



City of West Allis

Legislation Text

File #: O-2008-0030, **Version:** 2

An Ordinance to Create Section 18.09 of the West Allis Revised Municipal Code Relating to Nuisance Abandoned Dwellings.

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

PART I. Section 18.09 of the Revised Municipal Code of the City of West Allis is hereby created to read:

18.09 NUISANCE ABANDONED DWELLINGS.

(1) Legislative Findings.

(a) That there are a large number of vacant dwellings scattered throughout the City that are not properly maintained.

(b) That such vacant dwellings have reached a stage of disrepair and deterioration with the yards of said dwellings having become untended and filled with junk as to constitute a blighting influence.

(c) That such vacant dwellings are subject to exterior vandalism and are broken into and subject to vandalism of the interior, are used for unsanitary or immoral purpose and are potential fire hazards.

(d) That the state of disrepair and deterioration of such vacant dwellings creates a public nuisance, constitutes a hazard to the health, safety and welfare of the public, and creates a blighting influence on the surrounding neighborhood.

(2) Definitions.

(a) "Abandoned dwelling" means a single or two family dwelling, as defined in Sec. 12.06 of the Revised Municipal Code, that is vacant or not occupied by a rightful owner or tenant and also has one or more of the following characteristics:

1. Is in violation of the lawn regulations set forth in Sec. 13.28(10)(b) of the Revised Municipal Code or the weed regulations set forth in Sec. 66.0407 of the Wisconsin Statutes.

2. Is in violation of the minimum standards for buildings and structures set forth in Sec. 13.28(9) of the Revised Municipal Code.

3. Has junk, refuse, rubbish, etc. strewn around or stored on the property or otherwise has unlawful outdoor storage of materials or has an abandoned vehicle or vehicles (as defined in Sec. 6.015 of the Revised Municipal Code) on the property.

4. There are broken or open doors or windows or the exterior of a building's structure otherwise are not secured from the elements or entry by trespassers.

5. Graffiti has not been removed from the buildings, structures, or equipment on the property as required by Sec. 18.08 of the Revised Municipal Code.
6. The buildings, structures or premises are otherwise dilapidated or deteriorated or create a dangerous condition.
- (3) Prohibition. No owner of any real property may maintain, allow or suffer an abandoned dwelling to exist within the City.
- (4) Notification to Owner. The Director of Building Inspection and Zoning, Director of Public Works, or Health Commissioner or their designee shall mail or cause to be mailed, by first class mail to the last known address of the owner, a written order directing the owner to abate the specified conditions that constitute an abandoned dwelling in a timely manner. The order shall include a list or description of the factors that are causing the blight or nuisance, a date of issue, a statement of the consequences of the failure to comply, an explanation of the right to petition the Property Maintenance Code Appeals Board for a hearing within ten (10) days, a statement that any property owner who does not file a petition for a hearing waives the right to assert that the property does not meet the definition of an abandoned dwelling, and a statement informing the property owner that the property must be brought into compliance within ten (10) days. Such order shall also be posted on the front door or other conspicuous place on the property.
- (5) Appeal and Hearing Procedure.
 - (a) A property owner may appeal the order to the Property Maintenance Code Appeals Board, established pursuant to Sec. 13.28(14) of the Revised Municipal Code, by filing a written request for a hearing with the City Clerk within ten (10) days of the issuance of the abatement order.
 - (b) The appeal and hearing procedure shall conform to the standard rules and procedures of the Property Maintenance Code Appeals Board.
 - (c) Upon receipt of the hearing request, the Director of Building Inspection and Zoning, Director of Public Works, or Health Commissioner or their designee shall halt the abatement process under Subsection (7), pending decision of the Property Maintenance Code Appeals Board.
 - (d) If the Property Maintenance Code Appeals Board upholds the determination that the property is an abandoned dwelling, the owner may appeal the decision within thirty (30) days to the Circuit Court of Milwaukee County.
 - (e) If a property owner does not file a timely written request for a hearing before the Property Maintenance Code Appeals Board, he or she waives the right to assert that the property is not an abandoned dwelling and in need of abatement under this section.
- (6) Emergency Procedure. Notwithstanding the notice provisions of Subsection (4) and the appeal procedures of Subsection (5), the Director of Building Inspection and Zoning, Director of Public Works, or Health Commissioner or their designee may take immediate steps, including taking action through a private contractor, to abate a condition or conditions that create an immediate threat to health or safety. The owner of the property may contest the need for such action and/or the cost thereof after the abatement, following the hearing procedures set forth in Subsection (5).

(7) Abatement of Nuisance. Within ten (10) days of the date of the abatement order, if the owner has not filed an appeal or abated the nuisance, the Director of Building Inspection and Zoning, Director of Public Works, or Health Commissioner or their designee, or a private contractor chosen by the Director of Building Inspection and Zoning, Director of Public Works, or Health Commissioner or their designee, may enter the property and abate the conditions that give rise to the property being an abandoned dwelling, except that the Director of Building Inspection and Zoning, Director of Public Works, or Health Commissioner, or their designee, or contractor may not occupy the premises or cause them to be occupied unless the City is the owner or otherwise has legal care and custody of the property. A property will be deemed abated when the criteria establishing an abandoned dwelling have been removed, corrected or repaired.

(8) Continuity of Abandoned Status. Once a property has been declared a nuisance abandoned property, the Director of Building Inspection and Zoning, Director of Public Works, or Health Commissioner or their designee shall continue to correct such deficiencies as they exist until the owner petitions the official who made the declaration and demonstrates that the owner can maintain the premises in conformance with state law and city ordinances. The petition shall be in writing to the official who made the nuisance determination. The official shall render a decision within thirty (30) days of receipt of the petition or the petition shall be deemed granted and the property will be removed from the list of nuisance abandoned properties. The determination of the declaring official may be appealed by an interested party as provided in Subsection (5).

(9) Costs. The cost of abatement shall be collected as a special charge against the property pursuant to Wis. Stat. Sec. 66.0627 for the costs of the services provided. If the special charge is not paid within thirty (30) days, the special charge shall be deemed delinquent. A delinquent special charge shall be a lien against the property as of the date of delinquency and shall be included in the current or next tax roll for collection and settlement under Chap. 74, Wis. Stat.

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

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

ATTO-Create Sec 18.09-Nuisance Abandoned Dwellings-Amended