

MILWAUKEE CODE OF ORDINANCES

VOLUME 1



Published by Authority of the
COMMON COUNCIL

Edited by the Municipal Research Library
Office of the City Clerk

CITY OFFICIALS

2020 to 2024

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Council President
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FORWARD

In 1988, Volume 1 of the Milwaukee Code of Ordinances was first published in its current format of an updatedable looseleaf edition. As changes to these ordinances are passed by the Common Council, the Municipal Research Library will issue replacement pages for this book. Thus, it can be maintained as a current and reliable resource for users.

Volume 1, which is comprised of chapters numbered 50 to 199, contains regulatory ordinances which pertain to the organization and operation of Milwaukee's city government. Other volumes include Volume 2 (Building and Zoning Code), Volume 3 (Administrative Ordinances), and the City Charter.

The numbering system for the Milwaukee City Charter and Code of Ordinances is patterned on that used for the Wisconsin Statutes (except for the use of dashes in place of parentheses) and is as follows:

Chapter	Section	Subsection	Paragraph	Subdivision	Subparagrah
70	10	3	a	4	b

If there are questions regarding the numbering system, or the correct method of citation, please contact the Municipal Research Library.

Eileen Lipinski, Manager
Municipal Research Library
January 2024

MILWAUKEE CODE OF ORDINANCES

VOLUME 1

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If all supplements have been properly inserted, this book contains all actions of the Common Council through February 6, 2024.

Revised 2/6/2024
Suppl. #431

CHAPTER 50 GENERAL PROVISIONS

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50-1. Title of Ordinance; When to Take Effect. These ordinances shall be known as the Milwaukee Code and shall take effect and be in force from and after their passage and publication in accordance with the provisions of s. 62.11(4), Wis. Stats.

50-2. Citations to Ordinance Sections. References to provisions of the charter and code using parentheses to designate subsections, paragraphs and subdivisions shall continue to be valid references to such provisions for all legal purposes even though the official copies of such provisions shall use dashes to designate such parts.

50-3. Amending Code Sections. 1. FORM. All ordinances, the substance of which, or any sections or provisions of which, would have the effect of amending, altering, or adding to the provisions of the Milwaukee Code shall be drawn as amendments or additions to the Milwaukee Code, and every section shall be given a number which shall locate such section in the proper sequence in said code. It shall be the duty of the legislative reference bureau director to assign the proper section numbers for all ordinances introduced into the council creating new sections of the Milwaukee Code.

2. APPROVAL. a. By The Legislative Reference Bureau. Any proposed ordinance affecting any section of the printed city charter or code shall, after its introduction, be submitted by the city clerk to the legislative reference bureau director for approval as to form prior to any public hearing being held by a committee of the common council. The legislative reference bureau director shall also approve the form of any such ordinance amended by a committee of the common council.

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b. By The City Attorney. Upon recommendation of a standing committee that a proposed ordinance affecting any section of the printed city charter or code be passed by the common council, the ordinance shall be submitted by the city clerk to the city attorney for approval as to legality and enforceability. If the city attorney disapproves the proposed ordinance as to legality and enforceability, the city clerk shall return the ordinance to the committee which had recommended passage. If the committee recommends passage notwithstanding the disapproval of the city attorney, the city clerk shall present the proposed ordinance to the common council for its action and shall report to the common council that the committee recommends passage notwithstanding disapproval of the city attorney as to legality and enforceability. Whenever the city attorney is unable to complete the review of a proposed ordinance prior to the date of the meeting of the common council at which it is scheduled to be heard, the city attorney shall submit a written statement citing the reasons therefor and the anticipated date by which the review shall be completed.

3. EXCEPTIONS. The following ordinances shall not be subject to approval under sub. 2.

- a. General salary, prevailing wage and positions ordinances.
- b. Bus franchise ordinances.
- c. Ordinances establishing width and grade of streets, alleys and sidewalks, and medial island change ordinances.
- d. Official map changes, and zoning district ordinances.
- e. Taxi stand location ordinances.
- f. Specific locations of stopping ordinances and parking ordinances.
- g. Ordinances designating specific locations of certain traffic regulations.

50-4. Fiscal Impact Statements

1. SUBMITTAL. A fiscal impact statement shall be submitted by each city agency authorized by a proposed common council file to expend funds not included in the city budget, or to increase or decrease previously authorized expenditures, or to suspend existing expenditure authority, or to increase or decrease city services, or which is authorized to administer a

program affecting the city's fiscal liability or revenues affected by a common council file, or by each city agency requesting an amendment to the salary or positions ordinance or requesting to borrow. The chair of any common council standing committee may also request that a fiscal impact statement be submitted for any other file assigned to the committee. Fiscal impact statements shall be submitted to the city clerk in a format approved by the common council according to a schedule determined by the city clerk.

2. SUBSTITUTE FISCAL IMPACT STATEMENT. If the common council adopts a file with a fiscal impact differing from the original fiscal impact statement and for which a substitute fiscal impact statement has not been received, the city clerk shall refer the adopted file to the appropriate department for preparation of a substitute fiscal impact statement, which shall be prepared and submitted to the city clerk and mayor within 3 business days after common council adoption.

3. EXCEPTIONS. No fiscal impact statement shall be required for any of the following:

- a. The mayor's proposed executive budget.
- b. An ordinance creating a penalty provision if the ordinance contains no other provision requiring a fiscal impact statement.
- c. An ordinance amending the salary or positions ordinance.
- d. A resolution approving attendance at conventions, seminars and other meetings.
- e. A resolution canceling property taxes.
- f. A resolution granting, amending or repealing a special privilege.
- g. A resolution relating to claims against the city.
- h. A resolution appropriating funds from the common council contingent fund.
- i. A resolution authorizing the expenditure of grant funds.

50-5. Reference to Be Made to Code. Any additions or amendments to the Milwaukee Code, when passed in such form as to indicate the intention of the common council to make the same a part thereof, shall be deemed to be included when reference is made to the Milwaukee Code.

50-6. Equity Impact Statement.

1. DEFINITIONS. In this section:

a. "City agency" means a department, division, bureau, office, board or commission, or other entity established by the city.

b. "Minority group" means any group comprised principally of:

b-1. African-Americans.

b-2. Hispanics.

b-3. Asians and Pacific Islanders.

b-4. Native Americans and Alaskan Natives.

b-5. Persons with disabilities.

b-6. Persons identifying or describing their sexual orientations or gender identities as lesbian, gay, bisexual, transgender, queer or questioning.

c. "Equity impact statement" means an evaluation and description of any impact that the types of common council legislation specified herein may have on a minority group.

2. REQUIREMENT.

a. An equity impact statement shall be submitted by each city agency for every proposed common council resolution or ordinance involving:

a-1. A development agreement.

a-2. A grant.

a-3. A city contract a primary purpose of which is direct service delivery to residents.

a-4. Creation of, or change in, a penalty provision in the code.

b. The chair of any common council standing committee may also request that an equity impact statement be submitted for any other file assigned to the committee.

c. Equity impact statements shall be submitted to the city clerk on a form prepared by the city clerk according to a schedule determined by the city clerk.

3. CONTENT. The equity impact statement submitted by each city agency shall include:

a. A description of the proposed ordinance or resolution.

b. A description of any anticipated equity impacts of the resolution or ordinance.

c. An identification of any minority groups who may be negatively or positively impacted by the resolution or ordinance.

d. A description of any engagement efforts with minority communities potentially impacted by the resolution or ordinance.

e. A description of how any equity impacts will be documented or evaluated.

f. A description of strategies that will be used to mitigate any equity impacts.

4. EXCEPTIONS. No equity impact statement shall be required for the following:

a. An ordinance amending the salary or positions ordinance.

b. A resolution approving attendance at conventions, seminars and other meetings.

c. A resolution canceling property taxes.

d. A resolution granting, amending or repealing a special privilege.

e. A resolution relating to claims against the city.

f. A resolution appropriating funds from the common council contingent fund.

g. A resolution authorizing the return of real estate.

h. A resolution authorizing city sale of neighborhood property (one-4 unit residential) without city funding attached.

i. A resolution granting an easement.

j. A resolution allowing property acquisition and transfer under s. 75.106, Wis. Stats.

k. A resolution or ordinance related to changes to the zoning map or zoning text, and vacations or dedications of public right of way, unless an impact statement is requested by the council member representing the district in which the property impacted by the proposed action is located or the chair of the committee that file is assigned to at the time of introduction.

L. A resolution relating to certified survey maps and subdivision plats.

m. A resolution or ordinance approving any action for which compliance with local, state or federal laws, including applicable purchasing or bidding requirements, precludes consideration of impact on minority communities.

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50-8. Repeal of the Milwaukee Code of 1914.

The codified ordinances of the city of Milwaukee passed May 25, 1914, and entitled "Milwaukee Code of 1914" and every ordinance passed subsequent thereto up to and including those passed on January 13, 1941, as amendments to the Milwaukee Code of 1914 except those mentioned in s. 50-9, are repealed.

50-9. What Ordinances Not Repealed. All ordinances passed to provide for the issue of corporate bonds, to establish grade, to set up salary and positions, to grant franchises to public utilities and to regulate their use, to change the names of certain streets, to pave streets and sidewalks, and to grant highway and other privileges, are declared not to come within the provisions of s. 50-8 and are not repealed by the provisions thereof; provided, however, that any and all provisions of the code mentioned in this section conflicting with any of the provisions of these general ordinances are repealed.

50-10. Ordinances Repealed by Repeal of 1906 and 1914 Codes Not Re-enacted. No ordinance or part of any ordinance, heretofore repealed, shall be considered as re-ordained or re-enacted by virtue of the provisions of s. 50-8.

50-11. Ordinances Repealed Not Re-enacted. The repeal of any ordinance by the common council shall not revive any ordinance heretofore repealed or superseded nor any office heretofore abolished, nor shall any such repeal be construed as a declaration that any ordinance or part of any ordinance heretofore expressly or impliedly repealed was in force at any time subsequent to such first repeal, and all ordinances and parts of ordinances which were repealed or abrogated by or were repugnant to any of the ordinances above repealed shall remain repealed.

50-12. Offenses Committed Previous to Repeal. No offense committed and no penalty or forfeiture incurred previous to the time, when any of the ordinances aforesaid shall be repealed, shall be affected by such repeal, except that when any punishment, forfeiture or penalty shall have been mitigated by the provisions of these general ordinances, such provisions shall apply to and control any judgment to be pronounced

after these general ordinances shall take effect for any offense committed before that time.

50-13. Prosecutions Pending Not Affected. No prosecution for any offense, or the recovery of any penalty for forfeiture, pending at the time when any of the ordinances aforesaid shall be repealed, shall be affected by such repeal; but the same shall proceed in all respects as if such ordinances had not been repealed, except that all such proceedings had after the time when these general ordinances shall take effect shall be conducted according to the provisions of these general ordinances and shall be in all respects subject to said provisions.

50-14. General Penalty for Violations of Ordinances. Any person or persons who shall violate any of the provisions of these general ordinances, in cases where no penalty is provided or in cases where the penalty now provided imposes a prison sentence, except in default of payment of fine, on conviction, shall be subjected for each offense to a fine of not less than one dollar and not exceeding \$500 or by imprisonment as provided in s. 50-66.

50-15. Violations Committed Against Certain People or Property. 1. If a person does all of the following, the forfeiture for the underlying code violation is increased as provided in sub. 2:

a. Commits a code violation under chs. 105, 106, or 110.

b. Intentionally selects the person against whom the violation under par. a. is committed or selects the property that is damaged or otherwise affected by the violation under par. a in whole or in part because of the actor's belief or perception regarding the race, religion, color, disability, sexual orientation, national origin or ancestry of that person or the owner or occupant of that property, whether or not the actor's belief or perception was correct.

2. If a person commits a violation under sub. 1, the maximum forfeiture may be increased by not more than \$2,500.

3. This section provides for the enhancement of the forfeiture applicable for the underlying code violation. This section shall not apply except upon proof of all the issues specified in sub. 1.

4. This section does not apply to any code violation if proof of race, religion, color, disability, sexual orientation, national origin or ancestry or proof of any person's perception or belief regarding another's race, religion, color, disability, sexual orientation, national origin or ancestry is required for a conviction for that code violation.

50-16. Penalty Clauses; Interpretation.

1. Except as provided in sub. 2, notwithstanding the provisions of any part or section of these general ordinances, wherever imprisonment is prescribed in any penalty clause of any section, whether provided or stated in the alternative, disjunctive, in combination with any monetary forfeiture, penalty, fine or otherwise, such penalty provision is declared and intended to provide for imprisonment only upon default in payment of the monetary forfeiture, penalty or fine and shall be so construed.

2. Except as provided in ss. 90-18, 90-19, 90-39 and 106-36, no minimum forfeiture imposed by any of the penalty provisions of these general ordinances shall be made applicable to a violation of those ordinances by a person under the age of 18 years.

50-17. Severability. If any provision, sentence, clause, or other part of this code of ordinances or the application thereof to any person or circumstances, shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder thereof or the application thereof to other persons or circumstances but shall be confined in its operation to the provision, sentence, clause, section or part thereof and the persons and circumstances directly involved in the controversy in which such judgment was rendered. It is hereby declared to be the intent of the common council that such remaining portion would have been adopted had such unconstitutional or invalid provisions, sentence, clause, section, part or application not been included therein.

50-18. Aiding and Abetting Ordinance violations 1. Whoever is concerned in the commission of an ordinance violation is a principal and may be charged with and convicted

of the commission of the ordinance violation although he or she did not directly commit it and although the person who directly committed it has not been convicted or has been convicted of some other ordinance violation based on the same act.

2. A person is concerned in the commission of an ordinance violation if he or she:

a. Directly commits an ordinance violation;

b. Intentionally aids and abets the commitment of an ordinance violation; or

c. Is a party to a conspiracy with another to commit an ordinance violation or advises, hires, counsels or otherwise procures another to commit an ordinance violation. Such a party is also concerned in the commission of any other ordinance violation which is committed in pursuance of the intended ordinance violation and which under the circumstances is a natural and probable consequence of the intended ordinance violation. This paragraph does not apply to a person who voluntarily changes his or her mind and no longer desires that the ordinance violation be committed and notifies the other parties concerned of his or her withdrawal within a reasonable time before the commission of the ordinance violation so as to allow the others also to withdraw.

50-20. Sale and Distribution of City Code and Charter.

1. SALES. Copies of the city code and charter and the provision of amendment services shall be sold for the fees specified in s. 81-35.5, except as otherwise provided in this section.

2. DISTRIBUTION. Copies of the city code and charter and the provision of amendment services shall be distributed electronically to city departments and agencies and public subscribers without charge.

50-25. Stipulation of Guilt, Citations.

1. AUTHORITY. Pursuant to the authority of ch. 800, Wis. Stats., 1977, citations may be issued for nontraffic violations.

2. CITATION FORM. The citation shall be signed by a peace officer or endorsed by a municipal attorney or be issued by other municipal officials designated by resolution or ordinance to issue citations and shall contain substantially the following information:

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a. The name, address and date of birth of the defendant.

b. The name and department of the issuing officer.

c. The violation alleged, the time and place of occurrence, a statement that the defendant committed the violation, the ordinance, resolution or bylaw violated and a designation of the violation in language which can be readily understood.

d. A date, time and place for the court appearance, and a notice to appear.

e. Provisions for amount of deposit and stipulation in lieu of a court appearance, if applicable.

f. Notice that the defendant may make a deposit and thereby obtain release if an arrest has been made.

g. Notice that the defendant may by mail prior to the court appearance enter a plea of not guilty and may within 10 days after entry of the plea request a jury trial.

h. Notice that if the defendant makes a deposit and fails to appear in court at the time fixed in the citation, the defendant is deemed to have tendered a plea of no contest and submits to a forfeiture and penalty assessment plus costs, not to exceed the amount of the deposit. The notice shall also state that the court may decide to summon the defendant rather than accept the deposit and plea.

i. Notice that if the defendant does not make a deposit and fails to appear in court at the time fixed in the citation, the court may issue a summons or a warrant for the defendant's arrest or may enter a default judgment against the defendant.

j. Any other pertinent information.

3. CITATION PROCEDURE.

a. Contesting Citation. Any person to whom a citation has been issued for violation of any section of the code may appear in municipal court to answer the charges set forth in the citation.

b. Stipulation by Mail. The stipulation of no contest and deposit shall be paid in cash, money order or bank check payable to the city treasurer of the city of Milwaukee. Such deposits may be sent to the municipal court or any designated paying agent therefor. The deposits shall be accompanied by the citation which shall

be signed and include the violator's printed name and post office address. Receipt of deposit and citation shall negate the need for the violator to appear in court.

c. Stipulation in Person. Any person receiving a citation for violation of a section of the code may appear at the municipal court or any designated paying agent therefor and make a deposit in the form of cash, money order or bank check. Such deposits shall be accompanied by the citation which shall be signed and include the violator's printed name and post office address. Receipt of deposit and citation shall negate the need for the violator to appear in court.

d. Liability of City Officers or Authorities. No officer or city authority shall be personally or officially responsible for the payment of any dishonored check in payment of any forfeiture.

e. Deposit With City Treasurer. The forfeiture received shall be deposited with the city treasurer who shall furnish a receipt for the money paid over to him.

4. JUDGMENT OF FORFEITURE.

Upon conviction of a violation of the code, the court shall enter a judgment of forfeiture against the violator payable to city together with the taxable costs, and in default of payment thereof, order confinement in the county jail or house of correction until such forfeiture and costs are paid, but not to exceed 90 days.

5. RESISTING OR OBSTRUCTING ISSUANCE OF CITATION. Whoever shall resist, interfere or obstruct a city officer, whenever such officer is acting in his official capacity and with lawful authority in the issuance of a citation shall forfeit a penalty of not less than \$10 nor more than \$250, and in default of payment thereof, be imprisoned in the house of correction for not less than 30 days nor more than 90 days. For the purpose of this subsection, "obstruct" includes, without limitation, giving false information to an officer which tends to mislead him in the performance of his duty.

6. NUISANCE ACTION NOTICE. The city attorney is authorized to provide notice to property owners, operators or occupants that the city of Milwaukee anticipates the filing of an action to appoint a receiver to abate a nuisance at their premises pursuant to s. 823.23, Wis. Stats.

50-31. Notices of Meetings of Governmental Bodies. 1. PURPOSE. The purpose of this section is to ensure that notices and agendas of meetings of governmental bodies are available to the general public at one location, are readily accessible, and are in compliance with the requirements of the state open meetings law.

2. DEFINITIONS. In this section:

a. "Governmental body" means any governmental body as defined in s. 19.82(1), Wis. Stats., that is part of, or exercises responsibility on behalf of, city of Milwaukee government.

b. "Meeting" has the meaning given in s. 19.82(2), Wis. Stats.

c. "Public notice" means the public notice provided by a governmental body pursuant to s. 19.84, Wis. Stats.

3. DELIVERY OF NOTICES REQUIRED. Each governmental body shall deliver to the city clerk a copy of the public notice and meeting agenda of each meeting at least 2 business days in advance of the meeting, unless the meeting is being called with less than 24 hours notice pursuant to s. 19.84(3), Wis. Stats., in which case the notice shall be delivered to the city clerk in time to allow for the minimum 2 hour posting. All notices shall contain all information required by s. 19.84(2), Wis. Stats., as well as any other information required by law.

4. PUBLIC ACCESS. The city clerk shall make available to the public all notices and agendas received pursuant to this section in a manner that complies with s. 19.84, Wis. Stats., including notice to the official city newspaper and any media who have requested such notice from the city clerk. Each governmental body shall be responsible for notice to media that have requested such notice directly from the governmental body.

5. OPEN MEETINGS LAW COMPLIANCE. A governmental body shall not be entitled to rely on the delivery of the public notice and agenda of a meeting to comply with the public notice requirements of s. 19.84, Wis. Stats., unless the notice and agenda is delivered to the city clerk 2 full business days prior to the day of the meeting.

50-37. Special Deputy. The port director may designate as a special deputy port director a competent person within his or her office to act for and in his or her stead in specified matters without additional compensation. Such an appointment shall be in writing and copies filed in the city clerk's office setting forth the specific acts the special deputy is authorized to perform in the

name of the port director. Such authority may be revoked and amended in the same manner. Within the scope of his or her specified authority, the special deputy may perform any and all acts required of the port director. The port director shall be responsible for all acts of any special deputy. The special deputy shall, before entering upon his or her duties, take the oath required of city officers.

50-41. Credit Card Acceptance by City Departments and Agencies. 1. CREDIT CARD ACCEPTANCE AUTHORIZED. A city department or agency may accept a credit card as payment for a product or service or to pay a fee, forfeiture or other charge as provided in this section.

2. APPROVAL PROCESS. a. Written Proposal. A department or agency that is not named in par. d or included in the exemptions specified in sub. 3 and that seeks to accept credit cards for payment shall provide the budget director with written notice of the department's or agency's proposal to accept credit cards. Each proposal shall do all of the following:

a-1. Specify the payments for which credit cards will be accepted.

a-2. Be consistent with the city's contractual arrangements for credit cards.

a-3. Name each credit card proposed to be accepted.

a-4. Contain an estimate of necessary equipment costs and related credit card fees for which the department or agency will be responsible.

b. Budget Director Review. The budget director shall review each proposal for the acceptance of credit cards except those specified in par. d. If the budget director finds that the proposal meets the criteria in par. c, the director shall prepare a written report of his or her findings and shall approve the proposal. The director shall notify the proposing entity in writing of the director's approval or disapproval.

c. Criteria for Review. The budget director shall approve a proposal if the director finds that:

c-1. The proposed use is consistent with the city's contractual arrangements for credit cards as determined in consultation with the city treasurer.

c-2. The benefits to the city of the proposed use justifies the cost to the city of the proposed use.

d. Treasurer's Office and Water Works Department.

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d-1. Whenever the treasurer's office or the department of public works water works seeks to accept credit cards for payment, it shall provide the chair of the common council finance and personnel committee, the comptroller and the budget director with written notice of its proposal to accept credit cards. Each proposal shall conform to the requirements of par. a-1 to 4.

d-2. The common council finance and personnel committee shall hold a hearing on any proposal submitted pursuant to this paragraph. The committee may approve the proposal, reject the proposal, recommend changes to the proposal or hold the proposal in committee. When the committee approves a proposal, the treasurer's office or water works may implement it, subject to the requirements of par. e.

e. Final Clearance. Prior to implementing credit card usage, all the following actions shall be taken:

e-1. The department or agency shall notify in writing the treasurer, the budget director, the director of purchasing, the comptroller and the chair of the common council finance and personnel committee.

e-2. The director of purchasing shall provide written notice to the entity with which the city has contractual arrangements for credit cards.

e-3. The director of purchasing shall provide written notice to the department or agency of final clearance to implement the approved proposal.

3. DEPARTMENT AND AGENCY PAYMENTS EXEMPTED FROM APPROVAL PROCESS. The following departments and agencies may accept credit cards for the specified purposes without complying with the approval process specified in sub. 2, but shall be subject to the provisions of subs. 4 and 5 and to contractual arrangements for credit cards that the city has in place:

a. The police department for payment of fines and citations.

b. The municipal court for payment of court penalties, fees, fines and forfeitures.

c. The department of public works tow lot for payment of towing services and related charges.

d. The library for payment of late fees and penalties and charges for lost or damaged items.

e. The department of city development for payment of plan examination and permit fees, deposits, escrow account payments and all items available for sale at the development center.

f. The department of neighborhood services for payment of billings and other services.

g. The department of public works for sale of compressed natural gas to the public.

4. FEES AND BUDGETS. a. The city treasurer shall charge any department or agency that has approval and final clearance to accept credit cards, or that is exempted under sub. 3 from the approval process, that department's or agency's respective share of the fees assessed by the credit card contractor against the city's bank account used for credit card collections. City departments and agencies shall comply with consistent policies governing the payment of credit card fees.

b. Beginning January 1, 2000 all departments and agencies accepting a credit card for payment pursuant to this section shall charge that department's or agency's respective credit card fees to its operating (expenditure) appropriation.

5. CHANGES. A department or agency accepting credit cards that seeks to amend or deviate from its operating procedure shall obtain new approval for the amendment or deviation by complying with the approval procedure set forth in sub. 2. Such approval is required for any amendment or deviation, regardless of whether the operating procedure of the department or agency was originally approved under sub. 2 or exempted under sub. 3.

50-42. Electronic Signature Acceptance by City Departments and Agencies. ELECTRONIC SIGNATURE ACCEPTANCE AUTHORIZED. It is the policy of the city that electronic signatures are acceptable for official business of the city. The use of electronic signatures by a city department or agency shall comply with ch. 137, Wis. Stats.

50-66. Imprisonment for Nonpayment of Fines. In all cases of conviction for the violation of any of the several ordinances of the city, except such wherein the term of imprisonment is now prescribed, the imprisonment of the person or persons so convicted in case of the

nonpayment of any penalty, fine or forfeiture imposed, shall be in the jail or the house of correction of Milwaukee county for the term of not more than 90 days in the discretion of the court; and it is hereby made the duty of the court in the execution for the collection of any such fine, forfeiture or penalty and costs, when to direct imprisonment is allowed by law, to insert a clause directing the imprisonment of the offender or offenders in the jail or house of correction aforesaid for such length of time as may be specified in the ordinance under which the conviction is had, or for such length of time as may be determined by the court under this section. This section is declared to be amendatory of and, in addition, to the several sections in these general ordinances which impose fines, forfeitures or penalties, but do not provide for the imprisonment of the offenders in case of the nonpayment of the same.

50-67. Costs. All parts and sections of these general ordinances prescribing penalties for their violations shall be construed by the court to carry with such penalties all costs of prosecution and collection, and in entering up judgment in all cases, such costs shall be included as against the delinquent.

50-68. Judgments Executed. Whenever a judgment shall be rendered in favor of the city for any cause, it shall be the duty of the city attorney to take out an execution against the party and proceed as speedily as possible to make collection of the same; and if the party against whom such judgment shall lie has no personal property to satisfy the same, but has real property in any county within the state, then it shall be the duty of said attorney to file a transcript of such judgment in the city clerk's office in the county where such real estate may be, and proceed without delay to collect the amount of such judgment out of such real estate.

50-69. City Clerk to Accept Satisfaction of Judgment. The city clerk is designated under s. 806.19(1) Wis. Stats., as owner for the city of money owed to the city on any judgment 5 years or older, and is authorized to sign for the satisfaction in whole or in part of money owed by any judgment debtor.

