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

ATTO-AmendSubSec18.03(2)(a)(15)Repeal&Recreate18.04&18.05PublicNuisances&Abatement