50-71. Bail for Person Violating Ordinances. The chief of police is authorized, whenever in his opinion circumstances may require it, to receive from any person who shall have been accused of having violated any city ordinance and has been arrested therefore, an unsecured appearance bond; equal to the whole amount of the penalty and costs, the imposing of which in such case may be authorized, and to release such person from arrest until the opening of the municipal court on the next succeeding day when such court may be in session, or until such a time which may be fixed for the hearing of the case; provided, however, that if an unsecured appearance bond is posted in lieu of cash bail, the bond shall contain a provision that in the event of default in appearance personally by the defendant, a default judgment shall be entered against the defendant.

50-72. Deposit to Apply on Fine to be Refunded. In case a person arrested for violation of a city parking ordinance and released shall fail to appear personally or by an authorized attorney or agent before the municipal court at the time fixed for hearing of the case, then the bond or money deposited or such portion thereof as the court may determine to be an adequate penalty plus costs shall be forfeited and ordered applied upon payment of any penalty which may be imposed after an ex parte hearing, together with costs. In either event, the surplus, if any there be, shall be refunded to the person who made such deposit.

50-73. City Not Liable for Deposit. The provisions of ss. 50-71 and 50-72 shall not be construed so as to make the city of Milwaukee in any case liable for the whole or any part of the money deposited with the chief of police.

50-74. Police Not to Become Bail. The chief of police and the policemen shall be incompetent bail for any person arrested and shall in no case become bail for any person under arrest.

50-75. Suspension of Motor Vehicle Operating Privileges of School Dropouts.

1. In this section:

a. "Dropout" has the meaning given in s. 118.153(1)(b), Wis. Stats.

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b. "Operating privileges" has the meaning given in s. 340.01(40), Wis. Stats.

2. a. Whenever a court finds that a child who is at least 16 years of age but less than 18 years of age is a dropout, the court may suspend the child's operating privilege until the child reaches the age of 18.

b. If a court finds that suspension of a child's operating privilege until the child reaches the age of 18 would cause an undue hardship to the child or the child's family, the court may enter an order making any of the dispositions specified under s. 48.342(1), Wis. Stats.

c. A court may dismiss an order suspending operating privileges of a child if the child shows documentary proof of enrollment in a school program or a high school equivalency program, as provided in s. 43.364, Wis. Stats.

3. Whenever a court suspends a child's operating privilege under this section, the court shall immediately take possession of the suspended license and forward it to the Wisconsin department of transportation together with a notice stating the reason for and the duration of the suspension.

4. This section is enacted under the authority of s. 118.163(2m), Wis. Stats.

50-77. Court Authority to Impose Alternative Juvenile Dispositions and Sanctions.

1. For a juvenile adjudged to have violated an ordinance, a court is authorized to impose any of the dispositions listed in ss. 938.343 and 938.344, Wis. Stats., in accordance with the provisions of those statutes.

2. For a juvenile adjudged to have violated an ordinance who violates a condition of a dispositional order of the court under ss. 938.343 or 938.344, Wis. Stats., the municipal court is authorized to impose any of the sanctions listed in s. 938.355(6)(d), Wis. Stats., in accordance with the provisions of those statutes.

3. This section is enacted under the authority of s. 938.17(2)(cm), Wis. Stats.

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For legislative history of chapter 50, contact the Municipal Research Library

CHAPTER 59 HEALTH DEPARTMENT

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59-3. Administration. 1. DEFINITION. In this chapter, “commissioner” means the commissioner of health, his or her designated representative within the health department, or any other city official to whom the commissioner’s functions or duties have been delegated pursuant to a memorandum of understanding.

2. POWERS VESTED WITH THE COMMISSIONER. The commissioner shall be vested with powers sanctioned by the common council to preserve and protect the public’s health and to enforce compliance with health department regulations. The commissioner shall also enforce applicable federal, state, and county laws, statutes and codes. The commissioner shall provide such additional rules and regulations as are necessary for the preservation of health, to prevent the spread of communicable diseases, to cause the removal of all objects or conditions detrimental to the health of the community and to enforce health laws.

3. BOARD OF HEALTH. a. Duties. A board of health shall be established to govern the health department. The board of health shall:

a-1. Assure the enforcement of state public health statutes and public health rules of the state department of health services as prescribed for a level III local health department.

a-2. Assure the health department operates as a level III local health department as defined by the state.

a-3. Report to the state department of health services as required.

a-4. Meet at least quarterly.

a-5. Assess public health needs and advocate for the provision of reasonable and necessary public health services.

a-6. Develop policy and provide leadership that fosters local involvement and commitment, that emphasizes public health needs and that advocates for equitable distribution of public health resources and complementary private activities commensurate with public health needs.

a-7. Assure that measures are taken to provide an environment in which individuals can be healthy.

b. Membership. Members of the board of health shall be appointed by the mayor and serve upon confirmation by the common council. Members shall be city residents and reflect the diversity of the city based on current U.S. census data. Among the members who are not elected officials, at least one member shall be a registered nurse and at least one shall be a physician, as defined in s. 448.01(5), Wis. Stat. Board terms shall be staggered with 3 members serving 2-year terms, 3 members serving 3-year terms and 3 members serving 5-year terms. The board shall consist of:

b-1. One common council member.

b-2. Five persons with backgrounds in science and public health including formal training and appropriate education credentials in these areas. These board members shall be current members in good standing of the professional associations representing their respective professions.

b-3. Three persons with backgrounds and appropriate education credentials in fields of the social determinants of health, including, but not limited to, law, law enforcement and commerce. These board members shall be current members in good standing of the professional associations representing their respective professions.

c. Powers. A board of health may adopt those regulations, for its own guidance and for the governance of the local health department, that it considers necessary to protect and improve public health. The regulations may be no less stringent than, and may not conflict with, state statutes and rules of the state department of health services.

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4. **REPORTS.** The commissioner of health shall provide an annual report in the first 6 months of each calendar year of the health department's impact on health-related issues to the mayor and the common council and report more frequently as the mayor or the common council may find proper. The annual report shall include:

- a. The department's public health programs and services.
- b. The status of health-related issues, including trends over the preceding 5 years and emerging issues.
- c. An analysis of the quantifiable impact the actions of the health department have had on the trends identified in par. b in the preceding year, including an analysis of how specific health department actions contributed to a measurable change in the status of each health-related issue.
- d. The department's accomplishments and challenges.
- e. Initiatives undertaken or planned to be undertaken by the department.
- f. Health statistics and other related information.
- g. Any information requested by the mayor or the common council.

59-7. Right of Entry and Examination.

1. **ACCESS.** The commissioner is authorized, upon presentation of proper credentials, to enter and examine any building, structure, premises or conveyance, or examine any person within the city for the purpose of ascertaining public health conditions, whenever in the judgement of the commissioner it shall be necessary to do so.

2. **SPECIAL INSPECTION WARRANT.** If any person, or occupant, or other person in charge of a building, structure, premises or conveyance refuses, impedes, inhibits, or interferes with entry and free access to inspection authorized by sub. 1, the commissioner may apply for and obtain a special warrant pursuant to s. 66.0119, Wis. Stats., as amended.

3. **PENALTY.** Any person who shall either by themselves or agent, prevent or hinder the commissioner or anyone acting under the commissioner from carrying out the provisions of this section, shall upon conviction be subject to the penalty set forth in s. 61-14.

59-9. Identification Badge; Power to Make

Arrest. 1. **BADGE.** Persons acting as representatives of the commissioner, when on duty outside of their respective offices, shall wear or make available when requested by a citizen, in accordance with s. 350-221, an official identification badge, which shall be supplied by and be the property of the city.

2. **POWER TO MAKE ARREST.** Such persons shall each have the power, on demand therefor, to require the aid, assistance or presence of any police officer in the performance of any duty pursuant to ss. 59-3 to 59-7, to arrest all persons found violating any provisions of ss. 59-3 to 59-7, and shall have full power and perform all duties and have all the powers of policemen as are now provided by the laws and ordinances of the city of Milwaukee. It shall further be lawful and it shall be the duty of any inspector of any of the bureaus of the health department to arrest, with or without warrant, any person found violating any of the provisions of any city health ordinance which the commissioner is charged with the duty of enforcing, and for that purpose they are declared to be officers of the city of Milwaukee.

59-10. Order Effective Against Subsequent Owner. Any order to correct violations of ch. 66 or ch. 80 shall be effective against anyone having an interest in the premises to which the order applies at the time the order was issued, regardless of whether such interest was recorded, and shall be effective against any subsequent owner of the premises as long as the violation exists and there remains a city record of the order in a public file maintained by the commissioner.

59-11. Transfer of Orders to New Owner of Investor-Owned Residential Property.

1. **DEFINITIONS.** In this section:
 - a. "Investor-owned" means that no owner of the premises has domiciled there for at least the last 60 consecutive days.
 - b. "Person" includes an individual, a partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation or any other legal or commercial entity.
 - c. "Residential property" means any premises containing a one-, 2-, or multi-family dwelling, or condominium.
 - d. "Sale, transfer or conveyance of ownership" means to transfer any ownership interest in a dwelling except by mortgage, gift, devise, bequest or lien foreclosure. The sale or transfer shall be deemed to occur upon the transfer of an ownership interest, the execution of a land contract or the exercise of an option to purchase property.

2. **NOTIFICATION OF OUTSTANDING ORDERS TO BE PROVIDED TO NEW OWNER.** Any person selling, transferring or conveying an ownership interest in a residential property that is investor-owned at the time of such sale, transfer or conveyance shall expressly inform any person acquiring or receiving an ownership interest in the property of any outstanding orders to correct violations of ch. 66 or ch. 80.

3. **TRANSFER OF ORDER TO NEW OWNER.** In accordance with the provisions of s. 59-10, whenever an ownership interest in a residential property is sold, transferred or conveyed, and such property is investor-owned at the time of such sale, transfer or conveyance and has one or more outstanding orders to correct violations of ch. 66 or ch. 80, any person acquiring or receiving an ownership interest in the property shall be liable for compliance with each such order within the time period prescribed by the department. No additional extensions to the period for compliance shall be granted solely on the basis of the transfer of ownership.

59-13. Laboratories. It shall be the duty of the department of health to establish and maintain a chemical and bacteriological laboratory.

59-15. Health Service Fees. The commissioner shall turn over to the city treasurer all fees that he or she collects.

59-17. Health Certificate to Travel. The Milwaukee health department shall charge a fee for certified copies of health certificates for travel purposes as provided for under s. 60-45.

For the legislative history of chapter 59, contact the Municipal Research Library.

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CHAPTER 60 HEALTH-RELATED FEES

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60-1. General Provisions.

1. DEFINITIONS. In this chapter:
 - a. "Calendar year" means January 1 to December 31.
 - b. "Department" means the health department or any department to which health department functions or duties have been delegated pursuant to a memorandum of understanding.
2. LICENSE PERIOD. A license or permit fee shall be paid for the entire license or permit period or for any fraction thereof except where otherwise provided. In the absence of provisions to the contrary, no license or permit fee shall be transferable or prorated.

3. REFUND OF FEES BY HEALTH DEPARTMENT.

a. Except as otherwise provided, if an application for a license or permit issued by the health department is withdrawn, or if such a license or permit is denied or not issued, the following amounts shall be retained by the health department to defray the city's cost of processing the application pursuant to this chapter:

- a-1. \$25 if the license or permit fee is less than \$100.
- a-2. \$75, if the license or permit fee is more than \$100.

b. The refundable portion of the fee shall be refunded by the health department upon receipt of a written request by the applicant, provided such request is made no later than one year after the date of application for the license or permit. No refund shall be made after one year from the date of application.

4. INSUFFICIENCY OF FUNDS; NONPAYMENT OF FEES.

a. Except where otherwise provided, if payment for a license or permit fee issued through the city clerk's office is made by check or other draft drawn upon an account containing insufficient funds, the applicant shall, within 15 days from the date of the letter from the city clerk of the insufficiency, pay by cashier's check or other certified draft, money order or cash, the fees, late fees and processing charges as specified by city code. Nonpayment of all applicable fees, late fees and processing charges within 15 days after the applicant received notice of the insufficiency shall deem the license or permit null and void. The establishment shall close until a new application is made, a new license obtained, and the applicable fees are paid.

b. Any individual or corporation that owes the city for unpaid fines, late fees, or license or permit fees relating to a current or previous food operation shall pay all such outstanding fees before any license or permit is issued.

60-2 Health-Related Fees

5. INSPECTION FEE ASSESSMENT. Inspection fees shall apply to any establishment or device that the health department is designated to inspect, investigate and enforce compliance. A fee is assessed at the time an inspection or investigation is performed for which a violation is identified.

a. A fee shall be assessed for an inspection or investigation when an establishment or operation is found to have any of the following:

a-1. One or more repeat or recurring violations.

a-2. An excessive number of violations.

a-3. Noncompliance with an order to correct a violation within a specified deadline.

a-4. Failure to maintain correction of a violation that was previously corrected on-site at the time of a previous inspection or investigation.

a-5. A violation of an operational restriction placed on the establishment or operation by the department.

b. An inspection fee shall be assessed for an inspection or investigation of a mobile restaurant licensed by the Wisconsin department of agriculture, trade and consumer protection. This fee shall be assessed only once during the licensing period.

c. An inspection fee shall be assessed for an inspection or investigation of a temporary event licensed by the Wisconsin department of agriculture, trade and consumer protection. This fee shall be assessed only once during the licensing period.

d. An inspection fee shall be due within 30 days of the date of an inspection or investigation unless the order is appealed within 5 days of issuance of the order. An order which is upheld upon appeal shall be due 30 days from the date of issuance of the appeal findings.

6. NONPAYMENT OF INSPECTION FEE. A \$10 late fee shall be assessed for each additional 30-day period or calendar month a health inspection or investigation fee payment is outstanding. A late fee shall be charged to any enforcement action specified in chs. 68 and 81, and s. 75-30.

60-2. Ambulance Certificate.

1. Each ambulance certificate shall be issued for the calendar year.

2. The fee for each original certificate shall be \$1,210.

3. The fee for each original certificate that is being renewed shall be \$1,100.

4. If an initial application or application for renewal is denied, no fee paid shall be refunded.

(See s. 75-15.)

60-3. Animal Fancier Permit and Fees.

1. The fee for each animal fancier permit shall be \$70.

2. Each permit shall run for a period of one year from the date of issuance and shall be subject to annual renewal.

3. There shall be an additional \$35 late fee for any new or renewal permit application and fee that is received by the department later than the fifth day after the applicant has received the permit application.

4. A \$30 delayed inspection fee shall be charged whenever a permit holder fails to schedule and allow a department inspection of the premises as provided in s. 78-7-2-b-2.

(See s. 78-7.)

60-5. Animal Impoundment Fee.

1. The basic fee for the repossession of an impounded animal shall be \$60.

2. An additional fee shall be charged for each calendar day or fraction thereof for the costs of keeping the animal. (See s. 78-21.)

60-7. Animal Licenses and Permits.

1. The fee for an unspayed or unneutered cat or dog shall be \$24.

2. The fee for a spayed or neutered cat or dog shall be \$12.

3. Application for a license may be made from January 1 to April 1 without paying a late filing fee. Any license applied for after April 1 shall cost an additional \$12 for an unspayed or unneutered cat or dog, and \$6 for a spayed or neutered cat or dog, unless the applicant has proof that the animal has been acquired or that it

has just reached the age of 5 months within the last 30 days prior to application or that the applicant has established city residency within the last 30 days prior to the application. The late filing fee of \$12 for a unspayed or unneutered cat or dog, and \$6 for a spayed or neutered cat or dog shall be waived for the period beginning on August 1, 2014 and ending on August 31, 2014.

4. The fee for an unspayed or unneutered dog or cat which has not reached the age of 5 months prior to July 1 shall be \$12.

5. The fee for a spayed or neutered dog or cat which has not reached the age of 5 months prior to July 1 shall be \$6.

6. The fee for a replacement animal license shall be \$2.
(See s. 78-17.)

7. The fee for keeping bees shall be \$80 annually.
(See s. 78-6.)

8. A fee of \$35 shall be charged at the time of application for anyone intending to keep chickens in the city.
(See s. 78-6.5.)

60-9. Asbestos Project Permit. The fee for each asbestos project shall be as follows:

1. Review and inspection of permit application: \$100.

2. Fees for a permit shall be computed as follows:

a. For a period not exceeding 3 days of asbestos project work: \$295.

b. For a period of 4 to 10 days of asbestos project work: \$490.

c. For a period exceeding 10 days of asbestos project work: \$675 or 1.25% of the total cost of the asbestos abatement project, whichever is greater. (See s. 66-12.)

60-16. Closing Out Sale License.

1. FEE. The fee for each license shall be the total of 2 charges:

a. The base charge shall be computed in accordance with the following schedule:

a-1. For a period not exceeding 15 days: \$52.

a-2. For a period not exceeding 30 days: \$99.

a-3. For a period not exceeding 60 days: \$151.

b. An additional charge shall be paid based upon the value of the inventory, computed at the rate of \$2 per \$1,000 of the cost price shown in the inventory filed in accordance with s. 88-1-3.

2. TAX DEPOSIT. An applicant shall pay a deposit in an amount that is sufficient to pay all personal property taxes that will be levied or assessed during the sale. Such deposit shall be used to pay personal property taxes.

3. EXTENSION OF TIME.
A supplemental fee is required in addition to the regular license fee if an extension of time is granted pursuant to s. 88-1-4. The supplemental fee shall be \$47 per day.
(See s. 88-1.)

60-17. Dry Cleaning Establishment Permit (Coin-operated).

1. Each dry cleaning establishment (coin-operated) permit shall be issued for a one-year period beginning on February 1 and ending on January 31.

2. The fee for each permit shall be \$220.

3. Each permit shall be renewed annually upon the payment of the required fee before February 1 of the following year. There shall be an additional fee for the filing of a late renewal application in the amount of \$100.
(See s. 76-20.)

60-19. Dumping Permits.

1. a. The fee for each dump site permit under s. 80-45 shall be \$145.

b. Each permit shall run for a period of one year from the date of issuance and shall be subject to renewal.

2. The fee for dumping soil by the water department at the sanitation division's dump sites shall be \$10 per cubic yard.

3. a. The fee for a private operator to dump snow at any of the city's snow dump sites shall be \$145.

b. Each permit issued under par. a. shall run for a period of one year from the date of issuance.
(See s. 80-45.)

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60-43. Grooming Establishment, Animals.

1. Each animal grooming establishment permit shall be issued for the calendar year.

2. The fee for each permit shall be \$100.

3. There shall be an additional fee for the filing of a late renewal application on or after January 1 of the following year in the amount of \$60.

(See s. 78-11.)

60-45. Health Certificate to Travel. The fee for the issuance of any health certificate to travel shall be \$1.

(See s. 59-17.)

60-47. Horse Stable Permit.

1. Each horse stable permit shall be issued for the calendar year ending December 31.

2. The fee for each permit shall be \$70.

3. There shall be an additional fee for the filing of a late renewal application on or after January 1 of the following year in the amount of \$30.

(See s. 78-7.)

60-49. Inoculation Fee. The fee for the provision for an inoculation for overseas travel shall be \$41.

60-51. Kennel Permit.

1. Each kennel permit shall be issued for the calendar year.

2. The fee for each license shall be \$100.

3. There shall be an additional fee for the filing of a late renewal application on or after January 1 of the following year in the amount of \$30.

(See s. 78-7.)

60-52. Laboratory Services.

1. A fee shall be charged for laboratory services provided by the health department, with the exception of those tests listed in sub. 2, based on the most current charges specified by the state laboratory of hygiene. Lead screening and testing fees shall be based on the most current Title 19 Medicaid reimbursement rates

as set by the state of Wisconsin for health maintenance organizations. New tests added in the future shall be regulated by the guidelines for laboratory fees in the state laboratory of hygiene reference manual or by rates set by the state for Title 19 Medicaid reimbursement of health maintenance organizations.

2. There shall be no fee charged for the following tests and any other test determined by the commissioner of health as appropriate based on public health needs or considerations:

a. Specimens for pertussis.

b. Reference cultures.

3. The following tests shall be charged a handling fee determined by the health department:

a. Specimens for legionella.

b. Specimens for mycobacteria.

60-53. Lead Hazard Inspection Fee. The fee for each lead hazard inspection necessary to determine compliance with an order issued under s. 66-22-4-c shall be \$150 per dwelling, dwelling unit, supplemental location or premises. The fee for each subsequent reinspection shall be \$300 until full compliance with the order is found.

(See s. 66-22.)

60-54. Lead Reduction Permit. The fee for each lead reduction permit shall be \$57 per dwelling, dwelling unit, supplemental location or premises.

(See s. 66-22.)

60-57. Masonry Building Cleaning, Sandblasting Permit.

1. The fee for each permit for each calendar day or partial calendar day for masonry building cleaning shall be \$78.

2. No fee shall be charged for a permit issued for purposes of removing graffiti.

(See s. 80-29.)

60-66. Noise Variance Permit.

1. The fee for application for a noise variance permit shall be \$55.

2. An application for a noise variance shall be filed between 7 to 14 days prior to the first day of the requested variance. An application filed less than 7 days prior to the first day of the requested variance shall be subject to a late application fee provided under sub 3.

3. There shall be an additional fee of \$50 for filing a late application.

(See s. 80-66.)

60-67. Pesticide Applicator Certificate, Commercial.

1. Each commercial pest control operator's certificate shall be issued for a one-year period, commencing on February 1 and expiring on the following January 31.

2. The fee for each certificate shall be \$90.

3. There shall be an additional fee for the filing of a late renewal application on or after February 1 of the following year in the amount of \$50.

(See s. 77-5.)

60-69. Pet Shop License.

1. Each pet shop license shall be issued for the calendar year.

2. The fee for each license shall be \$100.

3. There shall be an additional late fee for the filing of a late renewal application on or after January 1 of the following year in the amount of \$60.

(See s. 78-9.)

60-70. Inspection Fees for Health Code and Weights and Measures.

1. HEALTH CODE INSPECTION FEES.

a. Annual Routine Inspection.

a-1. The routine inspection fee for a mobile restaurant or temporary event licensed by the Wisconsin department of agriculture, trade and consumer protection shall be \$50.

a-2. The fee for the first inspection in which one or more of the criteria specified in s. 60-1-5 are met shall be \$125.

a-3. The fee shall increase by \$125 for each successive inspection in which one or more of the criteria specified in s. 60-1-5 are met.

a-4. The maximum inspection fee for a single inspection, excluding penalties for late payment, shall be \$500.

b. Additional Routine Inspection. When an additional routine inspection is requested by an establishment or required by the department due to repeated failure to correct a violation, the fee for performing the additional routine inspection shall be \$250.

c. Reinspection.

c-1. The fee for the first reinspection in which one or more of the criteria specified in s. 60-5-1 are met shall be \$125.

c-2. The fee shall increase by \$125 for each successive inspection in which one or

more of the criteria specified in s. 60-1-5 are met.

c-3. The maximum reinspection fee for a single inspection, excluding penalties for late payment, shall be \$500.

c-4. This paragraph does not apply to a retail food establishment that is a micro market.

d. Compliant Investigation.

d-1. The fee for the first investigation in which one or more of the criteria specified in s. 60-1-5 are met shall be \$125.

d-2. The fee shall increase by \$125 for each successive inspection in which one or more of the criteria specified in s. 60-1-5 are met.

d-3. The maximum inspection fee for a single inspection, excluding penalties for late payment, shall be \$500.

e. Reinstatement Inspection. The fee for a reinstatement inspection required to remove an order to suspend all or part of a food operation due to an imminent health hazard shall be \$125.

2. WEIGHTS AND MEASURES INSPECTION FEES.

a. Reinspection. The fee for a reinspection when an operator fails to bring all devices into compliance shall be \$125. The fee shall increase by \$125 for each successive reinspection in which the operator fails to bring all devices into compliance.

b. Price Verification Reinspection. The reinspection fee for the first failed repeat price verification audit shall be \$250. The fee shall increase by \$125 for each successive price verification audit in which the operator fails to obtain a passing score.

c. Vehicle Tank Meters. The fee for inspection of a vehicle tank meter, as defined in s. 98.224(1), Wis. Stats., shall be \$125.

(See ch. 68 and 82)

60-83. Swimming and Other Water Use Facilities: Plan Examinations, Inspections and Preinspections.

1. The fee for each plan examination and preinspection for swimming and other water use facilities shall be:

a. Private temporary facility plan examination: \$50.

b. Nonmobile temporary facility plan examination made prior to construction: \$50.

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c. Private nonmobile facility plan examination paid after construction has begun: \$100.

d. Complete facility review and preinspections of a public pool, excluding wading pools: \$600.

e. Partial facility review and preinspections of a public pool, excluding wading pools: \$600.

g. Partial review of a public wading pool: \$75.

h. Public facility review or preinspection paid after construction has begun: 2 times the fee amounts in pars. d to g.

i. Virginia Graemy Baker (VGB) act modification inspection: \$150.

j. Slide functional requirement inspection: \$540.

k. Slide structural requirement inspection, greater than 6 feet: \$600.

L. Public swimming pool and water attraction reinspection: \$300.

2. There shall be an additional fee for the filing of a late application in the amount of \$50.

3. Fees listed in this section shall not be refundable.

(See s. 75-20.1.)

60-87. Vital Records. Fees charged for the search, filing and issuing of certified copies of births and deaths and for making authorized corrections, alterations or additions to those records shall be those prescribed in s. 69.22, Wis. Stats.

For legislative history of chapter 60, contact the Municipal Research Library.

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CHAPTER 61
PENALTIES FOR HEALTH-RELATED VIOLATIONS

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61-1. Definitions. In this chapter "person" means any individual, firm, partnership, trustee, agent, association, corporation, company, governmental agency, club or organization of any kind.

61-5. General Provisions. 1. Any person who violates any provision of chapters 62 to 78, ch. 80, s. 84-48 or order of the commissioner of health, a representative of the commissioner or any city official to whom the commissioner's functions or duties have been delegated pursuant to a memorandum of understanding shall be subject to penalties as set forth in this chapter and as referenced in specific sections of those chapters. Where citations are issued the Milwaukee municipal court deposit schedule shall be used as a guide for penalties for violations of these chapters.

2. Costs of prosecution and taxes shall be added to all forfeiture amounts listed in this chapter.

3. Upon default of payment the violator shall be imprisoned in the county jail or house of correction for the time specified in this chapter or until such forfeiture and costs plus taxes shall be paid.

61-7. Class A. Upon conviction of a Class A violation, persons shall be fined not less than \$25 nor more than \$200, or upon default

imprisoned not less than one day nor more than 30 days.

61-8. Class B. Upon conviction of a Class B violation, persons shall be fined not less than \$25 nor more than \$200. Each day of violation, disobedience, omission, neglect or refusal shall constitute a separate offense. Upon default of payment, the violator shall be imprisoned not less than one day nor more than 30 days.

61-9. Class C. Upon conviction of a Class C violation, persons shall be fined not less than \$25 nor more than \$200. Each and every act of violation shall constitute a separate offense. Upon default of payment, the violator shall be imprisoned not less than one day nor more than 30 days.

61-10. Class D. Upon conviction of a Class D violation, persons shall be fined not less than \$50 nor more than \$500. Upon default of payment, the violator shall be imprisoned not less than 3 days nor more than 30 days.

61-11. Class E. Upon conviction of a Class E violation, persons shall be fined not less than \$50 nor more than \$500. Each day of violation, disobedience, omission, neglect or refusal shall constitute a separate offense. Upon default of payment, the violator shall be imprisoned not less than 3 days nor more than 30 days.

61-12. Class F. Upon conviction of a Class F violation, persons shall be fined not less than \$50 nor more than \$500. Each and every act of violation shall constitute a separate offense. Upon default of payment, the violator shall be imprisoned not less than 3 days nor more than 30 days.

61-13. Class G. Each day of a Class G violation shall constitute a separate offense. Upon the first conviction, violators shall be fined not less than \$50 nor more than \$100. On 2nd and subsequent violations of the same offense which has been previously cited, persons shall be fined not less than \$100 nor more than \$200. Upon default of payment for the first violation, the violator shall be imprisoned not less than 2 days nor more than 30 days. Upon default of payment for 2nd and subsequent violations, such

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imprisonment shall be not less than 3 days nor more than 30 days.

61-14. Class H. Each act of a Class H violation shall constitute a separate offense. Upon the first conviction, violators shall be fined not less than \$50 nor more than \$100. On 2nd and subsequent violations of the same offense that have been previously cited, the person shall be fined not less than \$100 nor more than \$200. Upon default of payment for the first offense, the violator shall be imprisoned for not less than 2 days nor more than 30 days. Upon default of payment for the 2nd and subsequent offenses, the violator shall be imprisoned not less than 3 days nor more than 30 days.

61-15. Class I. Upon conviction of a Class I violation, persons shall forfeit not less than \$100 nor more than \$1,000. Each day of violation, disobedience, omission, neglect or refusal shall constitute a separate offense. Accumulated forfeitures recoverable in any one action shall not exceed \$10,000. Upon default of payment, the violator shall be imprisoned not less than 3 days nor more than 30 days.

61-16. Class J. 1. Upon conviction of a Class J violation, persons shall be fined not less than \$100 nor more than \$5,000. Each and every act of violation, disobedience, omission, neglect or refusal shall constitute a separate offense. Accumulated forfeitures recoverable in any one action shall not exceed \$10,000. Upon default of payment, the violator shall be imprisoned not less than 4 days nor more than 80 days.

2. The minimum forfeiture shall be not less than \$500 for a second or subsequent conviction of any of the following violations committed within a 2-year period. Each day of continued violations of subs. a and b shall constitute a separate offense. Accumulated forfeitures recoverable in any one action for violation of pars. a and b shall not exceed \$30,000. All other penalty provisions for violations of s. 66-22 shall be as provided in sub. 1.

a. Violation of any provision of s. 66-22.

b. Failure to obey any order of the commissioner to conform to any provision of s. 66-22.

61-17. Class K. Upon conviction of a Class K violation, persons shall forfeit not less than \$150 nor more than \$1,000. Each day of violation, disobedience, omission, neglect or refusal shall constitute a separate offense. Upon default of payment, the violator shall be imprisoned not less than 6 nor more than 40 days.

61-18. Class L. Upon conviction of a Class L violation, a person shall forfeit \$500. Upon default of payment, the violator shall be imprisoned for 20 days. Each day of violation shall constitute a separate offense.

61-20. Class N. Upon conviction of a Class N violation, a person shall forfeit not less than \$500 nor more than \$5000. Each day of violation, disobedience, omission, neglect or refusal shall constitute a separate offense. Accumulated forfeitures recoverable in any one action shall not exceed \$20,000. Upon default of payment, the violator shall be imprisoned not less than 4 days nor more than 80 days.

61-21. Class O. Upon conviction of a Class O violation, the violator shall forfeit not less than \$300 nor more than \$1,500. Upon default of payment, the violator shall be subject to imprisonment not less than 12 nor more than 60 days.

61-22. Class P. Upon conviction of a Class P violation, the violator shall forfeit not less than \$1,500 nor more than \$5,000. Each incidence of a dumping violation shall constitute a separate offense. Upon default of payment, the violator shall be subject to imprisonment not less than 30 days nor more than 100 days.

61-23. Class Q. Upon conviction of a Class Q violation, the violator shall forfeit not less than \$1,000 nor more than \$10,000. Each incidence of a violation shall constitute a separate offense. Upon default of payment, the violator shall be subject to imprisonment not less than 30 days nor more than 100 days.

For legislative history of chapter 61, contact the Municipal Research Library.

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**CHAPTER 62
COMMUNICABLE DISEASES**

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62-1. Definitions. 1. **COMMISSIONER** means the commissioner of health of the city of Milwaukee or his or her representative.

2. **COMMUNICABLE DISEASE** means an illness due to a specific infectious agent or its toxic products which arises through transmission of that agent or its products from an infected person or animal or a reservoir to a susceptible host, either directly or indirectly through an intermediate plant or animal host, vector or the inanimate environment.

3. **CONTACT** means a person or animal that has been in association with an infected person or animal or a contaminated environment which may provide an opportunity to acquire the infective agent.

4. **DISEASE** includes conditions detrimental to health.

5. **DISINFECTION** means the killing of infectious agents outside the body by direct exposure to chemical or physical agents.

a. **CONCURRENT DISINFECTION** means the application of measures to cause killing of infectious agents as soon as possible after the discharge of infectious material from

the body of an ill person or after the soiling of articles with such infectious discharges.

b. **TERMINAL DISINFECTION** means the application of measures to cause killing of infectious material after the patient has been removed by death or to a hospital or has ceased to be a source of infection.

6. **LABORATORY** means a biological, chemical, clinical or microbiological laboratory which is authorized or certified by the Wisconsin department of health and social services to perform tests for the detection or confirmation of diseases.

7. **PATIENT** means a person who has or is suspected of having a reportable or nonreportable communicable disease.

8. **PERSON** means any individual, firm, partnership, trustee, agent, association, corporation, company, governmental agency, club or organization of any kind.

9. **PRINCIPAL** means the person who is in charge of a school or day care.

10. **QUARANTINE** means restriction of the activities of well persons who have been exposed to a disease to prevent transmission of the disease.

11. **FACE COVERING** means a protective mask covering the nose and mouth, including cloth face coverings or surgical masks as described by the centers for disease control and prevention.

12. **BUILDING OPEN TO PUBLIC** means any structure or premises licensed by the city of Milwaukee or used in whole or in part as a place of resort, assemblage, lodging, trade, traffic, occupancy, or other use by the public, not including an outdoor space or patio.

62-3. Purpose. This chapter is enacted to protect the public health by requiring reporting of certain communicable diseases so that appropriate epidemiological control actions such as isolation or quarantine may be taken to control the spread of disease; to limit the employment in high risk occupations both for profit and by volunteers of persons with certain diseases during the time those persons may spread their disease to others through their employment; and to protect the public health by limiting attendance at school, nursery school or day care by persons with certain communicable diseases or conditions until the diseases or conditions are no longer communicable or are rectified.

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62-5. List of Communicable Diseases. A copy of the list of reportable communicable diseases shall be kept on file, available to the public, in the office of the commissioner.

62-7. Reporting of Communicable Diseases.

1. Any person licensed under ch. 441 or 448, Wis. Stats., who knows or has reason to know, or has a reasonable suspicion that a person treated or visited by the licensee has a reportable communicable disease, or having had such disease, has died, shall report the same to the commissioner.

2. Any person, other than those licensed under ch. 441 or 448, Wis. Stats., having knowledge or reason to believe or suspect that anyone has a reportable communicable disease shall report such belief to the commissioner.

3. Each laboratory shall report to the commissioner those specimen results the commissioner designated to aid in the surveillance, diagnosis, control and prevention of communicable diseases, including cases of suspected food poisonings and outbreaks of disease occurring in the city of Milwaukee.

4. Unless otherwise specified, all reports required by this section shall be made within 24 hours either by telephone, telegraph, mail, or deposit at the office of the commissioner in a form prescribed by the commissioner.

62-8. Face Covering Requirements During the COVID-19 Pandemic.

1. MASK REQUIRED INDOORS. Any person 3 years old or older who is present in the city of Milwaukee shall have possession of a face covering when the person leaves home or other place of residence and shall wear the face covering whenever the person is in a building open to the public.

a. The face covering requirement under 62-8-1 shall be in effect until March 1, 2022.

2. MASK REQUIRED OUTDOORS. For the duration of the 'Moving Milwaukee Forward' health and safety orders, any person 3 years old or older who is present in the city of Milwaukee shall comply with the outdoor guidance provided by the centers for disease control and prevention.

3. MASK REQUIRED FOR CITY FACILITIES AND EMPLOYEES. The commissioner of public works and director of employee relations shall establish a face

covering requirement policy for all city employees and other persons on the premises of any city facility.

4. EXCEPTIONS. Exceptions for face coverings will be made under the following circumstances:

a. Persons who fall into the centers for disease control and prevention's guidance for those who should not wear face coverings due to medical condition, mental health condition, developmental disability, or for whom no other accommodation can be offered under the Americans with disabilities act.

b. Persons who have upper-respiratory chronic conditions, silent or invisible disabilities, or are communicating with an individual who is deaf or hard of hearing and communication cannot be achieved through other means.

c. Persons in settings where it is not practical or feasible to wear face coverings when obtaining or rendering goods or services to the extent necessary to obtain or render such goods or services including but not limited to performers during rehearsals or performances, individuals receiving dental services or medical treatments or individuals consuming food or beverages.

d. Whenever federal, state, or local law otherwise prohibit wearing a face mask or where it is necessary to evaluate or verify an individual's identity.

e. Persons whose religious beliefs prevent them from wearing a face covering.

f. Persons engaged in athletic activities or cleansing related to athletic activities.

5. PENALTY AND ENFORCEMENT. The health department may enforce this section.

a. The owner or operator of any building open to the public shall ensure all persons present in his or her building open to the public comply with sub. 1. The owner or operator of any building open to the public has the right to refuse entry or service to any person for failure to comply with sub. 1.

b. If the health department receives a complaint that any owner or operator of a building open to the public that permits a person to violate sub. 1 in his or her building open to the public, the health department may first send a letter to the owner or operator explaining the face covering mandate and his or her responsibilities as owners and operators of a building open to the public. If the health department receives an additional complaint at

least one week after the initial letter being sent to the owner or operator of a building open to the public, the health department may attempt to follow up with such owner or operator with additional outreach either in person, over the phone or virtually with such owner or operator to discuss such owner or operator's responsibilities hereunder and develop strategies for compliance.

c. If the health department receives a third complaint that any owner or operator of a building open to the public permits a person to violate sub. 1 in his or her building open to the public after the health department has performed all outreach under par. b, the health department may conduct an onsite visit of the building open to the public. If a violation of sub. 1 is observed during such visit, the health department may submit a written statement attesting to the observed violation to the license division of the city clerk's office. The attestation shall be added to the owner or operator's license renewal application.

d. The health department may handle any complaints subsequent to the third in accordance with par. c.

62-9. Isolation, Quarantine, Placarding, Orders. 1. The commissioner may require isolation of a patient, quarantine of the patient's contacts, concurrent and terminal disinfection, or modified forms of these procedures as may be necessary. The commissioner shall investigate evasion of all federal, state of Wisconsin and city of Milwaukee laws, rules and regulations concerning communicable diseases and shall act to protect the public, including the issuance of necessary orders to cause compliance with such laws and rules.

2. If it is deemed necessary by the commissioner, all persons except the commissioner, attending physicians and nurses, members of the clergy, and members of the immediate family or any other person having a special written permit from the commissioner may be prohibited from direct contact with the patient.

3. When the commissioner deems it necessary that a patient be isolated or otherwise restricted in a separate place, the commissioner may cause the removal of the patient to this place if it can be done without danger to the person's health.

4. When it is necessary to transport a patient to an isolation site, transportation shall be by private conveyance or other designated vehicles only, and proper precautions exercised to prevent needless exposure of all persons who may come in contact with the patient during transit.

5. When it is necessary to protect the public's health against communicable disease or conditions hazardous to the public health, the commissioner may placard or post notices or warnings on buildings, conveyances, property, or other appropriate places to inform or educate, or to carry out isolation and quarantine or to restrict entrance or occupancy. Such placards, notices or warnings shall remain upon such building, conveyance, property, or other appropriate places as long as determined necessary by the commissioner and shall not be defaced or made illegible.

6. The commissioner shall employ as many persons as are necessary to execute the commissioner's orders and properly guard any place if isolation, quarantine or other restrictions concerning communicable disease or other conditions deemed hazardous to the public's health are violated or intent to violate is manifested.

7. Expenses for necessary medical care, food and other articles needed for the care of the patient shall be charged against the patient or whoever is liable for the patient's support.

8. The city of Milwaukee may recover costs accruing under this section, including payment by persons who are liable for the patient's support, payment through 3rd party liability, or payment through any other benefit system.

a. The expense of employing guards under sub. 6.

b. The expense of maintaining quarantine and enforcing isolation of the quarantined area.

c. The expense of conducting examinations and tests for disease carriers made under the direction of the commissioner.

d. The expense of transporting or isolating patients.

62-10 Communicable Diseases

62-10. Violation or Obstruction of Orders.

The commissioner and any police officer are authorized to issue orders and citations to any persons who willfully violate or obstruct the execution of an order issued under this chapter or ch. 252, Wis. Stats.

62-11. Employment of Persons Who Handle Food Products.

1. No person in charge of any public eating place, or other establishment where food products to be consumed by others are handled, may knowingly employ any person to handle food products who has a disease in a form that is communicable by food handling.

2. No person knowingly infected or who is reasonably suspected of being infected with a disease in a form that is communicable by food handling may be employed or work as a food handler in a public eating place or other establishment where food products to be consumed by others are handled or produced.

3. If required by the commissioner for the purposes of an investigation, any person who is employed in the handling of foods who is suspected of having a disease in a form that is communicable by food handling shall submit to an examination ordered by the commissioner and may not work in such capacity until proved not to have such disease. The expense of the examination shall be paid by the person examined.

62-13. Employment of Persons in Hospitals, Nursing Homes, Day Care Centers and Health Care Facilities.

1. No person who is in charge of a hospital, nursing home, day care center or other facility requiring close personal contact may knowingly employ volunteers or employees with gastrointestinal or other communicable diseases in the infectious stage as specified by the commissioner in occupations requiring close personal contact with others.

2. No person in a facility mentioned in sub. 1 who has or is reasonably suspected of having a gastrointestinal or other communicable disease in the communicable form as specified by the commissioner may be employed in a paid or volunteer basis in occupations requiring close personal contact until ascertained noncommunicable by appropriate laboratory tests as specified by the commissioner.

3. If required by the commissioner for the purposes of an investigation, any person who is employed in an occupation requiring close personal contact with others who is suspected of having a disease in a form that is communicable by close personal contact shall submit to an examination ordered by the commissioner and may not work in such capacity until proved not to have such disease. The expense of the examination shall be paid by the person examined.

62-15. Students With Communicable Diseases.

1. WHEN SCHOOL ATTENDANCE PROHIBITED. No parent or other person having charge or control of any student shall allow that student to attend any private, parochial, or public school, nursery school or day care center while infected with severe cough, severe upper respiratory infection, diarrhea, scabies, lice or other vermin, ringworm (Tinea) of scalp and body, pyodermas, infectious conjunctivitis (pink eye) or other reportable or nonreportable contagious and communicable disease as specified by the commissioner, or who is filthy of clothes or body.

2. TREATMENT PERIODS. Any parent or other person having charge or control of any such child so affected shall, after receiving notice, instigate treatment or remedial action for the child within the following times:

- a. Ringworm of body and scalp:
7 days.
- b. Pyodermas: 7 days.
- c. Pediculosis of any part of body:
7 days.
- d. Scabies: 7 days
- e. Infectious conjunctivitis: 7 days
- f. Filthy condition: 24 hours.

3. SCHOOL'S RESPONSIBILITY.

Any teacher, school nurse, principal or director shall send home pupils who are suspected of having a communicable disease or any other disease that the commissioner specifies. Any teacher, school nurse, principal or director who sends a pupil home shall immediately notify the parents of the pupil of the action and the reasons for the action.

4. WHEN RETURN TO SCHOOL IS PERMITTED. No child is to return to school without having received adequate treatment or remedial care or recovery for the above conditions.

62-17. Veterinarian to Report Animals and Birds with Diseases of Zoonotic Importance.

Any person licensed as a veterinarian under ch. 443, Wis. Stats., having knowledge or reason to believe or suspect that an animal or bird has a disease of zoonotic importance or having such a disease has died shall report the same to the commissioner. Such report shall be made to the commissioner within 24 hours either by telephone or by deposit at the commissioner's office in a form required by the commissioner. The report shall include the disease and the place where the animal or bird is kept or located, and the name, address and telephone number of the owner or keeper, and other information as required.

62-19. Penalties. Any person who violates a section listed in column A shall be liable on conviction to the penalties for the class of violations listed in column B and described in ch. 61:

A	B
62-7-1	Class F
62-7-2	Class C
62-7-3	Class F
62-9-5	Class F
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For legislative history of chapter 62, contact the Municipal Research Library.

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CHAPTER 63 PARKS AND PARKWAYS

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63-1. Adoption of State Code. a. The city of Milwaukee adopts the following provisions of ch. NR 45, Wis. Adm. Code, as amended, as part of this code:

a-1. NR 45.04(2)(a), Wis. Adm. Code, relating to closing hours for Lakeshore state park.

a-2. NR 45.04(3)(a), Wis. Adm. Code, relating to disorderly conduct.

a-3. NR 45.04(3)(u), Wis. Adm. Code, relating to paintball activities.

a-4. NR 45.05(1)(d), Wis. Adm. Code, relating to parking.

a-5. NR 45.05(3)(a), Wis. Adm. Code, relating to vehicle operations.

a-6. NR 45.05(3)(e), Wis. Adm. Code, relating to bicycles.

a-7. NR 45.10(1)(a), Wis. Adm. Code, relating to camping.

a-8. NR 45.13(15), Wis. Adm. Code, relating to Havenswoods state forest preserve.

a-9. NR 45.13(26)(c), Wis. Adm. Code, relating to marina operations at Lakeshore state park.

b. Consistent with NR 45.05(1)(c), Wis. Adm. Code, no person may operate or park any vehicle as defined in s. 340.01-74, Wis. Stats., which is required to be registered by law on the Hank Aaron state trail.

c. Consistent with NR 45.07(1), Wis. Adm. Code, no person may start, tend or maintain any fire on the ground or burn any refuse except in designated fireplaces or fire rings or leave a fire unattended.

63-2. Definitions. In this chapter:

1. AT LARGE means an animal is off the premises of its owner and on any park or parkway without the permission of the department or the director. Any animal shall not be deemed to be at large if any one of the following conditions occurs:

a. It is attached to a leash not more than 6 feet in length which is of sufficient strength to restrain the animal and the leash is held by a person competent to govern the animal and prevent it from annoying or worrying persons in the park or parkway.

b. It is properly restrained within a motor vehicle.

c. It is a dangerous animal that is in compliance with the requirements of s. 78-23-2.

2. DEPARTMENT means the Milwaukee county department of parks, recreation and culture.

3. DIRECTOR means the Milwaukee county director of parks, recreation and culture, or designee.

4. PARK OR PARKWAY means the grounds, buildings thereon, waters therein and any other property within the city which is under the control or jurisdiction of the Milwaukee county department of parks, recreation and culture.

5. PERSON means any individual, firm, partnership, corporation or association of persons, and the singular number shall include the plural.

63-3. Park Hours. Parks, other than those adjacent to Lake Michigan, and parkways shall be closed daily between midnight and 5 a.m., except as otherwise posted by the director. Parks adjacent to Lake Michigan shall open at 4:30 a.m. No person shall enter or remain within the parks or parkways, except vehicular traffic, during hours that the parks are closed.

63-5 Parks and Parkways

63-5. Noise. 1. No person shall use or operate any radio, phonograph, musical instrument or other mechanical, electrical sound making, reproducing or amplification device in a park or parkway so as to be heard at a distance greater than 50 feet from such instrument or device, radio or phonograph.

2. No such radio, phonograph, musical instrument or device described in sub. 1 may be used or operated within the park within 50 feet of the legal boundaries of the park or parkway such that the device can be heard outside the park or parkway.

3. Musical shows, cultural events, public gatherings or exhibitions authorized by the director or the Milwaukee county board are exempt from this section.

63-7. Permits for Exclusive Use; Interference With Prohibited. Permits for the exclusive use of any picnic or play area for any specified date or time may be granted at the discretion of the director, and no person shall, in any manner, disturb or interfere with any person or party occupying the ground under such a permit, nor with any of their equipment or property.

63-9. Sales and Solicitation for Sale, and Distribution of Advertisements Prohibited Without Permit. No person shall sell or offer for sale any article, merchandise or thing, nor solicit for or pursue any trade, occupation, business or profession, within any park or parkway, without the written permit of the director.

63-11. Dangerous Weapons. 1. No person may possess any airgun, BB gun, spring gun, bow with arrows, crossbow, sling or slingshot in any park or parkway except in an area designated by the director for target shooting or practice, without the written permit of the director.

2. No person shall discharge a firearm in any park or parkway.

63-13. Hunting or Trapping. No person shall engage in trapping or hunting within any park or parkway without a written permit from the department.

63-15. Throwing of Stones or Missiles. No person shall throw stones or missiles in or into any park or parkway.

63-17. Making of Fires. No person shall make, kindle, maintain or congregate around a fire for any purpose except in places provided therefor, and then subject to such regulations as may be prescribed by the department.

63-19. Domestic Animals in Parks.

1. DOMESTIC ANIMALS NOT ALLOWED IN PARKS. No animal, except those placed in the parks or parkways by the authority of the director shall be allowed to remain within except dogs. No person having the control or care of a dog shall permit the dog to enter or remain in a public park or parkway unless it be led by a leash of suitable strength not more than 6 feet in length, and only within such areas in parks as have been designated by the director.

2. IMPOUNDING OF DOGS. Dogs found running at large within any park or parkway may be impounded by any peace officer, employee of the department, or a police officer.

3. ANIMAL LITTER NUISANCES.

a. Prohibited. No owner or caretaker of any animal may permit the animal to be at large on any park or parkway. Any animal found at large in any park or on any parkway shall be deemed to be so with the permission of its owner or caretaker.

b. Animal Litter. An owner or caretaker of any animal in any park or parkway must have a shovel, scoop, bag or other item for the removal of fecal matter on such premises; remove all fecal matter by shovel, scoop, bag or other item; and properly wrap and deposit the fecal matter in a waste container upon his or her own premises or in a container in the park or parkway designated for such purpose.

63-21. Fish, Waterfowl and Game Birds.

1. FISHING. Fishing is permitted unless prohibited by posted signs.

a. No person shall throw any object into the waters of the parks or parkways.

b. No person shall take, capture or kill any fish or fish for fish by any means other than hook or line within 200 feet of any fishway, lock or dam.

c. No person may fish or leave any fish line unattended in any waters, or take any fish by snagging or fouling, or fish with the aid or use of any firearm or pellet gun, or by any means other than angling or trolling. Dip nets 3 feet or less in diameter and a gaff may be used for the purpose of landing fish legally hooked.

2. WATERFOWL AND GAME BIRDS. No person shall kill, injure or attempt to injure, or unnecessarily disturb any waterfowl or other birds or animals, wild or domestic, within any of the parks or parkways. No person shall rob or disturb the nest or eggs of any bird or other animal therein.

63-23. Use of Skateboards Regulated. No person shall ride or otherwise use a skateboard upon the sidewalks, walkways or any other park area where skateboarding has been prohibited by the Milwaukee county board and appropriate signs have been posted by the department.

63-25. Use of Motor Vehicles in Parks.

1. DRIVING CONFINED TO REGULAR DRIVES AND PARKING AREAS. No person shall operate or drive any motor vehicle upon any part of the parks or parkways, except roads, driveways, parking areas or other areas which have been designated by the director for vehicular traffic.

2. VEHICLES FOR HIRE NOT TO STAND IN PARKS. No person shall cause any taxi, bus, limousine or other vehicle for hire to stand upon any part of the parks or parkways for the purpose of soliciting or taking in passengers or persons other than those carried to the parks or parkways by the vehicles, unless licensed by the director.

3. PARKING REGULATION. Parking within the county parks and parkways is regulated and restricted by the director. The director may prohibit parking in specified areas, may limit the times of day and the maximum duration during which parking will be permitted in specified areas and may adopt such other regulations and restrictions on parking as the director may determine to be necessary for the safe and efficient operation and maintenance of parks and parkways. No person shall park any vehicle or permit any vehicle to remain standing on any highway or roadway within the county parks or parkways in violation of any regulation or restriction adopted and posted by the director.

4. PARKING AREA TO BE USED FOR PARKING PURPOSES ONLY. No person shall operate or drive any motor vehicle in any area designated for the parking of vehicles except for the purposes of parking therein or of maintaining such areas.

5. REGULATION OF SNOWMOBILES. No person shall operate or drive a snowmobile in any park or parkway.

63-27. Boating Regulations. No person shall, without written permission of the department, place upon the lagoons, rivers or any of the waters under the control of the department, any float, boat or other watercraft, nor land or go upon any of the islands of the lagoons or rivers, nor land or touch with a boat upon any part of the shores not designated as a landing place.

63-29. Bathing and Swimming Regulations.

1. BATHING PERMITTED ONLY AT DESIGNATED PLACES. No person shall wade, bathe or swim within a park or parkway except at such pools or beaches as are designated for that purpose by the department.

2. ALUMINUM CANS, BOTTLES, ETC. PROHIBITED. No person shall take any aluminum cans, bottles or glassware of any kind, except eyeglasses, into an area designated as a beach or pool for bathers by the department.

3. BATHING HOURS RESTRICTED. No person shall wade, bathe or swim within a park or parkway except during the hours and days designated for the purpose by the director. No person shall enter into a swimming or wading pool area or any body of water within the parks or parkways except during such hours and days as designated for that purpose by the director. The director shall cause to be prominently placed signs stating the hours during which wading, bathing or swimming therein is either permitted or prohibited.

63-31. Penalties. Any person who violates any of the provisions of this chapter shall, upon conviction, forfeit not less than \$25 nor more than \$500, together with the costs of prosecution, and in default of payment, shall be imprisoned in the house of correction for a period not to exceed 10 days.

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**LEGISLATIVE HISTORY
CHAPTER 63**

Abbreviations:

am = amended
cr = created

ra = renumbered and amended
rc = repealed and recreated

rn = renumbered
rp = repealed

<u>Section</u>	<u>Action</u>	<u>File</u>	<u>Passed</u>	<u>Effective</u>
Ch. 63	cr	990536	10/19/99	11/5/99
63-1	rn to 63-2	121192	1/15/2013	2/2/2013
63-1	cr	121192	1/15/2013	2/2/2013
63-11	rc	090222	7/7/2009	7/24/2009

63-Parks and Parkways

[Pages 118 to 120 are blank]

CHAPTER 64
CAMPGROUNDS

TABLE

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64-3	Definition
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64-1. Adoption of State Code. Except as otherwise provided in this chapter, the city of Milwaukee adopts ch. ATP 79, Wis. Adm. Code, as amended. The city also adopts ch. 254, Wis. Stats.

64-3. Definition. In this chapter, "department" means the health department or any department to which health department functions or duties under this chapter have been delegated pursuant to a memorandum of understanding.

64-5. Enforcement. The department shall enforce the provisions of this chapter where applicable.

For the legislative history of Chapter 64, contact the Municipal Research Library.

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CHAPTER 66 TOXIC AND HAZARDOUS SUBSTANCES

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SUBCHAPTER 1 ASBESTOS HAZARDS REGULATIONS

66-10. Definitions. In this subchapter:

1. ASBESTOS means any hydrated mineral silicate separable into commercially usable fibers, including but not limited to chrysotile (serpentine), amosite (cummingtonite-grunerite), crocidolite (riebeckite), tremolite, anthrophyllite and actinolite.

2. ASBESTOS ABATEMENT means to encapsulate, enclose, repair or remove asbestos containing material in order to eliminate an asbestos hazard.

3. ASBESTOS CONTAINING MATERIAL means any material that contains greater than 1% asbestos by weight, volume or other analytical method acceptable to the commissioner.

4. ASBESTOS PROJECT means any form of work performed in connection with the alteration, renovation, modification or

demolition of a building, structure or equipment as defined in 200-08 or contaminated soil which will disturb asbestos containing material in the following amounts:

a. Greater than or equal to 260 linear feet.

b. Greater than or equal to 160 square feet.

c. Greater than or equal to one cubic meter.

d. Any combination of material listed in pars. a, b and c which, when divided by the respective minimum project permit amount and totaled, equals or exceeds 1.0.

5. ASBESTOS PROJECT PLAN means a detailed description of the abatement project, including, but not limited to, a plan of operation, blueprints, diagrams or drawings. The plan shall include:

a. Information to indicate the location of materials containing asbestos.

b. Any environmental and occupational health control methods and techniques to be used in the abatement.

c. The level of training and certification of workers involved in the project.

d. The method by which the asbestos waste shall be disposed of.

e. Any other documentation or information pertaining to the abatement plan requested by the commissioner.

6. COMMISSIONER means the commissioner of neighborhood services or the commissioner's designated representative.

7. DEPARTMENT means the department of neighborhood services.

8. FRIABLE ASBESTOS means asbestos or any material or product which contains more than 1% asbestos by weight and that can be crumbled, pulverized or reduced to powder, when dry, by hand pressure.

9. OPERATIONS AND MAINTENANCE PROJECT means asbestos work performed within one calendar year in a structure or group of contiguous structures in which individual jobs do not exceed asbestos project permit requirements, but it is expected that the total amount of removal within that calendar year will exceed permit requirements.

10. PERSON means any individual, firm, corporation or other legal entity.

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66-12. Asbestos Hazard Control. 1. FINDINGS AND INTENT. It is hereby found that exposure to airborne asbestos fibers and particles has been linked to various diseases. In the past, materials containing asbestos were used in buildings for fireproofing, insulation, soundproofing, decorative and other purposes. The predominant cause of asbestos becoming airborne is through the performance of building repairs, renovation and demolition, which causes the release of asbestos fibers, creating a hazard.

It is the purpose of this subchapter to safeguard the public health by requiring that renovation and demolition projects which disturb asbestos be conducted in accordance with procedures established under this subchapter. It is also the purpose of this subchapter to safeguard the public health through monitoring and surveillance to determine hazardous forms and levels of asbestos in the environment and control such conditions to eliminate the exposure of the hazard to individuals.

2. ASBESTOS DECLARED A NUISANCE. a. It is hereby declared that asbestos in the environment which exposes or may expose individuals to hazardous forms and concentrations is a public health hazard and constitutes a public health nuisance which must be abated.

b. Any person disturbing materials containing asbestos in any concentration shall provide reliable monitoring data which show that airborne fiber concentrations do not exceed hazardous levels.

3. ASBESTOS PROHIBITED. No person may create or allow to exist on property owned or controlled by the person asbestos which is or may become a form and concentration that is hazardous according to standards adopted by the commissioner.

4. ASBESTOS ORDERS. The department may test the air, surfaces, substances or objects for hazardous forms of asbestos. If the department determines that a hazardous form of asbestos is present upon a premises or location, the commissioner shall issue orders to remove or treat the source of asbestos in order to eliminate or prevent the hazardous conditions. Orders shall be issued to the owner of the property or a responsible party acting on behalf of the owner.

5. ASBESTOS PROJECT PERMIT AND PLAN REQUIRED. a. No person may conduct, require or allow an asbestos project without obtaining an asbestos project permit approved by the department.

b. Applications for asbestos project permits shall be made on forms obtained from and returned to the department of neighborhood services.

c. Any person applying for a permit under s. 200-24 shall, at the time of application, submit a statement from an asbestos inspector, contractor/supervisor, management planner or asbestos project designer, certified by the state of Wisconsin, declaring whether the work required will include an asbestos project. If an asbestos project is included as part of the work, the permit under s. 200-24 shall not be issued without the concurrent application and issuance of an asbestos project permit.

d. Any person applying for an asbestos project permit shall include with the application a copy of the "Notice of Intent", submitted to the Wisconsin department of natural resources, pursuant to ch. NR447, Wis. Adm. Code, as amended, as well as a project plan, as defined in s. 66-10-5.

e. Applicants shall pay the fee required in s. 60-9 at the time of application.

f. An applicant applying for a permit under s. 200-24 for the following purposes shall not be required to obtain an asbestos permit:

f-1. New building construction, including electrical and plumbing work.

f-2. Any work involving a one or two-family residential garage.

f-3. Work affecting one or 2-family buildings, except where boiler repair or replacement is involved and amounts listed in s. 66-10-4 are exceeded.

f-4. Category I (NESHAP) resilient asphalt roofing and siding products containing more than 1% asbestos by weight removed in a non-friable manner.

g-1. In this paragraph, "asbestos regulation" means any of the following:

g-1-a. Abatement industry standards in occupational safety and health administration (OSHA) regulations, 29 CFR 1926.1101, as amended.

g-1-b. Federal asbestos hazard and emergency response act (AHERA) regulations, 40 CFR 763, as amended.

g-1-c. Control of asbestos emissions regulations, natural resources ch. NR 447, Wis. Adm. Code, as amended.

g-1-d. Asbestos certification and training accreditation regulations, health and family services ch. DHS 159, Wis. Adm. Code, as amended.

g-1-e. Asbestos hazard regulations in this subchapter.

g-2. An application for a permit may be denied or granted with conditions if any of the following conditions are met:

g-2-a. The applicant has been convicted of 3 or more violations of an asbestos regulation, all such convictions being on or after June 1, 1996 and no conviction being earlier than 24 months immediately preceding the application.

g-2-b. The applicant has committed repeated significant violations of asbestos regulations, as described in subd. 5.

g-3. A person whose application has been denied or granted with conditions under this paragraph, upon written petition to the commissioner, shall be afforded a hearing before the environmental health review board within 10 days of such petition. The hearing shall be conducted by the board which shall serve as an appeal board for all petitions for the issuance of any license under this section whose issuance has been denied or granted with conditions.

g-4. Based upon the record of a hearing under subd. 3, the commissioner shall enforce the decisions of the board. The commissioner shall furnish a written report of the hearing to the applicant.

g-5. The commissioner shall establish, maintain and, from time to time, revise a list of actions that constitute significant violations of asbestos regulations under this paragraph. The commissioner shall make the list readily available for inspection and review by the public.

5.5. PROTOCOL FOR DEMOLISHING AND RENOVATING BUILDINGS. a. The commissioner shall adopt an asbestos inspection and sampling protocol for buildings to be demolished or renovated. The protocol shall be based on state and federal regulations and shall specify the minimum departmental inspection and sampling requirements prior to beginning demolition or renovation of buildings.

b. The commissioner shall make the protocol available upon request at the department and shall furnish a copy of the protocol to the legislative reference bureau.

6. OPERATIONS AND MAINTENANCE PROJECT NOTIFICATION REQUIRED. a. No person may conduct, require or allow an operations and maintenance project without filing prior written notice with the department.

b. A copy of the "Notice of Intent" submitted to the Wisconsin department of natural resources shall be supplied to the department.

c. If, during the course of the calendar year, any phase of the operations and maintenance project exceeds asbestos project amounts, an asbestos project permit shall be obtained.

7. PLAN REVIEW AND MONITORING.

a. Asbestos project permit applications shall be submitted to the department for review at least 5 working days prior to commencement of project work. No asbestos project work may begin until a permit has been issued by the department.

b. Upon receipt of the application for an asbestos project, the department shall review the plans to determine if proper procedures will be followed. It may also view the site in connection with the application and also conduct any necessary monitoring or analysis.

c. Prior to issuance of the asbestos project permit, the applicant shall notify the department of the specific day and time that the work shall begin. The department may observe, monitor, sample and carry out any other necessary inspection to determine strict adherence to the approved plan of removal or treatment.

d. Following receipt of the applicant's notice under par. c, the department shall notify the fire department of the commencement and duration of the asbestos project and provide a description of the project. The fire department shall be granted access to any private property to observe, evaluate and monitor the removal or treatment of asbestos. The owner of the property or a responsible party acting on behalf of the owner shall notify the department prior to commencement of any ordered asbestos abatement work.

8. PERMIT SUSPENSION OR REVOCATION. a. If proper procedures and compliance with the approved plan are not followed or conditions result that create a hazardous environment, the commissioner may give written notice to suspend or revoke the asbestos project permit. When a permit is suspended or revoked, all work shall be stopped and the asbestos must be contained or sealed up pending correction of the violation and reissuance of the permit.

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b. Any decision of the commissioner under this subsection is effective unless the permit holder seeks a hearing on the decision under par. c.

c. Any person whose permit has been suspended or revoked may appeal the suspension or revocation by writing to the commissioner to request a hearing. Such letter shall be received by the commissioner no later than 5 calendar days following the permit action. After receipt of the petition, the commissioner shall schedule a hearing on the appeal within 10 working days.

d. The commissioner, after taking testimony, may affirm, revoke or alter the original action concerning the permit. If the person is not satisfied with the determination of the commissioner, he or she may request an administrative review of the commissioner's decision under s. 320-11.

9. ASBESTOS HAZARD VIOLATIONS. The following work practices shall be considered violations of this subchapter and may result in the issuance of a citation for each violation:

a. Removal, transport or storage of asbestos containing materials that have not been thoroughly wetted.

b. Failure to maintain continuous negative pressure in the asbestos abatement area, relative to the area immediately outside the critical barriers or containment walls, from the onset of abatement until final air clearance results of less than 0.01 fibers per cubic centimeter by phase contrast microscopy or 70 structures per square millimeter by transmission electron microscopy have been received. Deviations from these requirements, such as negative air glove bag removal, shall be clearly stated in the project plans. Where, due to ambient conditions, clearance results below 0.01 fibers per cubic centimeter cannot be obtained, the department shall be notified of such circumstances and the department shall determine whether or not further testing will be required. Air clearance test results must be submitted to the department within 10 working days of completion of the project.

c. Failure to monitor worker exposure to airborne asbestos fibers. At least one of every 4 workers in the containment area shall be tested each day. When statistically reliable monitoring data obtained under workplace conditions closely resembling typical processes, types of materials, control methods, work

practices and environmental conditions indicates that employee exposure will not exceed the action level or excursion limit, daily monitoring may be discontinued for those employees whose exposures are represented by such monitoring. Such monitoring data shall be available for immediate review at the abatement site. When all employees within a regulated area are equipped with supplied air respirators operated in the positive pressure mode, daily monitoring may not be required.

d. Presence in the abatement area of a person who is not wearing a proper respiratory protective device or protective clothing.

e. Failure to provide windows in the containment wall that afford an unobstructed view of the abatement work area. If the abatement plans clearly indicate that it is not possible to view the work area through any windows, the commissioner may omit this requirement.

f. Failure to provide, at a minimum, a 3-stage decontamination unit which is contiguous to the containment area and equipped with hot and cold or warm water and waste water filtration. Any deviation from this provision, such as remote or central decontamination units, shall be clearly specified in the asbestos project plans.

g. Conducting asbestos abatement activities without a permit, before the effective date of the permit or after the expiration date of the permit. Permit extensions shall be applied for and approved prior to expiration of the permit. An application to revise the start date of a project shall be submitted to and approved by the department prior to the start date specified on the original permit.

h. Failure to provide on-site emergency plans which include the means by which emergency assistance can be rapidly summoned to the abatement site. Clearly marked emergency fire exits shall be provided in each containment area.

i. Conducting abatement activities with employees who have not been certified by the state of Wisconsin to be asbestos workers. An asbestos supervisor certified by the state of Wisconsin shall be on the abatement site at all times during which abatement activities are in progress. Certification shall not be required for employees conducting abatement operations in any building owned by their employer.

j. Failure to secure the abatement site or post warning signs at all entrances to the abatement area.

k. Any action or failure to take action which may result in exposure of abatement workers, the public or the environment to asbestos.

L. Failure to comply with all the requirements of the asbestos inspection and sampling protocol for buildings to be demolished or renovated, under sub. 5.5.

m. Failure to clean abated surfaces, equipment used in abatement or the floors, walls and surfaces in the containment area so that they are free of asbestos containing residues prior to disrupting negative pressure in the enclosure or regulated area.

10. ASBESTOS ABATEMENT. a. The commissioner may use the authority delegated under ch. 17 of the charter to preserve the public health, and to summarily abate or remove a nuisance, and may assess the cost of such action, along with city costs, as a lien against the property and may be collected as a special charge in accordance with s. 17-12 of the charter.

b. An appeal may be filed to contest abatement charges. The written request for a hearing shall state the grounds for the appeal and shall be made to the administrative review appeals board within 30 days of the date of notice of the assessment.

11. DISPOSABLE CLOTHING. An asbestos project permittee, when conducting an asbestos project, shall keep on the premises a minimum of 10 suits of disposable clothing for asbestos work which shall be utilized by emergency medical personnel or fire department personnel responding to an emergency medical services call or by employees of the department of neighborhood services.

12. EXEMPTION. Subchapter 1 does not apply to the Milwaukee public schools.

66-19. Penalty; Enforcement. 1. Any person who violates this subchapter or fails to obey an order of the commissioner to conform to this subchapter shall be liable upon conviction to a Class J penalty under s. 61-16. Each and every act of violation, disobedience, omission, neglect or refusal shall constitute a separate offense.

2. Citations may be issued for all violations of this subchapter with or without prior order or notice. The stipulation, forfeiture and court procedure set forth in s. 50-25 shall apply.

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**SUBCHAPTER 2
LEAD POISONING PREVENTION
AND CONTROL**

66-20. Purpose. 1. The federal centers for disease control and prevention report that lead provides no known biological benefit to human beings. Lead can produce adverse effects on virtually every system in the body. It can damage the kidneys, the nervous system, the reproductive system and cause high blood pressure. Very high blood lead levels cause devastating health consequences including seizures, coma and death.

2. Lead is especially harmful to the developing brains of fetuses and young children. There may be no lower threshold for some of the adverse effects of lead in children. A minute amount of ingested lead can cause elevated blood lead levels and irrevocable developmental damage to a young child. In addition, the harm that lead causes to children increases as their blood lead levels increase. Elevated blood lead levels in children can result in learning disabilities, behavioral problems and mental retardation.

3. Because of the risk that lead presents to the public health, especially to children, the purpose of this subchapter is to ensure the protection of public and environmental health through identification of lead hazards by a health department inspection and subsequent regulation of lead hazard reduction activities on premises which have received written health department orders. The subchapter is specifically intended to protect young children from exposure to lead-based nuisances. This protection will be achieved by first identifying lead hazards in a health department inspection, primarily those hazards resulting from the presence of lead-based paint, and subsequently regulating lead hazard reduction activities on premises which have received written health department orders as a result of the health department inspection.

4. To protect the children of this community, the health department may inspect a property whenever a child who lives in or visits the property is identified with a blood lead level at which the U.S. public health service, center for disease control and prevention, lead poisoning prevention guidelines recommend environmental intervention; a citizen reports to the health department the presence of a lead hazard

accessible to children; health department personnel identify a possible lead hazard accessible to children; or when community-level interventions are done in targeted housing constructed before 1978.

5. In general, the subchapter only applies to those residential and commercial properties where children reside or visit and in which a health department inspection has identified lead hazards. It is not the intent of this subchapter to regulate routine preventive maintenance activities unless those activities create a lead-based nuisance. It is not the intent of this subchapter to regulate routine preventive maintenance activities on residential or commercial properties when such activities do not create a lead-based nuisance. Specifically, it is not the intent of this subchapter to regulate any of the following activities if they do not create a lead-based nuisance:

a. Preventive maintenance including, but not limited to, repainting over or covering lead-based paint with nonlead-based paint and performing cleaning activities designed to maintain a no-lead hazard or reduced lead hazard condition.

b. Disturbing lead-based paint surfaces incidental to the performance of remodeling, renovation or repair activities where the intent of the project is not to reduce the hazard or potential hazard of lead exposure.

66-21. Definitions. In this subchapter:

1. **ABATEMENT** means any activity or set of activities with the intent to permanently remove, encapsulate, enclose or replace lead based nuisances to include all site preparation, specialized initial and preclearance cleaning and waste disposal associated with those activities.

2. **APPROVED** or **APPROVED BY THE COMMISSIONER** means those materials, products and work methods that are included on the descriptive lists prepared by the commissioner and made available to the public under s. 66-22-12.

3. **APPROVED LEAD HAZARD REDUCTION CONTRACTOR** means an individual, through state of Wisconsin certification, who can perform the safe and proper lead hazard reduction of lead based nuisances in dwellings, dwelling units, supplemental locations and premises.

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4. CHILD means any youth under 7 years of age.

5. CLEARANCE STANDARD means criteria set forth by the department for purposes of evaluating the effectiveness of lead hazard reduction activities.

6. COMMISSIONER means the commissioner of health or an authorized representative.

7. DEPARTMENT means the health department.

8. DUST-WIPE SAMPLING means department method for determining lead dust levels on the surfaces of dwellings, dwelling units, supplemental locations or premises.

9. DWELLING means any building or structure which is wholly or partly used or intended to be used for living or sleeping by human occupants including any appurtenances attached thereto.

10. DWELLING UNIT means any structure, vacant or occupied, all or part of which is designed for human habitation.

11. ELEVATED BLOOD LEAD LEVEL means a concentration of lead in whole blood at the current level set by the U.S. public health service, center for disease control and prevention.

12. 5-DAY HAZARD CONTROL means department-ordered cleaning of lead based surfaces for the purposes of immediately reducing lead hazards within 5 days following completion of a department lead hazard inspection and receipt of department orders. Acceptable methods of control include use of HEPA vacuums, wet wiping of surfaces.

13. HEPA VACUUM means a high efficiency particulate air vacuum or similar device capable of removing particles 0.3 microns or greater at 99.97% efficiency.

14. INTERIM CONTROL ACTIVITY means any activity or set of activities intended to temporarily reduce human exposure or likely exposure to a lead nuisance, including but not limited to initial and pre-clearance cleaning, temporary containment and minor repairs or maintenance activities such as painting.

15. LEAD-BASED NUISANCE means any lead based substance, surface or object which may reasonably contribute to an elevated blood lead level due to lead content, condition or location and which is accessible to children and is declared a public health nuisance as defined in s. 80-1-4.

16. LEAD BASED SURFACE means any painted or coated surface, having a lead content greater than or equal to .7 mg/cm² as measured by an x-ray fluorescence analyzer, or greater than or equal to .06% lead by weight as determined by laboratory analysis or other department field method.

17. LEAD HAZARD REDUCTION ACTIVITY means any activity or set of activities intended to permanently or temporarily reduce human exposure to lead based nuisance hazards through abatement or interim control of lead based surfaces, lead contaminated dust or lead contaminated soil.

18. LEAD HAZARD REDUCTION PROJECT means the application of any abatement or interim control activity designed to eliminate or reduce lead based nuisance as identified and ordered by the department, or as identified by the department and funded by the U.S. department of housing and urban development, including:

a. Defective or deteriorated lead based surfaces extending cumulatively over an area greater than or equal to 10 square feet which are damaged due to friction, impact, chipping, peeling, flaking or water or moisture damage.

b. Leaded dust that has accumulated in amounts greater than or equal to U.S. environmental protection agency lead in dust standards, as amended.

c. Lead in soil that has accumulated in amounts greater than or equal to U.S. environmental protection agency lead in soil standards, as amended.

19. OWNER means any person who alone or jointly or severally with others:

a. Has legal or equitable title to any dwelling, dwelling unit, supplemental location or premises; or

b. Has charge, care or control of the dwelling, dwelling unit, supplemental location or premises as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner.

20. PREMISES means any portion of a platted or unplatted lot, parcel or plot of land either occupied or unoccupied by any building or structure, equipment or property of any kind.

21. PREVENTIVE MAINTENANCE means any of the following activities if they do not create a lead-based nuisance.

a. Interim control activities, including repainting over or covering lead-based paint with nonlead-based paint and performing cleaning activities designed to maintain a no-lead hazard condition.

b. Disturbing lead-based paint surfaces incidental to the performance of remodeling, renovation or repair activities where the intent of the project is not to reduce the hazard or potential hazard of lead exposure.

22. STANDARD TREATMENT means a department-approved lead hazard reduction method required for compliance with department orders.

23. SUPPLEMENTAL LOCATION means any dwelling, dwelling unit or premises where any person cares for, teaches, trains or supervises a child, including any structure adjacent to the dwelling unit of a lead poisoned child.

24. TARGET HOUSING means any dwelling constructed prior to 1978, except a dwelling for the elderly or persons with disabilities or any dwelling without a bedroom unless a child occupies or is expected to occupy the dwelling.

25. VISUAL EXAMINATION means an inspection by department staff of standard treatments conducted by trained or certified individuals, for the purposes of ensuring that work quality matches department specifications as set forth in the standard treatments.

26. WET-SCRAPED means the moistening of a surface to limit the creation of airborne dust during the removal of a coating containing lead, while containing all runoff of the wetting agent for proper disposal.

66-22. Lead Poisoning Prevention and Control Regulations.

1. PROHIBITED ACTS.

a. No owner or person may create or knowingly allow to exist in or on their property any lead-based nuisance, as defined in s. 66-21-15.

b. No person may apply lead bearing coatings having a lead content greater than or equal to 0.06% by weight, calculated as lead in the total nonvolatile content or any other coating material which would result in a lead based surface to:

b-1. Any exposed surface on the interior or exterior of a dwelling, dwelling unit, supplemental location or premises.

b-2. Any object to be used inside, outside or upon any exposed surface of a dwelling, dwelling unit, supplemental location or premises.

2. WARNING LABEL REQUIRED.

a. No person may store, sell, give away or accept any paint, coating material or object which has a lead content greater than or equal to 0.06% by weight, calculated as lead metal in the total nonvolatile content of the liquid, including any additives, or a finished surface that contains lead at a concentration greater than or equal to .7 milligram per square centimeter, unless such paint, coating material or object has a securely attached, prominently displayed and easily read label with the following wording:

WARNING!

Contains Lead!

Harmful If Consumed!

KEEP OUT OF REACH OF CHILDREN.

DO NOT APPLY WHERE

ACCESSIBLE TO CHILDREN.

b. The warning statement shall also be required on any accompanying literature, instructions or directions.

c. The warning label requirement does not apply to dwelling units.

3. EVICTION OR RETALIATION PROHIBITED. a. No non-owner occupant of a dwelling, dwelling unit, supplemental location or premises shall be evicted or otherwise retaliated against because of any of the following activities:

a-1. An occupant or someone on the occupant's behalf sought advice or services to guard household members from exposure to suspected or known lead-based nuisances at the dwelling, dwelling unit, supplemental location or premises.

a-2. An occupant or someone on the occupant's behalf cooperated with the city or other entity investigating possible lead-based nuisances or abating lead-based nuisances at the dwelling, dwelling unit, supplemental location or premises.

a-3. An occupant or someone on the occupant's behalf arranged the abatement of known lead-based nuisances at the dwelling, dwelling unit, supplemental location or premises.

a-4. Any person made a complaint to the department about suspected or known lead-based nuisances at the dwelling, dwelling unit, supplemental location or premises.

b. It shall be presumed that any attempt to terminate the tenancy, increase rent or other charges, reduce services, refuse to renew a rental agreement, or to otherwise harass or retaliate against a non-owner occupant

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within 24 months of the activities described in par. a. is done in retaliation and is void. In order to overcome such presumption, it shall be shown by a preponderance of the evidence that such acts were based upon good cause. "Good cause" as used in this paragraph means that one is required to show a good reason for his or her actions, other than one related to or caused by the activities described in par. a., including but not limited to normal rental increases due to tax increases or increases in maintenance costs.

c. An occupant may be evicted if the occupant fails to pay rent other than a rent increase prohibited by this subsection, commits waste upon the premises, or commits a substantial violation of a written rental agreement.

d. Any person who violates this subsection shall be liable upon conviction to a Class J penalty under s. 61-16. Each and every act of violation shall constitute a separate offense.

4. INSPECTION AND ORDER FOR LEAD HAZARD REDUCTION ACTIVITIES. a. The department may conduct an inspection of a dwelling, dwelling unit, supplemental location or premises on surfaces, substances or objects which the department has reason to believe constitutes a lead based nuisance and may also take samples of materials which are believed to contain lead for further laboratory analysis.

b. If the department is refused admittance to any dwelling, dwelling unit, supplemental location or premises to conduct an environmental inspection, the commissioner may apply for and obtain a special warrant pursuant to s. 66.0119, Wis. Stats., to gain access.

c. If the department determines that a lead based nuisance exists in or upon a dwelling, dwelling unit, supplemental location or premises, the department may:

c-1. Notify the occupant or the occupant's representative and the owner, that lead based nuisances are present and that they constitute a health hazard.

c-2. Issue written orders for lead hazard reduction activities to address those lead-based nuisances found to exceed allowable lead levels as provided in s. 66-21-18. The order shall state that the order may be appealed, the deadline by which the appeal must be filed and the entity to which the appeal must be made. An owner who is served an order may, prior to the time specified for compliance, submit a written appeal to the commissioner. The appeal shall state with specificity the reason that the appellant believes

the order was issued in error. The commissioner may affirm, reverse or modify the order and shall mail or deliver to the appellant his or her written determination stating the reasons therefore. Such determination shall be a final determination.

c-3. Post in a conspicuous place upon the dwelling, dwelling unit, supplemental location or premises a notice of the presence of a lead hazard.

d. An additional fee in the amount specified in s. 60-53 may be charged for any lead hazard reinspection necessary to determine compliance with an order issued under par. c-2 unless compliance with such order is found. A reinspection fee shall be charged against the real estate upon which the reinspection was made, shall upon delinquency be a lien upon the real estate, and shall be assessed and collected as a special charge for payment and settlement as provided in ch. 19 of the city charter. The department shall provide written notice of the reinspection fee to the owner. The notice shall state that the owner may appeal the reinspection fee under sub. 14 and shall specify how such appeal may be made.

4.3. ENFORCEMENT. If orders are not complied with by the expiration date, the commissioner may, in addition to other enforcement measures authorized by law:

a. Issue a citation pursuant to s. 66-29.

b. Refer the failure to comply to the commissioner of neighborhood services for issuance of a rent withholding notification pursuant to s. 200-22.

c. Provided the department has funds available, secure an appropriate court-issued warrant for entry to the premises to abate or remove the nuisance and use the authority delegated under ch. 17 of the city charter to summarily abate or remove a nuisance. The cost of the abatement, interim controls and relocation associated with making the property lead-safe shall be assessed and collected as a special charge on the property.

d. If the commissioner determines that the cost to abate the lead hazard would exceed 50 percent of the assessed value of such building divided by the ratio of the assessed value to the recommended value as last published by the Wisconsin department of revenue for the city of Milwaukee, and the lead hazard cannot be controlled by interim controls, presume such repairs are unreasonable and refer the property to the commissioner of neighborhood services for an order to raze, pursuant to s. 218-4.

4.5. ORER TO DISCONTINUE OCCUPANCY OR USE. a. If in the judgement of the commissioner any dwelling, dwelling unit, supplemental location or premises is unsafe or unfit for human habitation due to the presence of imminent lead hazards as defined by Wisconsin statutes, the commissioner may refer the property to the commissioner of neighborhood services for a determination to issue an order for enforcement pursuant to s. 200-11-5 and 6.

b. Orders and placards shall remain effective until the required lead hazard reduction activity has been completed. No person may remove a posted order or placard, or occupy, use or enter a posted or placarded dwelling, dwelling unit, supplemental location or premises, except for the purpose of carrying out the required lead hazard reduction activity, without written permission from the commissioner of neighborhood services.

5. LEAD HAZARD REDUCTION PROJECT PERMIT REQUIRED. Except as otherwise provided in par. a, no person may conduct or perform work on a lead hazard reduction project without obtaining a lead hazard reduction project permit approved by the department. Permit-holders shall follow the interior and exterior lead hazard site preparation and reduction standards in subs. 6 to 10.

a. Permit and certification exceptions.

a-1. A permit shall not be required for:

a-1-a. Work involving repair to less than 10 square feet of lead-based nuisance.

a-1-b. Work involving repair to comply with a 5-day hazard control order.

a-1-c. Preventive maintenance.

a-2. On a lead hazard reduction project, the department may approve the use of non-certified workers on the project site if the workers do not participate in activities that create a lead based nuisance or that, intentionally or incidentally, disturb lead based paint. These activities include, but are not limited to repainting or siding application after lead-based paint hazards have been stabilized or building a new porch after an old porch has been safely removed. The department may require the oversight of such non-certified workers by a certified supervisor at a project site.

b. Applications. Applications for permits shall be made on forms obtained from and returned to the department.

b-1. Applicants are required to be state-certified as provided for in Wis. Adm. Code ch. DHS 163, as amended, and shall pay the fee required in s. 60-54, prior to the issuance of a permit.

b-2. An application to revise the start date of a project shall be submitted to and approved by the department prior to the start date specified on the original permit.

b-3. Permit extensions shall be applied for and approved prior to expiration of the permit. The department may charge a fee for a permit extension.

c. Posting of Permit. The permit shall be posted in a conspicuous location at the reduction site until the reduction has been completed.

d. Permit Denial or Granting with Conditions.

d-1. An application for a permit may be denied or granted with conditions if the applicant has been convicted of 3 or more project violations under par. h on or after November 18, 1998 and at least 3 convictions were on account of actions occurring within the 24 months immediately preceding the date of application.

d-2. Whenever a permit is denied or granted with conditions under subd. 1, the commissioner shall so notify the applicant in writing. The notice shall state that the applicant may appeal the decision under sub. 14 and shall specify how such appeal may be made.

f. List of Significant Violations for Public Inspection. The commissioner shall establish, maintain and periodically revise as necessary, a list of specific actions which constitute significant violations of under par. h. The commissioner shall make the list readily available for public inspection.

g. Permit Suspension. If proper procedures and compliance with the approved treatments are not followed or conditions result that create a hazardous environment, the commissioner may give written notice to suspend the lead hazard reduction permit. When a permit is suspended, all work shall be stopped and the lead hazards shall be contained or cleaned pending correction of the violation and reissuance of the permit. The notice shall state that the applicant may appeal the decision under sub. 14 and shall specify how such appeal may be made.

h. Lead Hazard Reduction Project Violations. The following practices shall be considered violations of this subchapter and may result in the issuance of a citation for each violation:

h-1. Conducting lead hazard reduction projects without a permit, before the effective date of the permit or after the expiration date of the permit.

h-2. Conducting lead hazard reduction projects with an employee or worker who has not

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been certified under Wis. Adm. Code ch. DHS 163, except as authorized in subd. a-2.

h-3. Conducting lead hazard reduction projects without having a lead supervisor certified by the state of Wisconsin on the lead hazard reduction site when reduction activities are in progress.

h-4. Failure to meet performance date criteria set forth on lead hazard reduction permits.

h-5. Failure to meet specifications of the standard treatments or equally protective treatments as mutually agreed upon between the owner and the department.

h-6. Failure to secure the lead hazard reduction site or post warning signs at all entrances or exits to the lead hazard reduction area.

h-7. Failure to provide department approved interior or exterior containment prior to or during lead hazard reduction projects.

h-8. Failure to properly decontaminate the areas undergoing lead hazard reduction by using a HEPA vacuum, washing with a general purpose detergent and rinsing with clear water.

h-9. Removal, containment, storage, transport or disposal of lead containing materials in an unsafe manner.

h-10. Subcontracting for an activity related to a lead hazard reduction project prior to final visual examination, clearance dust sampling and approval by the department.

h-11. Failure to be in compliance with all applicable local, state and federal laws and regulations, including Wis. Adm. Code chs. DHS 163 and NR 600 to 685, and federal resource conservation recovery act, environmental protection agency and occupational safety and health agency regulations.

6. HAZARD REDUCTION REGULATIONS. a. Signs to be Posted. Prior to the reduction of lead from any area in a dwelling, dwelling unit, supplemental location or premises, caution signs measuring 20 inches by 14 inches, issued by the department at the time the permit is obtained, shall be posted at all entrances and exits.

a-1. The signs shall read:

DANGER - LEAD PAINT DUST HAZARD.

a-2. Signs shall be posted at least one day prior to the commencement of the reduction activities, and remain in place for the duration of the project, unless otherwise authorized by the commissioner.

b. Notice to Occupants. The permittee shall provide written and oral notification of planned lead hazard reduction activities to occupants of a dwelling, dwelling unit, supplemental structure or premises.

c. Compliance with Other Laws. All lead hazard reduction activities shall be performed in compliance with all applicable local, state and federal laws and regulations, including Wis. Adm. Code chs. DHS 163 and NR 600 to 685, as amended, and federal resource conservation recovery act, environmental protection agency and occupational safety and health agency regulations, as amended.

d. Site Inspection. The commissioner may inspect and sample any dwelling, dwelling unit, supplemental location or premises at any time during the reduction process to insure compliance with reduction standards. Evaluation procedures including, but not limited to, visual examination, wipe sampling, soil testing, air sampling and x-ray fluorescence analysis may be used.

7. INTERIOR SITE PREPARATION.

a. Furnishings shall be removed from each room or area as it is prepared for reduction or covered with plastic at least 6 mils thick and sealed with tape. All furnishings remaining in the reduction area shall be HEPA vacuumed prior to unit reoccupancy.

b. All heating, ventilating, air conditioning openings and entrances to a reduction site, with the exception of the entrance used by workers, shall be sealed with plastic at least 6 mils thick and taped to prevent contamination by lead dust or particles. The entrance used by workers shall have 2 layers of 6 mils thick plastic attached at the top edges of the doorway and at opposite sides to form a z-door.

c. Where lead hazard reduction activity is in process, interior floors shall be covered with 2 layers of 6 mil plastic. However, the use of 6 mil plastic as an engineering control may vary according to projects and its application and placement is subject to department approval prior to and during the course of a lead based reduction project.

8. INTERIOR LEAD HAZARD REDUCTION STANDARDS. a. Initial Cleaning. Interior areas, including all interior surfaces, woodwork, wood trim, walls, ceilings, windows and floors and all exterior window sills and wells, identified as being in violation of sub. 1 shall be thoroughly cleaned with a HEPA vacuum and washed with a general purpose detergent within 5 calendar days of receipt of notice from the commissioner.

b. 5-Day Hazard Control. All surfaces in violation of sub. 1 which have had a preventive cleaning as provided in par. a and which are accessible to children, must be taped or covered until additional procedures to control the lead hazards have been concluded.

c. Permissible Methods. Permissible methods for the removal of lead-based coatings from all surfaces shall include the use of any of the following: wet scraping, a heat gun (less than 1,100° F), chemical strippers which do not contain methylene chloride and HEPA vacuum assisted electric planers. The affected areas can then be covered with non-lead based primer and paint, encapsulant or enclosure material such as vinyl or aluminum, to include caulking seams and edges and anchoring with mechanical fasteners.

d. Prohibited Methods. The removal of lead-based coatings by sanding, sandblasting, pressure washing, grinding, the use of an open flame torch, or strippers containing methylene chloride, vacuuming with non-HEPA-equipped household or shop vacuums, dry sweeping in areas that are not properly contained and sealed, or any method that allows leaded dust to become airborne, is prohibited. The department may approve exceptions to these prohibitions, contingent upon the existence of adequate engineering controls to eliminate lead exposure to occupants or workers.

e. Treatment of Surfaces of Dwelling Unit Interior Structures.

e-1. Dwelling unit interior structures must first be maintained or corrected to structurally sound and sanitary condition in accordance with the standards provided in ss. 275-33 and 34. All interior surfaces that are identified as lead based nuisances shall be treated with methods in accordance with par. c and shall be repaired to have structurally sound and smooth surfaces. Those surfaces must be HEPA vacuumed, washed with a general purpose detergent and then coated, covered or enclosed with a non-lead-based coating, encapsulant or material approved by the commissioner pursuant to department orders.

e-2. Floors having deteriorated lead-based surfaces shall be covered with vinyl tile, vinyl sheet goods, linoleum flooring or other approved materials. Chemical stripping of a floor shall be permissible.

e-2-a. Varnish or other approved sealants may also be used on floors having deteriorated lead-based surfaces, provided the floors are carpeted or covered in a manner approved of by the commissioner after they are sealed.

e-2-b. Wood floors having deteriorated lead-based surfaces from a varnish, stain, urethane or shellac finish may be treated with a sealant approved by the commissioner.

e-3. The lead-based surfaces of exterior window sills or wells (troughs) shall have all the lead-based surfaces removed to bare wood and then be stabilized with a non-lead-based primer and paint or be replaced with wood not covered with a lead-based surface or be enclosed with vinyl or metal. Any exterior window sill surfaces treated for lead hazard reduction shall be smooth and cleanable.

e-4. The lead-based surfaces of sash tracks of double hung windows shall either have all lead-based surfaces removed to bare wood and then be stabilized with a non-lead-based primer and paint or coating, or shall have single or double sash track liners installed with remaining exposed lead-based surfaces removed to bare wood and then stabilized with a non-lead-based primer and paint or coating. This requirement does not apply to non-deteriorated exposed exterior sash tracks that are not subject to friction and are protected from weathering.

e-5. The lower sashes of double hung windows which have deteriorated lead-based surfaces shall have all the lead-based surfaces removed to bare wood and then stabilized with a non-lead-based primer and paint or coating.

e-6. The upper sashes of double hung windows which have deteriorated lead-based surfaces of 20% or more of their coated surface area shall have all the lead-based surfaces removed to bare wood and then be stabilized with a non-lead-based primer and paint or coating. Upper sashes which have deteriorated lead-based surfaces of less than 20% of their coated surface area shall have all lead-based surfaces and glazing removed from deteriorated areas and then be stabilized with a new glazing material, non-lead-based primer and paint or coating.

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e-7. All other window component surfaces which have deteriorated lead-based surfaces shall have all deteriorated lead-based surfaces removed and then be stabilized with a non-lead-based primer and paint or coating. Any window component surfaces receiving lead hazard reduction shall be smooth and cleanable.

e-8. Lead based surfaces that are free of deterioration except for chalking may be washed and repainted with a non-lead based paint or coating. This does not apply to floors, exterior window sills, wells, troughs and double-hung window sash tracks.

e-9. Storm windows covering windows that have received lead hazard reduction shall be repaired to a weatherproof and waterproof condition with glass intact. All wooden storm windows with deteriorated lead-based surfaces shall have the deteriorated lead-based surfaces removed and shall be stabilized with a non-lead-based primer and paint or coating.

e-10. Complete window units or individual window components such as sashes may also be replaced with materials free of lead-based surfaces. A window trough insert may be used where an operational, intact and complete combination storm/screen window is present and a window trough lead hazard has been identified by the department. After replacement, any remaining exposed window surfaces must meet the requirements specified in subds. 3 to 8.

f. Final Cleaning. After the entire lead hazard reduction process has been completed, a final HEPA vacuum, wash with a general purpose detergent and rinse with clear water of all interior surfaces in the dwelling unit or supplemental location must be done.

g. Removal of Waste. At the end of the work day, all waste resulting from the lead hazard reduction process shall either be collected, contained or stored in a secure area, or shall be collected, contained and removed from the reduction site and be disposed of as provided in sub. 11.

9. EXTERIOR SITE PREPARATION.

a. Exterior lead hazard reduction work shall be performed in a manner that will prevent leaded waste from coming into contact with the ground or from entering the interior of the dwelling, dwelling unit, supplemental location or premises.

b. All windows and doors of the dwelling, dwelling unit or supplemental location shall be kept closed while lead hazard reduction is being conducted.

c. Six mil plastic to collect reduction waste shall be attached to and extend at least 6 feet from the foundation and at the base of the structure being worked on and in all cases adequate to contain any falling debris.

d. At the end of the work day, all waste resulting from the lead hazard reduction process shall either be collected, contained or stored in a secured area, or shall be collected, contained and removed from the work site and be disposed of as provided in sub. 11.

10. EXTERIOR LEAD HAZARD REDUCTION STANDARDS.

a. Treatment of Surfaces of Dwelling Exterior Structures. a-1. Dwelling exterior structures first must be maintained or corrected to a structurally sound, weatherproof and watertight condition in accordance with the standards provided in ss. 275-32 and 34.

a-2. Exterior surfaces that are identified as lead-based nuisances shall have the deteriorated lead-based surfaces removed in accordance with sub. 7-c and shall be repaired to be structurally sound, weatherproof, watertight and smooth surfaces. Exterior surfaces shall then be coated with non-lead-based primer and paint, aluminum, vinyl or steel siding or a covering approved by the commissioner pursuant to department orders.

a-3. When lead hazards have been identified on any portion of the exterior sill of an operational, intact and complete combination storm/screen window, the sill and window casing on the outside of the combination storm/screen portion of the window shall be identified and treated as an exterior lead hazard.

b. Treatment of Contaminated Soil. In the event of contamination of soil with lead particles, the commissioner may order that the soil be removed to a depth of 3 inches and be replaced with uncontaminated soil or be covered pursuant to department orders. Any contaminated soil shall be disposed of as provided in sub. 11.

11. CLEARANCE STANDARD.

a. Dust-Wipe Sampling.

a-1. Dust-wipe sampling and analysis shall be performed by the department.

a-2. Clearance dust-wipe levels must be less than the lead in dust standards established by the U.S. department of housing and urban development under the authority of the housing and community development act of 1992, section 403, and found at 60 Fed. Reg. 47,247 (1995), (to be codified).

a-3. The department shall conduct dust wipe sampling as promptly as possible after the department has been notified that lead hazard reduction activities have been completed, and shall make every reasonable attempt to conduct sampling within 5 working days.

b. Final Visual Examination.

Inspection shall be conducted by the department to determine full compliance with inspection orders prior to clearance dust sampling.

12. DISPOSAL OF LEAD HAZARD ABATEMENT WASTE. Waste generated from lead hazard reduction shall be disposed of in a manner that will not endanger the health or well-being of the occupants, neighbors or community and shall be in compliance with all applicable local, state and federal laws and regulations, including Wis. Adm. Code ch. DHS 163 and chs. NR 600 to 685, as amended, and federal resource conservation recovery act, environmental protection agency and occupational safety and health agency regulations, as amended. At no time shall leaded dust be allowed to become airborne during disposal.

13. APPROVED MATERIALS, PRODUCTS AND WORK METHODS. The commissioner shall prepare and make available without charge to the public a descriptive list of the following specific materials, products and work methods:

a. Material approved by the commissioner for coating, covering or enclosing interior surfaces that are identified as lead based nuisances, as referenced in sub. 7-e-1.

b. Other materials approved for covering floors having deteriorated lead-based surfaces, as referenced in sub. 7-e-2-0.

c. Other sealants approved for use on floors having deteriorated lead-based surfaces, as referenced in sub. 7-e-2-a.

d. Manner approved by the commissioner for covering floors having deteriorated lead-based surfaces on which varnish or other approved sealants have been used, as referenced in sub. 7-e-2-a.

e. Sealant approved by the commissioner for treating wood floors having deteriorated lead-based surfaces from a varnish, stain, urethane or shellac finish, as referenced in sub. 7-e-2-b.

f. Covering approved by the commissioner for coating exterior surfaces that are lead-based nuisances, as referenced in sub. 9-a-2.

14. APPEALS. a. A person who seeks to appeal an order or permit decision of the department under this subchapter, other than an order under sub. 4-c-2, shall file a written appeal with the commissioner within 5 working days after the person has received written notice of the order or decision being appealed. The appeal shall state with specificity the reason that the appellant believes the order or decision was issued in error.

b. At the time of filing a written appeal under this subsection, the person affected by the order or permit decision may request and shall be granted a hearing on the matter before the commissioner. Within 10 days of receipt of the written appeal and request for hearing, the commissioner shall set a time and place for a hearing and shall give the applicant written notice thereof. The hearing before the commissioner shall be conducted in the following manner:

b-1. The hearing shall be commenced not later than 30 days after the date on which the appeal and request for hearing was filed, provided that upon written application by the appellant to the commissioner, the commissioner may postpone the date of the hearing for a reasonable time beyond such 30-day period if, in the commissioner's judgement, the appellant has submitted a good and sufficient reason for such postponement. The commissioner may also postpone the hearing to gather testimony and data.

b-2. At the hearing, the appellant and the department may each be represented by an attorney and present evidence, call and examine witnesses, and cross-examine witnesses of the other party. Such witnesses and the appellant shall be sworn by the commissioner.

b-3. The appellant's attorney may issue a request to compel the attendance of witnesses or the production of evidence. The request issued by an attorney shall be in substantially the same form as provided in s. 805.07(4), Wis. Stats., and shall be served in the same manner as provided in s. 805.07(5), Wis. Stats. The attorney shall, at the time of issuance, send a copy of the request to all concerned parties.

b-4. The commissioner shall take notes of the testimony and shall mark and preserve all exhibits. The commissioner may, and upon request of the appellant shall, cause the proceedings to be taken by a stenographer or by a recording device, the expense thereof to be paid by the city.

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c. The commissioner may affirm, reverse or modify the original order or action of the department. Within 20 days of completion of the hearing conducted under this subsection and the filing of briefs, if any, the commissioner shall mail or deliver to the appellant his or her written determination stating the reasons thereof. Such determination shall be a final determination.

66-29. Penalty. 1. Any person who violates any provision of s. 66-22 or who fails to obey an order of the commissioner to conform to those provisions shall be liable upon conviction to a Class J penalty as provided in s. 61-16.

2. If a person continues in violation of an order, the person shall be liable for further prosecution, conviction and punishment upon the same order without the necessity of the commissioner issuing a new order.

3. Non-compliance of orders issued under s. 66-22-3-c-2, may result in the issuance of citations, as provided in s. 50-25.

**SUBCHAPTER 3
COAL TAR SEALANT AND OTHER HIGH PAH
PAVEMENT SEALANT PRODUCTS
USE AND SALE PROHIBITED**

66-30. Definitions. In this subchapter:

1. COAL TAR SEALANT PRODUCT means a material that contains coal tar, coal tar pitch, coal tar pitch volatiles, or any variation, and is for use on an asphalt or concrete surface, including a driveway, playground, or parking area.

2. HIGH PAH SEALANT PRODUCT means any pavement sealant product that contains greater than 1% polycyclic aromatic hydrocarbons (PAHs) by weight, including, but not limited to, coal tar, coal tar pitch, coal tar pitch volatiles, tar, fuel oil, petroleum, or asphalt.

3. COMMISSIONER means the commissioner of the department of public works or a designated representative.

4. DEPARTMENT means the department of public works.

66-31. Regulations. 1. USE. a. No person shall:

a-1. Apply any coal tar sealant product or high PAH sealant product on any public or private property within the city.

a-2. Allow a coal tar sealant product or high PAH sealant product to be applied upon property that is under that person's ownership or control.

a-3. Contract with any commercial applicator, residential or commercial developer, or any other person for the application of any coal tar sealant product or high PAH sealant product to any driveway, parking lot, or other surface within the city.

b. No commercial applicator, residential or commercial developer, or other similar individual or organization shall direct any employee, independent contractor, volunteer, or other person to apply any coal tar sealant product or high PAH sealant product to any driveway, parking lot, or other surface within the city.

2. SALE. No person shall sell, offer to sell, or display for sale any coal tar sealant product or high PAH sealant product within the city.

3. SPECIAL SIGNAGE. Any person who sells pavement sealcoat products shall prominently display, in the area where such pavement sealcoat products are sold, a notice that contains the following language: "The application of coal tar sealcoat products and high PAH sealant products on driveways, parking lots, playgrounds, and all other paved surfaces in the City of Milwaukee is prohibited by section 66-31 of the Milwaukee Code of Ordinances. Coal tar is a significant source of polycyclic aromatic hydrocarbons (PAHs), a group of organic chemicals that can be carried by storm water and other runoff into the City of Milwaukee's lakes and streams. PAHs are an environmental concern because they are toxic to aquatic life."

66-32. Exemptions. The commissioner may exempt a person from the requirements of s. 66-31 if a request for exemption is made to the commissioner in writing, including an explanation of why the exemption is needed for research or the development of an alternative technology, and if the commissioner determines that one or both of the following apply:

1. The person is conducting research concerning the effects of a coal tar sealant product or high PAH sealant product on the environment.

2. The person is developing an alternative technology and the use of a coal tar sealant product or high PAH sealant product is required for research or development.

66-33. Enforcement; Penalty.

1. ENFORCEMENT. The commissioner shall enforce this subchapter.

2. PENALTY. Any person who violates this subchapter or fails to obey an order of the commissioner to conform to this subchapter shall be liable upon conviction for a Class Q penalty under s. 61-23. Each and every act of violation, disobedience, omission, neglect, or refusal shall constitute a separate offense.

3. CITATIONS. Citations may be issued for all violations of this subchapter with or without prior order or notice. The stipulation, forfeiture, and court procedure set forth in s. 50-25 shall apply.

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For legislative history of chapter 66,
contact the Municipal Research Library.

Pages 140-142 are blank.

CHAPTER 68 FOOD LICENSE REGULATIONS

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SUBCHAPTER 1 GENERAL PROVISIONS

68-1. Definitions. In this chapter:

1. ACTIVE MANAGERIAL CONTROL means the purposeful incorporation of specific actions or procedures by business management into the operation of a business to attain control over foodborne illness risk factors. Active managerial control is a preventive rather than reactive approach to food safety through a continuous system of monitoring and verification.

2. ADULTERATED means prepared, packaged or held under conditions in which contamination or injury to health may occur.

3. BASIC FOOD ITEMS means milk and dairy products, bread products, prepared sandwiches, frozen entrees, refrigerated food and baby food.

4. CARRIED CONTAINER means a container carried on foot which contains food for sale.

5. CERTIFICATE HOLDER means a person who holds a valid, current certificate of food protection practices, commonly referred to as a certified food managers license, issued by the Wisconsin department of agriculture, trade and consumer protection under s. 97.33, Wis. Stats.

6. COMMISSIONER means the commissioner of health or the commissioner's duly authorized representative.

7. COMMUNITY FOOD PROGRAM means any site at which all food is provided free of cost to those in need or to organizations who serve persons in need, such as a free meal site or food pantry.

8. COMMUNITY GARDEN shall have the meaning provided in s. 295-201-112.

9. COMPLIANCE ORDER means an order which identifies mandatory interventions a food establishment must implement to achieve active managerial control of risk factors the department has identified as contributing to an establishment's history of noncompliance.

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10. COMPLIANCE PLAN means a written document that details specific actions or procedures by an operator to achieve active managerial control over foodborne illness risk factors. A compliance plan identifies how an operator will implement and maintain an effective food safety management system.

11. CONVENIENCE FOOD STORE means a store that meets either of the following conditions:

a. Contains less than 5,000 square feet of retail sales space, has, as its primary business, the sale of basic food items, and sells household products.

b. Is a filling station that sells basic food items and household products.

12. COTTAGE FOOD PRODUCT means food products prepared and canned in a residential kitchen, sold to the public, and meeting the requirements of s. 97.29(2)(b)2, Wis. Stats.

13. CORE VIOLATION means a failure to meet provisions of the Wisconsin Food Code that relate to general sanitation and overall maintenance of the equipment and the facilities. A core violation includes, but is not limited to, a failure to keep the floors, walls, and ceilings of an establishment clean, failure of food employees to wear hair restraints, or keeping a facility or equipment in disrepair.

14. DEPARTMENT means the Milwaukee health department.

15. EXCESSIVE VIOLATIONS shall include both the number and magnitude of violations identified during an inspection or investigation. An establishment shall be found to have excessive violations if any of the following conditions are met:

a. The total number of violations identified during an inspection or investigation exceed the pre-determined limit for the establishment type.

b. An imminent health hazard or violation serious enough to require the issuance of an emergency order to suspend all or part of an operation or issue a notice of intent to close an establishment, regardless of the total number of violations identified during an inspection.

c. Failure to abide by a restriction placed upon an establishment as a condition of plan approval or part of a compliance order.

16. FARM STAND means a temporary or permanent structure used for the sale of fresh produce, herbs, flowers, plants, nuts, honey, cider, maple syrup, sorghum and cottage food products.

17. FILLING STATION shall have the meaning provided in s. 295-201-189.

18. FOOD means all articles of food, drink or condiment, including ice and water used for human consumption, whether simple, mixed or compound, and articles used or intended for use as ingredients in the composition or preparation thereof.

19. FOOD DISTRIBUTOR means an individual who transports food for sale to retail and wholesale establishments and does not perform any processing or repacking of food items.

20. FOOD ESTABLISHMENT shall have the meaning provided for "retail food establishment" in ch. ATCP 75, Wis. Adm. Code, as amended. This term shall include any restaurant, food peddler, vehicle, micro market, community food program, school, college, university, or temporary food stand.

21. FOOD HANDLER means a person engaged in the preparation, processing or service of food.

22. FOOD MANUFACTURER means anyone using raw ingredients to create a new food product for sale to retail or wholesale establishments.

23. FOOD PEDDLER means any person who sells food from a food peddler vehicle or from a carried container.

24. FOOD PEDDLER VEHICLE means any pushed, pedaled, pulled or motorized vehicle from which food is prepared or sold and includes any mobile or transient retail food establishment licensed under s. ATCP 75.06, Wis. Adm. Code.

25. FRESH PRODUCE means unprocessed, unfrozen, whole, raw fruits and vegetables that have not been combined with other ingredients.

26. HACCP PLAN means a written document that specifies the formal procedures for following the Hazard Analysis Critical Control Point (HACCP) principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

27. HISTORY OF NONCOMPLIANCE means having reached, through repeated enforcement, an administrative hearing or intent to close at any time in the preceding 24-month period. Any food establishment having a license suspended shall be considered as having a history of noncompliance for 36 months, beginning from the effective date of the suspension.

28. HOUSEHOLD PRODUCTS means cleaning products, paper products, baby products and pet food.

29. ICE CREAM PEDDLER means any person who physically operates an ice cream vending vehicle or any person who physically conducts ice cream vending from such a vehicle or from a carried container.

30. ICE CREAM VENDING VEHICLE means any pushed, pedaled, pulled or motorized vehicle from which ice cream or similar frozen confections are prepared or sold.

31. IMMINENT HEALTH HAZARD means a product, practice, circumstance, or event posing a significant threat or danger to health and creating a situation that requires immediate correction or cessation of operation to prevent injury or illness, as determined by the department.

32. INSPECTION means an evaluation of an establishment to assure that the equipment, facilities, and operational plan are code-compliant and adequate for the operation. This definition shall include the following:

a. Pre-inspection, or a preoperational evaluation performed prior to approval to operate or implement a modification to an establishment's operational plan.

b. Re-inspection, or an evaluation performed to determine if a food establishment has obtained compliance with findings or orders issued by the department.

c. Routine inspection, or the thorough periodic examination of an operation to determine compliance with code provisions, laws and regulations.

33. INSPECTION PLACARD means a graded notice that describes the compliance status of a food establishment at the most recent inspection, re-inspection, or investigation.

34. INVESTIGATION means the process of assessing the credibility of a complaint made against an individual or food establishment related to licensure, sanitation or foodborne illness.

35. MICRO MARKET, as provided in s. 97.01(9m), Wis. Stats., means any indoor, unstaffed, self-service area that is accessible only to persons authorized by the person in control of the premises and not accessible to the general public, where a customer may obtain unit servings of food or beverage either in bulk or in package before payment at an automated kiosk or by other automated method, without the necessity of replenishing the area between each transaction. "Micro market" does not include a vending machine, a device which dispenses only bottled, prepackaged, or canned soft drinks, a one-cent vending device, a device dispensing only candy, gum, nuts, nut meats, cookies, or crackers, or a device dispensing only prepackaged Grade A pasteurized milk or milk products.

36. MOTORIZED VEHICLE means a vehicle which uses a mechanical engine to propel it.

37. NONPROFIT ORGANIZATION shall have the definition provided in s. 101-23.7-1-c.

38. OCCASIONAL SALE means offered for sale for not more than 3 days in any 12-month period.

39. PERSON means any individual, firm or corporation.

40. POTENTIALLY HAZARDOUS FOOD shall have the definition provided in ch. ATCP 75, Appendix, Wis. Adm. Code.

41. PRIORITY FOUNDATION ITEM shall have the definition provided in ch. ATCP 75, Appendix, Wis. Adm. Code.

42. PRIORITY FOUNDATION VIOLATION means a violation of a priority foundation item.

43. PRIORITY ITEM shall have the definition provided in ch. ATCP 75, Appendix, Wis. Adm. Code.

44. PRIORITY VIOLATION means violation of a priority item.

45. PROCESSING means any manipulation of food, including assembling, grinding, cutting, mixing, baking, grilling, frying, coating, stuffing, packing, bottling, packaging, canning, extracting, fermenting, distilling, pickling, freezing, drying or smoking. Processing does not include the act of harvesting, washing, and packing of raw agricultural products.

46. PRODUCTION KITCHEN means a kitchen in a school in which food preparation activities beyond reheating, portioning and hot and cold holding are performed.

47. PUSHED, PEDALED OR PULLED VEHICLE means a vehicle which does not have a mechanical engine to propel it and is moved by human power.

48. READY-TO-EAT FOOD means restaurant-style food that is offered or prepared for sale and is ready for consumption, regardless of whether consumption is on the premises where the food is sold.

49. RECURRING VIOLATION means the same violation on any 3 inspections or investigations in the previous 24-month period. Inspections or investigations do not need to be consecutive.

50. RE-INSPECTION means an inspection to determine if a food establishment has obtained compliance with findings or orders issued by the department.

51. REPEAT VIOLATION means the same violation on 2 successive routine inspections.

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52. RISK CONTROL PLAN means a written document developed by an establishment in cooperation with the department for the purpose of identifying and implementing controls to address a repeat or recurring violation.

53. SATELLITE KITCHEN means a kitchen in a school in which the food handling activities are limited to the reheating or holding of cooked food that has been delivered from a production kitchen, storage of cold ready-to-eat food items and portioning and serving of bulk products either delivered from a production kitchen or requiring no on-site preparation for service.

54. SELF-INSPECTION means the use of a department developed checklist on either a daily or weekly basis to monitor ongoing establishment compliance.

55. SERIOUS FOOD-HANDLING SANITATION VIOLATION means a violation that is the basis of a citation by the department and that involves a potentially hazardous food temperature violation, a food or equipment cross-contamination violation, a poor hygienic practice by a food handler violation or a confirmed case of food-borne illness.

56. SHARED KITCHEN means a commercial kitchen in which more than one food establishment or operation with different license holders is using the same commercial kitchen facilities for the storage or production of food or as an operational base, ware-washing facility, commissary for a food peddler, seasonal market, temporary event vendor, food manufacturer or caterer.

57. TEMPORARY EVENT means a single event held at a fixed location not lasting more than 14 consecutive days. This definition shall include a fair, festival, fundraiser for a nonprofit organization, carnival, circus, public exhibition, anniversary sale or occasional sale.

58. VARIANCE means a written document approved by the department that authorizes a modification or waiver of one or more regulatory requirements, provided that, in the opinion of the department, the modification will not result in a health hazard or nuisance.

59. VENDING MACHINE shall have the definition provided in s. ATCP 75.203(14), Wis. Adm. Code. A food display case, including a case with temperature control, which allows a user to access multiple items simultaneously is not considered a vending machine, even if the items are purchased through a self-checkout process.

68-3. Adoption of State Code. Except as otherwise provided in this chapter, the city of Milwaukee adopts chs. 97, 98 and 254, Wis. Stats., and chs. ATCP 74, 75, 80, and 88, Wis. Adm. Code, as amended, and where pertaining specifically to food establishments, chs. SPS 314, 316, and 361 to 365 Wis. Adm. Code, as amended, as part of this code. Adoption of ATCP 74 and 75, Wis. Adm. Code, includes the adoption of the Wisconsin Food Code, which is an appendix to both chapters. Wherever the term "regulatory authority" is used in the Wisconsin Food Code it shall be held to mean the commissioner.

68-5. Authority. **1. TO REGULATE.** The commissioner may adopt written rules and regulations as necessary for the enforcement of this chapter and shall file with the city clerk a certified copy of all such rules and regulations. A certified copy of the rules and regulations shall also be kept on file in the office of the commissioner. The rules and regulations shall have the same force and effect as the provisions of this section, and the penalty for violations thereof shall be the same as the penalty for violations of this chapter. In addition, unless otherwise provided in this chapter, the commissioner shall have the authority to enforce the provisions of ch. 214 pertaining specifically to fire prevention in food establishments.

2. TO ENFORCE. a. The commissioner shall enforce the regulations of this chapter and may issue orders to effect corrections of violations. The commissioner shall issue citations pursuant to the procedure set forth in s. 50-25, except orders to correct violations of ch. 214 shall be enforced as specified in ch. 200.

b. If the conditions imposed by any provision of the code of ordinances are either more restrictive or less restrictive than comparable conditions imposed by the Wisconsin Food Code, or any other law, statute, rule, resolution, ordinance, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern.

3. TO INSPECT. a. Except for an establishment exempted from inspection by state law, a representative of the department, after presentation of proper identification, shall be permitted to enter any food establishment at any reasonable time to make inspections in accordance with this chapter.

b. The department shall have authority to:

b-1. Conduct a reasonable examination of a licensee's business records, including:

b-1-a. Information related to establishing the business's total amount of gross food sales.

b-1-b. Materials used to demonstrate adherence to approved plans.

b-1-c. Materials required to inspect or assess the food purchased, received or used by a food establishment.

b-2. Examine a licensee's food, food preparation, storage and display areas.

b-3. Collect environmental and food samples for laboratory analysis. The department shall offer to pay fair market value for any samples taken, unless the sampling is conducted as a follow-up to a previous unsatisfactory test result.

b-4. Take photographs to document inspection or investigation findings.

c. No person may assault, restrain, threaten, intimidate, impede, interfere with or otherwise obstruct the commissioner in the performance of his or her duties.

d. No person may obstruct or provide false, deceptive or misleading information to the commissioner.

e. Violation of this subsection may result in corrective action, including revocation of a license.

68-7. Food Plans. 1. PLANS REQUIRED.

a. General. All food establishments requiring licensure and all food establishments requiring registration under s. 68-21-2-c or d shall submit food operation plans and food facilities plans, on forms approved by the commissioner, to the department and the city clerk's office. Plans shall be retained by the commissioner for as long as the plans are in effect.

b. Food Operation Plans. Food operation plans shall be approved by the department before a license or registration is issued. Plans shall include sufficient operational detail to evaluate the potential risk of the proposed operation, as determined by the commissioner, including:

b-1. The size of the food operation, including anticipated gross sales.

b-2. The types of food sold, including any menus.

b-3. The methods of food preparation and sale.

c. Food Facilities Plans. Food facilities plans shall be approved by the department before any person may erect, construct, enlarge or alter a licensed or registered food establishment or otherwise make any substantial operational changes to a food establishment. Implementing a process specified in the Wisconsin Food Code as requiring a HACCP plan or requiring regulatory approval prior to implementation shall be considered a substantial operational change requiring plan submission. Plans shall consist of drawings which clearly show and describe the nature and extent of the work proposed, including:

c-1. Floor plans, equipment plans and specifications.

c-2. Wall, floor and ceiling finishes.

c-3. Plans and specifications for food service kitchen ventilation.

c-4. Any other information necessary to demonstrate compliance with applicable health code provisions.

2. EXCEPTION. At the discretion of the commissioner, the requirement for plan submission may be waived for minor alterations to a food establishment.

3. SHARED KITCHEN AGREEMENT. A signed shared kitchen agreement shall be submitted with any application proposing to share space in a commercial kitchen operated by an agent other than the applicant.

4. SITE EVALUATION. a. A site evaluation may be conducted by the department upon written request of a food establishment.

b. A site evaluation shall include an assessment of the general suitability of a facility for use as a food establishment, and shall identify general modifications to the facility needed to meet the requirements of this chapter.

c. If a site evaluation has already been conducted for a particular location and is in conformance with all current requirements of this chapter, the evaluation shall be provided free of charge upon request of the operator.

d. A site evaluation shall provide general guidance rather than guidance based on a food establishment's planned operation and shall not replace the need to submit and obtain approval for a food establishment operation or facilities plan.

5. VARIANCE. a. For processes identified in the Wisconsin Food Code as requiring a variance for situations where strict adherence to any public health-related provision of this chapter,

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ch. 214, or any state regulations adopted in s. 68-3 is impractical for a particular food establishment, or at the commissioner's discretion, the commissioner may approve a variance for that food establishment if the commissioner is provided with satisfactory proof that the granting of the variance will not jeopardize public health, safety or welfare.

b. Application for a variance shall be submitted in writing to the commissioner on a form provided by the department. The application shall be accompanied by the documentation specified in par. e.

c. Upon receipt of a complete application, the commissioner shall review the request and grant or deny the request in writing within 30 days. If a variance is granted, the commissioner shall maintain a copy of the variance in the food establishment's file.

d. No variance shall be issued until the applicant paid the application fee specified in s. 81-55.3.

e. Documentation supporting a proposed variance shall include the following information:

e-1. A description of the proposed variance from this chapter, ch. 214 or state regulations, citing relevant code provisions or regulations.

e-2. A description of how any potential public health hazards or nuisances will be addressed if the variance is granted.

e-3. If requested by the commissioner and relevant to the variance request, a hazard analysis and HACCP plan.

f. A variance shall be valid for 5 years from the date of issuance unless revoked for non-compliance. An operator wishing to extend a variance approval shall be required to submit a variance renewal request. Failure to file a request for variance renewal prior to expiration shall result in any subsequent application being considered a new application.

g. Failure by a food establishment to adhere to the terms of a variance approval shall be grounds for corrective action, including revocation of the variance approval.

6. FEES. Plan examination and modification fees, site evaluation fees, and inspection fees shall be submitted and paid as required in ss. 81-55 and 81-55.3. Fees shall be nonrefundable and include the cost of all inspections required for a plan, if applicable.

68-9. Inspection and Investigation. 1. PRE-INSPECTION. a. New Establishment. Every food establishment shall be inspected by the department prior to issuance of a new license. License issuance or renewal may be withheld pending inspection, investigation, re-inspection, and plan verification or validation.

b. Existing Establishment. Inspections shall be required for any licensed food establishment wishing to make changes to the physical premises. Additional inspections may be required for any significant changes to a food plan or operation, as determined by the commissioner.

2. ROUTINE INSPECTION. a. Food Dealer. Within 60 days of license issuance, a food dealer shall be inspected. The department shall routinely inspect all licensed food dealers at least once every 12 months.

b. Food Peddler. Within 60 days of license issuance, all vehicles, carts or carried containers of a licensed food peddler shall be inspected. A renewal food peddler license shall not be issued until an inspection is performed and any priority and priority foundation violations have been corrected.

c. Temporary Food Dealer. The department shall inspect each temporary food dealer establishment licensed under this chapter.

d. Wisconsin Department of Agriculture, Trade and Consumer Protection License Inspections. The department is authorized by the state to inspect all state-licensed mobile restaurants and temporary events.

3. REINSPECTION. a. General. The department shall, within 30 days, reinspect every violation found during an inspection or a compliant investigation, regardless of a licensee's ability to correct a violation during the inspection, to ensure the violation is corrected or remains corrected.

b. The department shall make as many additional reinspections as are necessary for the enforcement of this chapter.

4. COMPLAINT INVESTIGATION. The department shall investigate all complaints alleging violations of licensing, sanitation, foodborne illness or food handling. If the department identifies violations during a complaint investigation and orders are issued, the orders shall be subject to the same reinspection requirements and fee schedule as those identified during a routine inspection.

5. REINSTATEMENT INSPECTION.

a. Requirement. Whenever a food establishment is required by the department to cease or suspend any part of its food sales or processing, the establishment shall not resume food operations until an inspection determines that the conditions responsible for the requirement to cease or suspend food operations no longer exist.

b. Correction. Upon notification by the food establishment that the conditions responsible for the requirement to cease or suspend food operations have been corrected, the department shall, within two business days, perform an inspection to determine if the food establishment may resume operation.

c. Reinstatement. Upon determination that the basis for the requirement to cease or suspend food operations has been addressed, the department shall provide the food establishment written notice that it may resume operation.

d. Notification. The Wisconsin department of agriculture, trade and consumer protection, the city clerk's office and the police department shall be notified of any food establishment ordered to cease or suspend operation and when an order is lifted. Electronic notification shall be considered as meeting the notification requirement.

6. INSPECTION PLACARDS. a. Issuance. Upon completion of an inspection or investigation, the department shall issue an inspection placard to the food establishment.

b. Design. The commissioner shall design the placard, which shall show the name and address of the food establishment, the date of the inspection or investigation, the name of the licensee, and the results of the inspection or investigation.

c. Posting Required. It shall be unlawful to operate a food establishment unless an inspection placard is posted in accordance with this subsection. Each food establishment shall post only the most recent inspection placard.

d. Location. A food placard shall be posted in a conspicuous place on the food establishment premises that is readily and easily visible to the public. To qualify as a conspicuous place, the placard shall be:

d-1. Not lower than 4 feet nor higher than 6 feet from the ground or floor.

d-2. Within 5 feet of the front door or direct entrance.

d-3. Unobscured and on the establishment's front window, door, or exterior wall.

d-4. In a location approved by the health inspector to ensure proper notice to the general public and to patrons of the food establishment.

e. Placard to Remain Intact. An inspection placard shall not be defaced, marred, camouflaged, hidden or removed. The operator shall report any stolen placard to the police department and provide documentation of the police report to the health department for a replacement placard.

f. Violation; Penalties. f-1. An operator that violates any of the provisions of this subsection may be required to appear before the licensing committee.

f-2. The department shall order immediate closure of a food establishment that has failed to meet the criteria established by the department. The license issued to the food establishment shall be suspended, and a placard serving as notice of closure shall be posted until the license is reinstated.

7. REPORTS. a. Issuance. When an inspection or investigation is made by the department of a food establishment, the findings shall be recorded in a form approved by the commissioner. A copy of the inspection or investigation report shall be provided to the food establishment, in a form approved by the commissioner.

b. Receipt. b-1. An inspector shall request a signed acknowledgment of receipt of an inspection report when the report is issued at a food establishment.

b-2. The signed acknowledgment shall not constitute an agreement with the findings of the report.

b-3. Refusal to sign an acknowledgment of receipt shall not affect the license holder's obligation to correct the violations noted in the inspection report within the time frames specified.

b-4. Refusal to sign the acknowledgment of receipt shall be noted on the inspection report in place of the signature.

b-5. Documentation of delivery of the report shall be retained by the department and shall be considered evidence of issuance.

c. Reports are Public Record. Inspection reports shall be public record and posted on the internet.

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8. APPEAL OF INSPECTION. a. Request for Appeal. If a food establishment disagrees with an inspection report, the food establishment may submit a written request for an appeal within 5 business days of the issuance of the report. The request for an appeal shall include:

- a-1. The date of the inspection.
- a-2. The violation being appealed.
- a-3. The reason the licensee believes a provision of the code does not apply or was inappropriately applied.

b. Appeal Deadline. Failure to submit a written request for appeal within 5 business days of the issuance of an inspection report shall be considered grounds to deny an appeal unless a request for an extension is received prior to the 5-business day period elapsing. Failure to submit a written request to hold posting of an inspection report or placard with a written appeal of an inspection report shall result in the report or placard being posted.

c. Appeal Hearing and Determination. An appeal shall be heard by the commissioner within 10 business days following receipt of a written appeal request. The inspection report or inspection placard shall be updated based on the outcome of the appeal and issued to the food establishment.

9. FEES. The department shall charge the health code inspection fees provided in s. 60-70.

68-11. Food Safety Advisory Committee.

1. ESTABLISHMENT. The commissioner shall appoint and maintain a food safety advisory committee.

2. PURPOSE. The food safety advisory committee shall assist in developing policies and regulations that enhance food safety and create an environment that is supportive for the continued growth of the food industry. The committee shall provide guidance to the commissioner on licensing, inspection fees, inspection criteria, grading of food establishments, and compliance and enforcement activities for the department.

3. COMPOSITION. This committee shall be comprised of representatives from restaurants, retail food establishments, peddlers, temporary event vendors, food manufacturers, consumers and academia.

68-13. Annual Report Required. The commissioner shall, by April 1 of each year, submit to the common council and the mayor a written food safety report. The report shall include the following information:

1. A summary of activities in the previous year undertaken by the department to improve the safety of food being produced or sold within the city.

2. An evaluation of the inspection program's effectiveness using the quality assurance criteria defined by the U. S. Food and Drug Administration Voluntary National Retail Food Regulatory Program Standards.

3. Inspection and investigation findings for the previous 3-year period, including the frequency of foodborne illness risk factor violations by establishment type and aldermanic district.

4. The frequency of occurrence of foodborne illness reported to the department and a summary of any outbreak investigations performed.

SUBCHAPTER 2
LICENSING PROCEDURES

68-21. Licensure of Food Establishments;

General. 1. LICENSE REQUIRED. Unless otherwise provided in this chapter, no person may carry on the business of a food establishment without first having obtained a license under this chapter.

2. EXCEPTIONS. A license shall not be required of any of the following:

a. A person selling only bottled or canned non-alcoholic drinks that do not require refrigeration.

b. A stand offering homemade beverages or food items not requiring heating or refrigeration, provided the stand is:

b-1. Not connected with any temporary event.

b-2. Located on private property in a residential area.

b-3. Operated by a child under the age of 14.

c. A community food program, provided all food is provided free of cost to persons in need or organizations serving persons in need.

d. Any primary or secondary school meal program, whether public or private, provided all of the following conditions are met:

d-1. Food service is limited to students who attend the school or to children as part of a free summer meal program.

d-2. All food preparation and service is performed by staff directly employed by the school.

d-3. The school registers annually with the department at least 10 days prior to operating or prior to the first day of the school year, and pays the registration and inspection fees specified in s. 81-55.5.

d-4. Prior to initial operation, the program submits plans in compliance with s. 68-7, and undergoes inspection prior to operating.

d-5. The program undergoes 2 inspections per school year. Inspections or investigations where significant noncompliance is found shall be subject to additional fees, as specified in s. 60-70.

e. A food manufacturer that derives 25% or more of its gross sales from wholesale trade, has obtained a food processing plant license from the state, and does not serve meals to the public.

f. A food distributor that derives 25% or more of its gross sales from wholesale trade, has obtained a food warehouse license from the state, and does not serve meals to the public.

g. A retail food establishment exempt from licensure under s. 97.30(2)(b), Wis. Stats., or s. ATCP 75.03(9), Wis. Adm. Code, including:

g-1. A retail food establishment selling only packaged foods or fresh fruits and vegetables, provided the establishment does not sell potentially hazardous food and does not engage in food processing.

g-2. A temporary retail food establishment operated by a religious, charitable or nonprofit organization for no more than 12 days in any license year.

g-3. A food peddler with a food peddler license who operates on private property as part of a festival as defined in s. 108-1-2.5, street festival as defined in s. 95-1-2, or special event as defined in s. 105-55.5, provided the food operation remains unchanged from that conducted routinely under the operator's existing food peddler license.

h. A bakery, as defined in s. 97.29 (1) (b), Wis. Stats., selling only non-potentially hazardous, flour-based goods baked out of a home and sold directly to consumers. This does not include the cooking and drying of candies or other confectionaries.

3. APPLICATION. License application forms shall be obtained from the city clerk and require the information specified in s. 85-12.

4. FINGERPRINTING. a. All applicants for food dealer and temporary food dealer licenses shall be exempt from the fingerprinting requirement provided in s. 85-21-1.

b. All applicants for food peddler licenses and ice cream peddler licenses shall be fingerprinted, as provided in s. 85-21-1.

5. CHANGES TO BE REPORTED. See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation. In addition:

a. Changes in the food facility or operational plan submitted as part of a supplemental application shall be submitted in accordance with s. 68-7.

b. A licensee shall promptly notify the city clerk in writing of his or her intention to cease operations.

6. LICENSE FEE. See ch. 81 for the required license fee.

7. DISQUALIFICATION. Whenever any application is denied, or a license is revoked, surrendered or not renewed, the procedures provided in ss. 85-13, 85-15 and 85-17 shall apply.

8. INVESTIGATION. Each application for a license under this chapter, except for an application for a food dealer license by a micro market or an application for a temporary food dealer license, shall comply with the requirements of s. 85-21-2. In addition to the requirements of s. 85-21-2, if applicable:

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a. Each application for a new food dealer license shall be referred to the commissioner and the department of neighborhood services for inspection.

b. Each application for a new food peddler license shall be referred to the commissioner for inspection.

c. Each application for a temporary food dealer license shall be referred to the commissioner for inspection.

9. ISSUANCE. See s. 85-12.5 for provisions relating to the issuance of a license.

10. POSTING. Each license shall be posted in a conspicuous place on the food establishment.

11. TRANSFER. A license may not be transferred from one person or entity to another, from one premises to another, or from one food peddler vehicle, cart or carried container to another, except:

a. An individual may transfer a license to an immediate family member, as defined in s. 97.608(4)(a)2, Wis. Stats., if the individual is transferring operation of a restaurant, as defined in s. 254.61(5), Wis. Stats.

b. A food peddler changing operational bases may amend a food peddler license to reflect the new operational base.

12. RENEWAL. Application for renewal of a license shall be made to the city clerk in accordance with the provisions of s. 85-26. Except for an application for a food dealer license by a micro market or an application for a temporary food dealer license, the city clerk shall refer the application to the chief of police. If the applicant still meets the licensing qualifications, the license shall be issued unless a written objection has been filed under s. 85-3. If there is objection to renewal of the license, the procedure for considering the renewal application shall be as specified in ss. 85-3 to 85-5.

13. SUSPENSION AND REVOCATION. Any license issued under this chapter may be suspended or revoked for cause by the common council after notice to the licensee and a hearing. Notice and hearing on the revocation shall be conducted in accordance with ss. 85-3 to 85-5.

68-23. Food Dealers. 1. LICENSE REQUIRED. Unless otherwise provided in this chapter, no person may manufacture, offer for sale, store, distribute or sell food within the city without first having obtained a food dealer license.

2. PROCEDURE FOR ISSUING NEW LICENSE. a. The city clerk shall issue a license to each applicant for a new license who meets all the

requirements of this section and has paid to the city treasurer the fee specified in s. 81-55, unless there is an objection by the commissioner, the department of neighborhood services, the common council member in whose district the food establishment would be located, or any person affected by the operation or proposed operation of the applicant.

b. If the common council member objects to an application, the applicant may request in writing an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the recommendation of the common council member. Appeals shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 and 85-5.

3. TEMPORARY OPERATION. a. No food establishment may operate at any temporary site, location, stand or event without having obtained a temporary food dealers license.

b. A temporary food dealer license shall authorize a food establishment to prepare, process, serve or sell food at temporary events for one year from the date of issuance. This authority shall be contingent upon the license holder also obtaining any other special privileges or licenses required for the conduct of a temporary food dealer.

c. A food dealer seeking a temporary change of plan to a licensed premises shall comply with s. 85-39.

d. The following license holders shall be exempt from the requirement provided in par. a, provided the activities of the food establishment remain unchanged from those allowed under the existing license:

d-1. Food peddlers operating on private property at a festival grounds as defined in s. 295-201-187, a street festival as defined in s. 95-1-1-I, or a special event as defined in s. 105-55.5.

d-2. Mobile or temporary retail food establishments licensed under s. ATCP 75.03, Wis. Stats.

d-3. Mobile restaurants licensed under s. ATCP 75.104, Wis. Stats.

e. The procedures for issuance of a temporary food dealer license shall be as set forth in sub. 2. An individual who has applied for, but has not been issued, a food dealer license shall not be issued a temporary food dealer license at the location where the food dealer license application is pending.

f. Failure to pay for and obtain any license necessary to operate a temporary event at least one business day prior to the event occurring may result in the applicant for a temporary food dealers license not being allowed to participate in the event.

4. MICRO MARKETS. At the commissioner's discretion, a food dealer license for a micro market may be issued prior to inspection.

68-25. Food Peddlers. 1. FINDINGS. The common council finds that regulation of the health conditions of food sold by food peddlers is necessary for the prevention of disease and sickness within Milwaukee, and that such regulation is vital to the health, safety and welfare of residents of and visitors to the city.

2. LICENSE REQUIRED. No person shall engage in the sale of any food from any vehicle, cart or carried container on a public street without first obtaining a food peddler license issued under this chapter or a mobile food license issued by the state of Wisconsin for the food being sold. A separate license shall be required for each vehicle, cart or carried container from which food is sold.

3. APPLICATION. In addition to the information required under s. 85-12, application for a food peddler license shall contain the following:

- a. A description of the locations where the applicant intends to sell food.
- b. The hours of the day during which the applicant intends to sell food.
- c. A physical description of the unit proposed to be licensed, including, if a motor vehicle, the license plate number or vehicle identification number.
- d. A menu of the food items to be sold, along with information on the food processing to be performed.
- e. If using a shared kitchen as an operational base, a signed copy of the shared kitchen agreement. If the operational base is outside the city, a copy of the food license and the most recent inspection report.

4. PROCEDURE FOR ISSUING NEW OR RENEWAL LICENSE. a. An application for a food peddler permit shall be referred to the commissioner, who shall cause an investigation to be made. If the commissioner approves the application, the city clerk shall issue the license, provided the applicant meets all the requirements of this section and has paid to the city treasurer the applicable fees.

b. If the commissioner objects to an application, the applicant may request in writing an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the objection of the commissioner. An appeal shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 and 85-5.

68-27. Ice Cream Peddlers. 1. FINDINGS. The common council finds that an individual involved in the business of ice cream peddling comes into frequent and substantial contact with children. Additionally, an individual peddling ice cream from an ice cream vending vehicle makes frequent stops, deals with customers congregating near the path of the vehicle, and is responsible for driving safely when operating a motor vehicle. Therefore, the common council finds it necessary for the safety and welfare of the public to license individuals peddling ice cream.

2. LICENSE REQUIRED. No person shall operate or act as an ice cream peddler within the city without first having obtained an ice cream peddler license. The ice cream peddler license required by this section shall be in addition to the food peddler license required in s. 68-41. No ice cream peddler license shall be required if all retail sales are conducted at a temporary event, as defined in s. 68-1-57, provided that average daily attendance is estimated at 5,000 persons or more.

3. APPLICATION. In addition to the information required under s. 85-12, application for an ice cream peddler license shall contain one recent photograph suitable in size and form, as determined by the city clerk, for inclusion on the applicant's official license.

4. PROCEDURE FOR ISSUING NEW OR RENEWAL LICENSE. a. A food peddler application received by the city clerk shall be forwarded to the chief of police for review and criminal background check.

b. Upon review and report of the chief of police and subject to the requirements of s. 111.335, Wis. Stats., the license shall be granted to an applicant who has not been required to register as a sex offender pursuant to s. 301.45, Wis. Stats., or who has not been convicted of violating s. 940.22(2), 940.225(1), (2) or (3), 944.06, 948.02(1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.095, 948.11(2)(a) or (am), 948.12, 948.13, or 948.30, or of s. 940.30 or 940.31, Wis. Stats., if

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the victim was a minor, or who has not been convicted of operating a vehicle under the influence of an intoxicant or other drug pursuant to s. 346.63, Wis. Stats., in the past 3 years. These provisions shall also apply to the granting of this license to any applicant who has been convicted pursuant to similar statutes in other states or foreign jurisdictions.

c. In addition to the provisions of par. b, the chief of police may object to granting of the license based on the applicant's criminal history, including whether the applicant has been charged with or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the licensed activity.

d. If the chief of police or another interested party objects to an application, the applicant may request in writing an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the objection of the chief of police. An appeal shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 and 85-5.

e. If the chief of police approves an application, the city clerk shall issue the license, provided the applicant meets all the requirements of this section and has paid to the city treasurer the applicable fees.

SUBCHAPTER 3
OPERATING REGULATIONS

68-31. Sanitation. 1. GENERAL. No person shall manufacture, prepare for sale, offer, expose for sale or sell food unless it is securely protected from filth, flies, dust, contamination or other unclean, unhealthful or unsanitary conditions.

2. FOOD WRAPPERS. No person shall give away, sell or offer for sale any food which is pronounced by the commissioner liable to contamination, putrefaction or other types of spoilage, by using wrappers, covers, or containers, or including in the package or wrapping any token or other symbol which may be returned for premiums, or anything of other value.

3. PREMIUMS OR TOKENS. Whenever the condition of sale provides that the token, symbol, or other item, which is to be returned for anything of value, can be mailed only to an office or other location where food is not prepared, processed, stored or offered for sale, and where the premium or other item of value is not an article of primary interest to children, the use of such tokens, symbols or other items shall not be in violation of the provisions of this section.

4. COMMON DRINKING CUPS. The furnishing or use of a common drinking cup or receptacle for drinking water in any public place or in any railroad station is prohibited. Any person who furnishes, installs or offers for public use such common drinking cup or receptacle for drinking water in any public place, or in any public institution, hotel, theater, factory, department store, public hall or public school, or in any railroad station in the city, shall be punishable by a fine of not less than \$5 nor more than \$25.

68-32. Single-Use, Plastic Straws. 1. PROHIBITED. Effective April 14, 2020, no food establishment may provide any customer with a single-use, plastic straw, where "single-use" means a product that is designed and intended to be used only once and is generally recognized by the public as an item that is to be discarded after one use.

2. EXEMPTIONS. Subsection 1 shall not prohibit:

a. Prepackaged individual serving beverages where a small plastic straw is included in the packaging.

b. The provision of a plastic beverage straw to a customer upon request of a plastic beverage straw by the customer.

c. The provision of a plastic beverage straw to a customer receiving a viscous beverage, such as a milkshake or smoothie, that requires a large, durable straw, for which a non-plastic straw would not be suitable.

d. The provision of any other approved compostable straw as determined by the environmental sustainability director. The environmental sustainability director shall maintain a list of acceptable compostable straws.

68-33. Security in Certain Convenience Food Stores. 1. REGULATIONS. Unless otherwise provided in this section, every convenience food store shall:

a. Locate the cash register so that the employee and customer are both visible from the storefront, provided that this location can be accomplished without incurring additional cost that would not otherwise be ordinarily incurred.

b. Keep glass entrance and exit doors clear of any signs or advertisements, with the exception of a sign which states that the cash register contains \$50 or less and that the safe is not accessible to employees.

c. Maintain a safe conforming to the standards of the chief of police.

d. Provide lighting for the store's parking area during all hours of darkness when employees or customers are on the premises at a minimum average of 2-foot candles per square foot, unless the store is not open for business after sunset and before sunrise.

e. Install at least 2 high resolution surveillance security cameras which can produce reproducible digital color images from a digital video recorder. Each camera shall display a date and time stamp on each image, and produce retrievable images suitable for permanent police records. Digital video recording equipment shall be maintained in proper working order and operated at all times during store operating hours. In addition:

e-1. At least one camera shall provide an overall view of the counter and register area, and at least one camera shall be positioned to provide a clear, identifiable, full-frame image of the face of each person entering and leaving the store. Camera views shall not be obstructed by store fixtures or displays.

e-2. If a time-lapse digital video recorder is operated, recording speed shall be approved by the chief of police.

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e-3. All digital video records shall be stored in a manner provided by the police department, maintained in good viewing order for 30 days after recording, and made available upon request to the licensing committee and chief of police.

f. Have customer entrance and customer exit doors that are made of glass or other transparent material, except that a store that does not have such doors on August 17, 1994 shall not be required to install such doors until the holder of the store's food dealer license changes.

2. EXEMPTIONS. a. The requirements of this section do not apply to a convenience food store that conforms to either of the following descriptions:

a-1. The store is located in an enclosed shopping structure, enclosed commercial building or hospital. A convenience food store is not in an enclosed structure or building if a customer can enter it directly from the outside.

a-2. The store physically separates employees from customers with a solid partition that bars a person from entering the employee area from the customer area, has a secure lock on the employee side of any door between the employee area and the customer area, and conducts all transactions through a service window or similar arrangement.

b. At the discretion of the chief of police, a convenience store may be exempted from any or all of the regulations specified in sub. 1. The owner or operator of a convenience food store that seeks an exemption under this paragraph shall submit to the police department a written exemption request that includes the specific reasons that the applicant believes the exemption should be granted. The chief of police may grant an exemption to a requestor if the chief of police finds that the security provisions at the location are adequate.

3. ROBBERY PREVENTION TRAINING. All owners and employees of a convenience food store shall be required to complete a training course in robbery prevention approved of or provided by the police department within 120 days of ownership or employment.

68-35. Shared Kitchens. 1. REVIEW AND APPROVAL. a. Any time one or more food establishments propose to operate out of the same commercial kitchen, the primary license holder shall notify the department of his or her intent to share kitchen space.

b. If not previously approved by the department, the addition of other users sharing commercial kitchen space shall be considered a significant operational change requiring plan review and approval as specified in s. 68-7.

c. The commissioner may prohibit use of a commercial kitchen as a shared kitchen based on either the size of the kitchen or the compliance history of the food establishment.

d. Unless operated by the same licensee, each shared kitchen user shall obtain his or her own food dealer license.

2. OPERATOR DUTIES. The primary license holder shall: a. Ensure the physical facilities and all equipment provided by the primary license holder in the shared kitchen are in compliance with all local, state and federal regulations, including compliance with all health and sanitation requirements.

b. Ensure that any person engaged in food preparation or storage within the facility is properly licensed. Allowing an unlicensed user to prepare food for sale shall be considered a violation and grounds for corrective action, including revocation of the food dealer license.

c. Maintain records on site regarding the use of the shared kitchen for a period of 24 months from the date of entry and make the records immediately available upon request by the department at the time of inspection or investigation. Failure to maintain records or to provide required records to the department shall be grounds for the department to rescind approval to permit shared use of the kitchen. Each of the following records shall be maintained and made available by the primary license holder:

c-1. A list of all shared kitchen users and current contact information.

c-2. For each shared kitchen user, a copy of the following documents:

c-2-a. A menu approved by the department.

c-2-b. A valid food dealer license.

c-2-c. All agreements entered into by the primary license holder with each shared kitchen user, including the effective date, and if applicable, the termination date of each agreement.

c-2-d. If the shared kitchen user is processing or storing potentially hazardous foods, a valid food service manager certificate.

c-3. A weekly or monthly schedule of the proposed dates and times when each shared kitchen user, including the primary license holder, intends to use the shared kitchen.

c-4. A shared kitchen user sign-in log indicating the dates and times each shared kitchen user arrived and departed.

d. Notify the department if a shared kitchen user discontinues, terminates or otherwise withdraws from any contract or agreement, or if a shared kitchen user repeatedly fails to use the space during his or her scheduled time without contacting the primary license holder.

e. Provide access for inspection by the department to all locked equipment located in any storage area maintained in the shared kitchen.

f. Ensure that the number of shared kitchen users operating in the shared kitchen does not pose a health or safety risk, and remains within the total number of users and total number of simultaneous users for which the establishment is approved.

3. USER DUTIES. A shared kitchen user issued a secondary or subsequent license for a food establishment shall:

a. Conform to the requirements provided in s. 68-7.

b. Comply with all food safety requirements and regulations set forth in this chapter. Primary license holders and shared kitchen users shall be jointly and individually liable for any equipment or facility violations.

c. Ensure a certified food manager is on site at all times that potentially hazardous food is being prepared, tasted, handled, packaged, prepared for storage, served or otherwise used, and make available, upon request, a food manager certificate.

d. Have a copy of a city-issued license posted on site at all times when the shared kitchen user is using the shared kitchen.

e. Keep and maintain on file each of the following records:

e-1. A list identifying the dates and times the user uses the shared kitchen.

e-2. A copy of the written statement signed by the primary license holder of the shared kitchen stating that the shared kitchen user has been authorized to rent, lease or use the shared kitchen. The statement shall include the start date and end date, if any, to which the authorization applies.

4. USER RECORDS. The records required under sub. 3-e shall be maintained by the shared kitchen user for a period of at least 24 months after the date of entry of a record. Upon a request by any authorized city official, the shared kitchen user shall make these records immediately available for inspection by an authorized city official.

68-37. Food Peddlers.

1. SALES ON THE PUBLIC RIGHT-OF-WAY. a. Findings. The common council finds food peddler vehicles parked on the public right-of-way in areas where there is a high concentration of traffic and pedestrian density jeopardize the safety of pedestrians and drivers, and dangerously increase traffic congestion. The common council further finds limiting the locations and times these vehicles may park on the public right-of-way in specified areas contributes to public safety. The common council shall review annually the ordinances relating to food peddler vehicles. It is the intent of the common council to work in cooperation with the police department, health department, and department of public works to administer its food peddler vehicle program.

b. Definition. For purposes of this subsection, "limited operation food peddler vehicle zone" means a portion of a public right-of-way designated by the common council for parking of food peddler vehicles subject to specified limitations. A limited operation food peddler vehicle zone shall be recorded on a map that may be found in the common council proceedings. The official record shall be on file in the city clerk's office.

c. Locations Restrictions.

c-1. Public Right-of-way. All sales shall be made on the public right-of-way directly from a food peddler vehicle or a carried container unless one of the following exemptions is met:

c-1-a. A food peddler is selling food at the invitation of a business owner on private property provided all sales are made only to employees of the business and not to the general public.

c-1-b. A food peddler is issued an occupancy permit by the department of neighborhood services allowing food sales by the food peddler on a private property.

d. Time Restrictions. A food peddler shall not offer for sale or sell food between 3 a.m. and 6 a.m., Monday through Friday, or between 3:30 a.m. and 6 a.m. on Saturday and Sunday.

e. Limited Operation Food Peddler Vehicle Zone. The department of public works shall mark a limited operation food peddler vehicle zone by either posting a sign or painting the designated area.

e-1. Type 1, Time-Limited Food Peddler Vehicle Zone. Notwithstanding sub. d, a food peddler vehicle that is parked in a type 1 limited operation food peddler vehicle zone shall not:

e-1-a. Offer for sale or sell food between 1 a.m. and 6 a.m.

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e-1-b. Park in that zone for more than 6 hours within a 12-hour time period.

e-2. Type 2, Density-Limited Food Peddler Vehicle Zone. The maximum number of food peddler vehicles allowed on a block face in a type 2 limited operation food peddler vehicle zone shall be determined for that specific block based upon density and traffic safety, as determined by the common council in consultation with the department of public works and the police department.

e-2-a. Application. Application for a parking space in a type 2 limited operation food peddler vehicle zone shall be made with the licensing division using an application established for that purpose. In the first year this ordinance is in effect, applications shall be filed no later than July 1, 2023, and shall be filed no later than March 1 of each year thereafter. If granted a parking space, the licensing division shall notify the applicant of the assignment, and the applicant shall accept the parking space in writing within 10 calendar days of receiving notification of the assignment or shall forfeit the assignment. Only one parking space shall be assigned per food peddler vehicle. No food peddler vehicle may be assigned a space in more than one zone. Parking space assignments may not be transferred.

e-2-b. Parking Space Assignment Seniority. Parking space assignment shall be determined by seniority, calculated by counting the number of years a food peddler has operated in the zone for which the applicant is applying as reported on their itinerary. Spaces shall be assigned to applicants in order of seniority until all applicants have been assigned a parking space or until all parking spaces are assigned. If applicants remain after all parking spaces are assigned, a waiting list shall be created using the same seniority system.

e-2-c. Additional Points. One year of seniority shall be added for a vehicle that is all of the following: 12 feet or less in length, 11 feet or less in height, and 7 feet or less in width, including wheels and all extensions, counter space, foldouts, awnings, or other contrivances attached to the main body of the food peddler vehicle.

e-2-d. Tie. If more than one food peddler has the same number of years of seniority, this tie shall be broken using the following criteria, considered in order:

e-2-d-1. Whichever food peddler has been licensed by the City the longest.

e-2-d-2. Whichever food peddler's average food establishment grade is higher, as determined by the health department pursuant to s. 68-9-7.

e-2-d-3. Whichever applicant has received the fewest demerits for being disciplined by the city for offenses relating to the operation of food

peddler vehicles. Each warning letter from the licenses committee shall count as one demerit. Each suspension of more than 10 days or revocation shall count as 5 demerits.

e-2-d-4. A game of chance administered by the license division.

e-2-e. Waiting List. Late applicants and food peddlers who forfeit their parking space as provided in subd. e-2-a shall be placed at the bottom of any waiting list. Any parking space that becomes available after parking space assignments have been made shall be offered to the highest-ranking food peddler on the waiting list.

f. Special Permission. The common council may grant permission to a food peddler to park a food peddler vehicle and offer for sale or sell food at a location, on a date, and during a time period not otherwise authorized by this subsection.

2. OPERATING RESTRICTIONS. A food peddler shall comply with all regulations provided under ch. 101 and ss. 105-56 and 115-45, as enforced by the commissioner of public works or the chief of police. Repeat violation of these restrictions shall be considered grounds for suspension, revocation or nonrenewal of a food peddler license.

3. KEEPING OF PERISHABLE FOOD. All perishable foods shall be kept in one of the following ways:

- a. Frozen.
- b. Refrigerated at 41° F or lower by means of mechanical refrigeration.
- c. Heated and maintained at 135° F or higher.

4. SCALE REQUIRED. A food peddler shall provide a scale for items that are sold by weight and weighed at the time of sale. The scale shall be approved and licensed under ss. 81-135 and 82-14.

5. NOISE RESTRICTED. A food peddler shall comply with the noise nuisance regulations of s. 80-65-4 and all other noise regulations of this code.

5.5. LITTER CONTROL. A food peddler operating from a food peddler vehicle shall provide a sufficient number and capacity of litter receptacles adjacent to the peddler's point of sale, and within any area patrons may reasonably be expected to congregate while eating. A food peddler shall:

- a. Regularly monitor any area patrons may reasonably be expected to congregate while eating during operations, and collect litter found on sidewalks and the public right-of-way, regardless of the source of the litter.

b. Promptly empty litter receptacles whenever full to minimize litter on sidewalks and the public right-of-way.

c. Return litter receptacles and litter collected to a home base kitchen at the end of each day's operations and properly dispose of collected litter.

6. COMPLIANCE WITH POLICE DEPARTMENT. A food peddler shall comply with any request from the police department to relocate for public health, safety or welfare reasons.

7. FIRE EXTINGUISHER. A food peddler doing any cooking or heating, whether that heating uses a combustible gas, electric heating device or an open flame, shall have and maintain a fire extinguisher appropriate for the operation.

8. BASE OF OPERATION. Every food peddler shall obtain a mobile base license. Unless operated at a licensed temporary event where facilities are provided on site or granted a variance by the department, each food peddler vehicle, cart or carried container shall return to its operational base every 24 hours for food, water and supplies, or for cleaning and servicing operations, including the emptying and cleaning of waste containers. A log shall be maintained indicating the dates and times the food peddler vehicle, cart or carried container was last serviced at a base of operation. Failure to use or maintain an operational base or failure to maintain an updated service base log shall be considered grounds for suspension or revocation of the food peddler license.

9. BLOCKING PEDESTRIAN ACCESS TO DOORWAYS PROHIBITED. Blocking or restricting any individual's access to a business or residential doorway shall be prohibited.

10. BLOCKING SIDEWALK PROHIBITED. Occupying any sidewalk so as not to permit any pedestrian at any time to have a minimum 5-foot clearance shall be prohibited.

11. DOOR-TO-DOOR SALES PROHIBITED. Selling food door-to-door shall be prohibited.

12. HORN USE PROHIBITED. Use of any type of horn by a food peddler with a carried container or a pushed, pedaled or pulled vehicle shall be prohibited.

13. CARRIED CONTAINER AND VEHICLE DESIGN AND CONSTRUCTION REGULATIONS.

a. **Self-Contained Food Peddler Vehicles.** Each food peddler vehicle shall be self-contained so that all extensions, counter space, foldouts, awnings, or other contrivances for the preparation and sale of food shall be attached to the main body of the food peddler vehicle or cart and move along with it.

b. **Size Limitations.** Each food peddler vehicle shall conform to the following size limits:

b-1. A motorized food peddler vehicle shall be 25 feet or less in length.

b-2. A pushed, pedaled or pulled food peddler vehicle shall conform to the following size limits:

b-2-a. Width including wheels shall be 4 feet or less.

b-2-b. Length shall be 9 feet or less, of which not more than 6 feet of length shall be used for the display, storage, or preparation of items for sale.

b-2-c. Height shall be 6 and one-half feet or less, excluding awnings or umbrellas.

c. **Generator Noise.** A food peddler vehicle using a generator shall produce not more than an average of 80 decibels of sound, as measured 4 feet from the generator.

14. Identifying Signage. Each food peddler vehicle or carried container licensed under this chapter shall have identifying signs printed or affixed, in a prominent position, to 2 sides of the vehicle or container. Each identifying sign shall include the name of the business or person operating the vehicle or container and a valid telephone number for the business, in lettering not less than 3 inches high.

68-39. Peddling of Food by Minors.

1. FINDINGS. The common council finds that persons under 12 years of age are susceptible to injury and other harm when engaged in street trades, particularly when engaged in activities involving the sale or distribution of food and beverages, including water, on highways, streets and alleys of the city. The common council further finds that regulation of food peddling by persons under 12 years of age is necessary for the health, safety and welfare of residents and visitors to the city.

2. PROHIBITED. In accordance with s. 103.23(1), Wis. Stats., no person under 12 years of age shall be employed or permitted to work at any time in any street trade, as defined in s. 103.21(6) Wis. Stats., to include the selling, offering for sale, soliciting for, collecting for, displaying or distributing any articles or goods on any street or public place.

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SUBCHAPTER 4
COMPLIANCE AND ENFORCEMENT

68-41. Notices and Orders. 1. ORDER TO CORRECT. a. If, upon inspection or investigation, the department finds that any food establishment is conducted or managed in violation of any of the ordinances or regulations of the city, or the laws of the state of Wisconsin, it shall be the duty of the department to serve a written order to an establishment operator, licensee, licensee's agent, or employee in charge of the premises, stand or food peddler vehicle, cart or carried container, notifying the operator of the violation.

b. A violation shall be recorded on an inspection or investigation form. For each violation identified, the written order shall include:

b-1. The code section violated.

b-2. A brief description of the violation.

b-3. The corrective action the food establishment needs to make.

b-4. A specific date or time by which the violation shall be corrected.

c. The maximum time interval for correction of a priority or priority foundation violation shall be 72 hours.

d. The maximum time interval for correction of a core violation shall be 90 days. The time limit may be extended upon mutual agreement of the department and the food establishment, provided no health hazard exists or will result from allowing an extended schedule for compliance. The extended time limit shall be no longer than the interval until the operator's next routine inspection.

e. An inspection report shall indicate whether an operator was able to correct any violation at the time of the inspection and whether any orders relate to repeat violations.

f. An order may be appealed in writing to the commissioner within 5 days of the inspection or investigation.

2. ORDER TO OBTAIN ACCESS. If a food establishment or a suspected food establishment denies the department access to the establishment to enforce the provisions of this chapter, the agent of the department shall present to the person in charge his or her official credential, explain the authority upon which access is requested, and make a final request for access. If the person in charge continues to refuse access, the department shall issue an order to obtain access to the food establishment, or suspected food establishment. Failure to comply with the

order to obtain access shall result in either an emergency order to suspend or an order to cease food operations. Repeated failure by a licensed establishment to provide the department access to inspect shall be grounds for citation, suspension or revocation.

3. EMERGENCY ORDER TO SUSPEND.

a. The department may summarily suspend any food license without prior warning, notice or hearing if it determines, through investigation, inspection, or examination of employees, food, records or other means as specified in this chapter or under the Wisconsin Food Code, that an imminent health hazard exists.

b. An emergency order to suspend shall state:

b-1. That the food license is immediately suspended and that all food operations shall immediately cease.

b-2. The reason for summary suspension, with reference to the provision of the city code or state statute in violation.

b-3. The conditions that must be met before the emergency order is removed.

b-4. The process for requesting a reinstatement inspection to certify that the reason for the suspension has been eliminated.

b-5. That a fee, as specified in s. 60-70, shall be assessed for the inspection or investigation that identified the hazard, and that a reinstatement inspection fee shall be charged for each inspection performed to assess hazard elimination.

c. An emergency order to suspend shall be valid for up to 14 days. The emergency order may be extended for an additional 14 days, provided the food establishment is offered the opportunity for a license review hearing before the commissioner. The license review hearing may be waived upon mutual agreement of the department and the food establishment. If after 28 days the hazard remains, the emergency order shall be rescinded and reissued as a notice of suspension.

d. The commissioner shall promptly notify the city clerk and police department when any suspension is placed or when a suspension is removed.

e. Any person to whom an emergency order to suspend is issued shall immediately comply with the order, but upon written petition to the department shall be afforded a hearing before the commissioner within 5 working days of order issuance.

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f. Failure to allow an inspector immediate access to the premises to determine whether such grounds exist shall be grounds for suspension. The commissioner shall promptly notify the city clerk of this failure.

4. ORDER TO CEASE FOOD OPERATIONS. a. The commissioner may order, without prior warning, notice or hearing, a food establishment exempt from licensure or an unlicensed food establishment to cease its operations if it is determined through investigation, inspection or examination of employees, food, records or other means as specified in this chapter or under the Wisconsin Food Code, that an imminent health hazard exists, that an establishment is operating without a license, or that the establishment has failed to register with the department prior to operation.

b. The order to cease operation for a licensed food establishment shall state:

b-1. That all food operations shall immediately cease.

b-2. The reasons for the order to cease operation with reference to the provisions of the city code or state statute that are being violated.

b-3. The conditions that must be met before the order is removed.

c. The order to cease operation for an exempt food establishment whose food operation was suspended due to a health hazard shall state:

c-1. The process for requesting a reinstatement inspection to certify that the reasons for the order were eliminated.

c-2. That a fee, as specified in s.60-70, shall be assessed for the inspection or investigation that identified the hazard and that a reinstatement inspection fee will be charged for each inspection performed to assess hazard elimination.

d. The commissioner shall promptly notify the city clerk and the police department when any order to cease operations is placed or when an order to cease operations is removed.

e. Any person to whom an order to cease operations is issued shall immediately comply with the order, but upon written petition to the department shall be afforded a hearing before the commissioner within 5 working days of order issuance.

f. Failure to allow an inspector immediate access to the premises to determine whether such grounds exist shall be grounds for suspension. The commissioner shall promptly notify the city clerk of this failure.

5. HEARING NOTICE. a. A food establishment shall be notified at least 3 days in advance of any hearing conducted by the commissioner. The hearing notice shall include:

a-1. The date, time and place of the hearing.

a-2. The purpose of the hearing and the potential outcomes.

a-3. A statement that an opportunity will be given to the appellant to challenge the order or action, present witnesses under oath, and confront and cross-examine opposing witnesses under oath.

a-4. A statement that the appellant may be represented by an attorney of the appellant's choice at the appellant's expense, if the appellant so wishes.

a-5. A listing of all inspections, investigations and orders under consideration.

a-6. A listing of the applicable code provisions, rules or statutes.

a-7. A short and plain statement of the matters asserted.

a-8. A statement that the licensee may request a change of time or date until 48 hours prior to the hearing; however, the rescheduled hearing shall be no later than 5 days from the originally-scheduled hearing date.

b. The notice shall be sent by certified mail to the agent or hand delivered to the person in charge at the food establishment.

6. COMPLIANCE ORDER. a. When a food establishment is determined to have a history of noncompliance, the commissioner shall order the establishment to implement interventions necessary to prevent foodborne illness and continued violation of the provisions of this chapter.

b. A compliance order shall require that the food establishment complete one or more of the following actions:

b-1. Risk control plan.

b-2. Compliance plan.

b-3. Safety training.

b-4. Self-inspection.

b-5. Standard operating procedures.

b-6. Recipe and process instructions.

b-7. Equipment and layout changes.

c. Operational or equipment changes, risk control plans and compliance plans shall be subject to the fees specified in s. 60-70.

7. NOTICE OF INTENT. The department shall issue a notice of intent prior to issuing a suspension, revocation or restriction to a food establishment. A notice of intent shall not be required when such action is taken due to the identification of an imminent health hazard. The notice of intent shall clearly identify what actions must be taken, the time frame for the actions to be completed, and the consequence for not obtaining compliance.

8. NOTICE OF SUSPENSION, REVOCATION OR RESTRICTION. a. If, after being served the notice of intent, a food establishment fails to meet the requirements specified in the intent order, the department shall issue a notice of suspension, revocation or restriction. For a suspension or revocation, the establishment shall be required to immediately cease all or part of the food operation. For restrictions to the food establishment, the operator shall immediately comply with the limitations placed on food operations.

b. The notice of suspension, revocation or restriction shall state:

b-1. That the food license is immediately suspended, revoked or restricted and that all food operations suspended, revoked or restricted shall immediately cease.

b-2. The reasons for notice, including the circumstances leading to the notice being issued.

b-3. The minimum period for the suspension, revocation or restriction, and the conditions that must be met for it to be removed.

b-4. The process for requesting a reinstatement inspection to certify that the conditions for reinstatement have been met.

b-5. That a reinstatement inspection fee, as specified in s. 60-70 shall be charged for each inspection performed to assess that the conditions to lift the suspension, revocation or restriction have been met.

b-6. That a suspension, revocation or restriction of a food license may be appealed to the commissioner. An appeal shall be submitted in writing to the department within 5 business days of the notice being issued.

c. The department shall promptly notify the city clerk and police department when any suspension, revocation or restriction is placed or removed.

68-43. Restrictions. 1. RESTRICTION OR EXCLUSION OF FOOD WORKER. a. To prevent possible disease transmission, a food establishment worker suspected of having a foodborne illness or being exposed to a foodborne illness shall be restricted from handling food in a food establishment, and may be excluded from working in a food establishment, at the discretion of the commissioner.

b. The department may issue an order of restriction or exclusion to a food worker or the license holder, and may do so without prior warning, notice of a hearing, or a hearing.

c. The exclusion or restriction order shall include:

c-1. The reason for the restriction or exclusion.

c-2. The evidence that the food worker or licensee may provide to demonstrate that the reasons for the restriction or exclusion have been eliminated.

c-3. The process for appealing the order to the commissioner.

2. OPERATIONAL RESTRICTIONS.

a. The department may place limitations or conditions on a license if the department determines it necessary to protect public health.

b. Restrictions shall remain in place until removed by the department or until vacated by the commissioner.

c. An operator found engaged in a practice in conflict with the limitations or conditions placed on the operator's license shall be considered in violation of this chapter and shall be subject to corrective action, including inspection fees, citation, suspension and revocation.

d. Restrictions or conditions ordered by the department shall be appealable to the commissioner.

68-45. Penalties. 1. GENERAL. a. Any person who violates or fails to comply with this chapter shall, upon conviction, be subject to a Class N penalty, as provided in s. 61-20, in addition to any other penalty set forth herein. In addition, a citation may be issued with or without prior notice as set forth in s. 50-25.

b. Any food establishment that violates any of the provisions of s. 68-9-6 shall forfeit \$300 per day.

68-45-2 Food License Regulations

2. FOOD PEDDLERS. a. Any person violating any of the provisions of s. 68-41, except those identified in par. b, shall, upon conviction, be subject to a Class B penalty as set forth in s. 61-8.

b. Any person violating s. 68-41-5-a, ss. 68-41-5-c to e, or ss. 68-41-5-j to m shall, upon conviction, be subject to any of the following penalties:

b-1. A forfeiture of not less than \$20 nor more than \$200 for each violation.

b-2. A suspension of the food peddler's license for not less than 10 days nor more than 30 days, or a revocation of the food peddler's license for the remainder of its term.

c. At the discretion of the court, a penalty under par. b may be imposed as follows:

c-1. The penalty may be imposed on an agent.

c-2. Whenever the court finds that the business, organization or person that holds the food peddler's license under which the agent's sales are made has failed to properly supervise the agent, the penalty may be imposed on the business, organization or person.

c-3. The penalty may be imposed on both an agent and the business, organization or person that holds the food peddler's license under which the agent's sales are made.

d. An ice cream peddler license may be revoked by the health department upon conviction of a licensee for violation of any provision specified in s. 68-43-4-b. The commissioner shall promptly notify the city clerk of any revocation.

e. Any license revoked by the health department under par. d may be appealed to the administrative review appeals board. If the commissioner has cause to seek revocation of a license under par. d, he or she shall give prompt notice to the licensee of the intent to revoke the license with an opportunity to appeal the revocation to the administrative review appeals board.

3. ICE CREAM PEDDLERS. a. Any person violating any of the provisions of s. 68-43 shall, upon conviction, be subject to a Class I penalty, as set forth in s. 61-15.

b. Any person licensed under s. 68-41 employing a person required to obtain a license under s. 68-43 who is not licensed, shall, upon conviction, be subject to a Class I penalty, as set forth in s. 61-15.

4. CERTIFIED FOOD MANAGERS. Any person violating s. 68-23-3-c shall, upon conviction, be subject to a Class I penalty, as provided in s. 61-15.

5. PEDDLING OF FOOD BY MINORS.

a. Any person violating s. 68-39 shall, upon conviction, be subject to a Class F penalty, as provided in s. 61-12.

b. Any person subject to sanction as a juvenile under this subsection shall not be subjected to a forfeiture or other penalty greater than that permitted by state law.

**For legislative history of chapter 68,
contact the Municipal Research Library.**

[Pages 165-180 are blank]

CHAPTER 73 ICE AND WATER REGULATIONS

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73-1	Use of River Ice
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73-1. Use of River Ice. 1. NOT TO BE SOLD FOR EATING PURPOSES. No person or persons or corporation shall sell or offer for sale or suffer or permit to be sold to any family, hotel, restaurant, saloon or individual for drinking or eating purposes any ice cut from any river, canal, bayou, basin or slip within or flowing into or through the city of Milwaukee, except that portion of the Milwaukee river north of the North Avenue bridge.

2. NOT TO BE USED FOR EATING PURPOSES. No person shall knowingly use or cause to be used, or give or offer to others for use for drinking or eating purposes, any ice cut in or taken from any river, canal, bayou, basin or slip within or flowing into or through the limits of the city of Milwaukee, except that portion of the Milwaukee river north of the North Avenue bridge.

3. NOT TO BE USED FOR COOLING OF FRESH FOODS. No person or persons shall knowingly use or cause to be used, or give or offer to others for use for cooling purposes either to cool meat, fruit, vegetables, milk, butter, or for the cooling of any substance or substances used for food or drink any ice cut or taken from any river, canal, bayou, basin or slip within the limits of the city of Milwaukee, except that portion of the Milwaukee river north of the North Avenue bridge.

4. MAY BE USED FOR AIRTIGHT CONTAINERS. Nothing in this section shall prevent said ice or the cool air therefrom being used for cooling purposes, provided that the said ice and air which has been in contact with the ice shall be confined in airtight containers which will effectively prevent the cool air from said ice from coming in contact with the meat, food, fruit, vegetables, milk or other

substances used for food, or where substances to be used for food are contained in hermetically closed receptacles so that the ice cannot come into contact with such substances.

5. PENALTY. Any person or persons violating the provisions of this section shall, upon conviction thereof, be punished by a fine of not less than \$50 nor more than \$250 or by imprisonment in the house of correction for not less than 10 or more than 30 days.

6. AUTHORITY OF COMMISSIONER OF HEALTH. It is hereby made the duty of the commissioner of health of the city of Milwaukee to investigate any known or alleged violation of this section and, if reasonable cause exists therefor, to make complaint against the person or persons so offering and forthwith notify the city attorney of the city of Milwaukee, and to assist said attorney in procuring the requisite proofs to secure the conviction of such offender. (1906 code, p. 178; see Ren. Ord. 154, Sept. 30, 1975.)

73-2. Manufacture, Sale or Distribution of Ice.

1. No person, firm or corporation shall manufacture, sell or distribute ice in this city for use as food or food products without first obtaining a food dealer's license as provided in s. 68-4-2. (Sub. 1 rec. Ord. 79, File #85-409, June 28, 1985.)

2. No person, firm or corporation shall alter a licensed manufacturing, selling or distributing ice operation, or establish a new operation without first obtaining a permit to do so as provided in s. 68-4.5. (Sub. 2 rec. Ord. 79, File #85-409, June 28, 1985.)

3. VEHICULAR IDENTIFYING DEVICES REQUIRED. No ice shall be delivered, transported, conveyed or carried in or on any vehicle for use in the city of Milwaukee unless the owner shall have first obtained from the commissioner of health a permit sticker as described in s. 74-1-6-c, which shall be securely fastened on the outside right side of the licensed vehicle. (Sub. 3 am. Ord. 79, File #85-409, June 28, 1985. Sub. 3 am, File #111646, 4/11/12; eff. 4/28/12.)

73-12 Ice And Water Regulations

4. VEHICLES TO BE IDENTIFIED AND LABELED. Every person or corporation offering ice for sale shall have posted on his or its wagons and other vehicles, in a conspicuous manner, capable of being read by a person with normal eyesight at a distance of 40 feet, the name of the place from which the ice so offered for sale was cut, harvested or manufactured, and all persons or corporations dealing in or handling impure ice, to be used for cooling purposes only, shall have their wagons so labeled in such letters.

5. TWO TYPES OF ICE TO BE SEPARATED. No person, firm or corporation shall sell, offer for sale or deliver domestic ice for use in the city of Milwaukee which is, or has been, stored, hauled, conveyed, or loaded in the same building, other place of storage, wagon or vehicle where cooling ice is or has been stored, hauled, conveyed or loaded, unless the cooling ice is separated from the domestic ice in such manner that the cooling ice or the water therefrom does not come in contact with the domestic ice.

6. COOLING ICE TO BE LABELED. All persons, firms or corporations dealing in or handling ice in the city of Milwaukee "for cooling purposes" shall have their wagons, ice station doors and ice house doors so labeled in a conspicuous manner.

7. DEFINITIONS. a. Domestic Ice. a-1. The term "domestic ice" as used in this section means ice which is clear and free from mud, vegetable, animal or foreign matter, and which is sold from house to house, to hotels, restaurants, purveyors of ice cream, beverages, foods and fruits and other places where such ice, or the water therefrom, so sold and delivered comes or is intended to come in direct contact with articles of food and drink.

a-2. All ice intended for use for domestic purposes within the city of Milwaukee shall, before being sold, offered for sale or delivered, be planed and scraped until all shell, slush, snow, ice and mud, vegetable, animal or foreign matter has been removed.

a-3. No person, firm or corporation shall sell, offer for sale or deliver any natural ice intended for domestic purposes for use within the city of Milwaukee which has not been stored for a period of at least 21 days before being offered for sale.

b. Packing or Cooling Ice. Packing or cooling ice as used in this section means ice used only for packing or cooling purposes in refrigerators, refrigerator cars, freezing machines, rooms and other places where the ice or water therefrom will not come in direct contact with articles of food or drink.

8. ARTIFICIAL ICE TO BE PURIFIED. No person, firm or corporation shall sell, offer for sale, or deliver for domestic use within the city of Milwaukee, any artificial ice which has not been made from water which has been distilled, boiled, filtered or otherwise purified by a method approved by the commissioner of health, provided that where artificial ice intended for domestic use within the city of Milwaukee is made from well or spring water, such water shall first be approved by the commissioner of health as being pure and free from dangerous bacteria.

9. COMMISSIONER TO INSPECT. The commissioner of health shall examine the place or places where the ice is to be gathered, has been gathered or is manufactured, the methods of storing and transporting such ice, and shall examine or cause to be examined, from time to time, ice so sold or delivered, or to be sold and delivered. The commissioner of health shall, from time to time, make such reasonable rules and regulations governing the gathering, manufacturing, storing, delivering and transporting of ice as he may deem necessary or expedient to protect the public health. These rules shall be posted in at least three conspicuous places where the ice is gathered or manufactured.

10. PENALTY. Any person violating the provisions of this section shall upon conviction be fined not less than \$25, nor more than \$100 for each and every offense, and in default of the payment thereof shall be punished by imprisonment in the house of correction of Milwaukee county for not less than 10 days nor more than 6 months. (*Cr. Ord. 134, File #22232, Nov. 13, 1922; see ren Ord. 154, File #74-698-b Sept. 30, 1975.*)

73-12. Use of Well Water Prohibited. 1. WHERE SEWER AND WATER INSTALLED. No person or persons, firm or corporation within the limits of the city of Milwaukee shall use the water from any well for drinking or domestic purposes, where water and sewer have been

provided on the street abutting the property of such person, persons, firm or corporation, except from wells commonly known as artesian wells.

2. PENALTY. Any violation of this section shall be punishable by a fine of not less than \$5 nor more than \$25 or by imprisonment in the house of correction for not less than 10 days nor more than 60 days. (*Ord. 50, July 23, 1906.*)

73-14. Manufacture, Processing, Sale or Distribution of Water. 1. LICENSE REQUIRED. No person shall manufacture, process, sell or distribute water in this city for food or food products or establish such an operation without first obtaining a food dealer's license as provided in s. 68-4. This subsection does not apply to the Milwaukee water works. (*See also 81-134.*) (*Sub. 1 rec. Ord. 79, File #85-409, June 28, 1985.*)

2. ALTERATIONS. No person shall alter a licensed manufacturing, processing, selling or distributing water operation or establish a new operation without first obtaining a permit to do so as provided in s. 68-4.5. (*Sub. 2 rec. Ord. 79, File #85-409, June 28, 1985.*)

2.5. TESTING. Before any water may be sold or distributed, it must be tested for toxic or dangerous chemicals, substances and organisms. The water must also comply with any federal, state and local standards which regulate water quality. Valid certification by the state of Wisconsin or the National Sanitation Foundation, utilizing Milwaukee, state of Wisconsin or federal standards, whichever are more stringent, shall be deemed sufficient evidence of compliance to this subsection. (*Sub. 2.5 cr. Ord. 79, File #85-409, June 28, 1985.*)

3. SANITARY SURVEY BY HEALTH DEPARTMENT. A sanitary survey of the source or sources of supply from which it is proposed to take such water shall be made by the commissioner of health or his representative before such water be offered for sale in the city of Milwaukee.

4. SOME SPRING OR WELL WATER TABOO. No spring or well water shall be sold, offered for sale or delivered for drinking or other domestic purposes in the city of Milwaukee which, in the opinion of the commissioner of health:

a. Has been derived from a source that is subject to possible pollution or contamination;

b. Has not been derived and otherwise developed and protected at its source to exclude all possible pollution or contamination from underground or surface sources or from accidental, incidental or wilful causes;

c. Has been conveyed, pumped or stored prior to bottling in pipes, tanks or other vessels and equipment which are not of sanitary design and material and free from possible pollution or contamination.

d. Has been bottled in a place or by methods, installation, and equipment, and under conditions and operation, which are not clean and sanitary and free from pollution or contamination;

e. Has been put up in bottles or other containers which are not of suitable material and design or which have not been properly cleaned and sterilized before use in a manner and under conditions that will insure freedom from possible pollution or contamination;

f. Indicates by sanitary survey or by laboratory analysis or examination that it is not of satisfactory sanitary or physical quality or that it has not been properly developed at its source or has not been bottled, transported or delivered by means and under conditions to insure cleanliness, sanitation and freedom from actual or possible pollution or contamination.

5. CONTAINERS TO BE MARKED. All containers in which water is sold must bear plainly and conspicuously marked on the outside thereof the name and address of the manufacturer, packer or dealer, and the name of the spring or source from which such water is taken.

6. CONTAINERS TO BE APPROVED. No water shall be sold, offered for sale or delivered for domestic purposes in the city of Milwaukee except in bottles or containers approved by the commissioner of health.

7. BOTTLING ROOMS APPROVED. No water shall be sold, offered for sale or delivered for domestic purposes in the city of Milwaukee unless the room or rooms in which the water is bottled and prepared for delivery shall be in a separate building or in a separate part of a building used for no other purpose and unless the location, construction, arrangement and equipment of the same shall be approved by the commissioner of health.

73-30 Ice And Water Regulations

8. DISEASED PERSONS NOT TO BE EMPLOYED. No person who has a communicable disease or who shall not be in a proper state of cleanliness, shall be employed or be permitted to work in a place where water is handled, bottled, transported, sold or offered for sale in the city of Milwaukee.

9. PREMISES TO BE INSPECTED. No permit shall be issued by the department of health in pursuance of this ordinance until the department of health has first inspected and approved the premises, the source of supply, the methods and means of bottling, transportation and delivery and the sanitary and physical quality of the water, and until all of the conditions of this section have been complied with.

10. SAMPLES TO BE FURNISHED. Any person, firm or corporation dealing in water to whom a permit has been issued and any officer, agent or employe thereof shall furnish to the department of health or to the officers or agents thereof upon request at any time for purposes of testing and analysis, samples of water from the source of supply or from any wagon or container.

11. DELIVERY TO HOMES WHERE DISEASE IS PRESENT. When water is delivered to families in which there exists any contagious or infectious disease, the person making such delivery shall not enter the house or quarters in which such contagious or infectious disease exists. In making such deliveries the water to be delivered shall be poured into vessels furnished by the occupant of the house or quarters, or the containers may be left at the house or quarters provided they are kept in such house or quarters until the quarantine has been lifted and the containers have been sterilized under the direction of the department of health.

12. PERIOD FOR PERMITS. All permits issued for the bottling, sale and delivery of water shall be granted for a period of one year or until May 1 next succeeding the year in which the permit is issued at which time the permit may be renewed for a period of one year. The commissioner of health may revoke any permit granted for failure to comply with the terms and conditions set forth under this section.

13. LICENSE FEE. Every person, firm or corporation engaged in the supplying of drinking water in the city of Milwaukee under

ss. 73-14 to 73-29, inclusive, shall pay to the city the license fee required in s. 60-89. (*Sub. 13 am. File #881803, Jan. 24, 1989; eff. Feb. 11, 1989.*)

14. COMMISSIONER TO ADOPT MORE RULES. For practical purposes in the enforcement of this ordinance, the commissioner of health may adopt and enforce rules and regulations not inconsistent with the provisions of this section covering the more detailed requirements with reference to the development and protection of the sources of supply, the means and methods used in the handling, bottling, and distribution of the water and concerning any other question or matter which has a bearing upon the sanitary and physical condition and quality of the water from its source to final delivery.

15. EXCEPTIONS TO LICENSE RULE. No license shall be required of any person, firm or corporation who sells water purchased from any person, firm or corporation licensed under the provisions of this section.

16. PENALTY. Any person, firm or corporation who shall violate any of the provisions of this section shall be subject to a penalty of not less than \$10 nor more than \$50, together with the costs of prosecution, for the first offense; and for the second and each subsequent offense shall be subject to a penalty of not less than \$50 nor more than \$100, together with the costs of prosecution, and in default of payment of such penalty and costs shall be imprisoned in the county jail or house of correction of Milwaukee county for a period of not less than 5 days nor more than 90 days or until such penalty and costs shall be paid. (*Rec. Ord. 175, File #59765, Nov. 23, 1936.*) (*See ren Ord. 70, File #80-376 July 8, 1980.*)

73-30. Household Laundry Detergents, Phosphorus Content. **1. DEFINITIONS.** The following definitions shall apply in the interpretation and enforcement of this section:

a. "Commissioner of health" shall mean the legally designated health authority of Milwaukee or his authorized representative.

b. "Detergent" shall mean any substance or mixture that has or is intended to have any cleansing action due to any combination of properties, which may include but are not limited to lowering the surface tension, wetting action, emulsifying and dispersing action and foaming action.

c. "Household laundry detergent" shall mean any laundry detergent which is sold, offered or exposed for sale, or given or furnished to any person within the city in any type of package or container which bears any exterior label, attached tag or insert stating, or in any way suggesting that the product is intended for use or is suitable for use in hand washing or mechanical laundering of any type of clothing within a dwelling unit or within a common laundry facility contained within any dwelling structure.

d. "Laundry detergent" shall mean any detergent which is sold, offered or exposed for sale, or given or furnished to any person within the city in any type of package or container which bears any exterior label, attached tag or insert stating or in any way suggesting that the product is intended for use or is suitable for use in washing or laundering of any type of clothing.

e. "Polyphosphate builder" shall mean any water softening and soil suspending agent used as a detergent ingredient which is made from condensed phosphates, including but not limited to pyrophosphates, triphosphates, tripolyphosphates, metaphosphates and glassy phosphates.

f. "Recommended use level" shall mean the amount of household laundry detergent which the manufacturer thereof recommends per wash load and at which level the said detergent will effectively perform its intended function.

2. LABELING. It shall be unlawful for any person, firm or corporation to sell, offer or expose for sale, give or furnish to another person any household laundry detergent in the city from and after March 1, 1973, unless the container, wrapper or other packaging thereof shall be clearly labeled with respect to its polyphosphate builder content clearly and legibly set forth thereon in terms of percentage of phosphorus by weight, expressed as elemental phosphorus, in the contained detergent, as well as the number of grams of phosphorus, expressed as elemental phosphorus, per recommended use level.

3. LIMITATIONS. a. Concentrations. It shall be unlawful for any person, firm or corporation to sell, offer or expose for sale, give or furnish to another person any household laundry detergent that requires a recommended use level of said detergent that contains more than 7 grams of phosphorus by weight, expressed as elemental phosphorus.

b. Standards. The concentration of phosphorus by weight, expressed as elemental phosphorus, in any household detergent shall be

determined by the current applicable method prescribed by the American Society for Testing and Materials (A.S.T.M.)

4. PENALTIES. Any person violating any provisions of this section, or who shall fail, omit, neglect or refuse to obey any order of the commissioner of health issued pursuant thereto, shall upon conviction be subject to a forfeiture. Such forfeiture shall not be less than \$10 nor more than \$200 for each offense together with the costs and disbursements of prosecution. Upon default or refusal to pay such forfeiture, such person shall be imprisoned in the county jail or house of correction for not less than 10 days nor more than 90 days. If such person shall continue in a violation of such order, then such person shall be liable for further prosecution, conviction and punishment upon such same order, without the necessity of the commissioner of health issuing a new order

(HISTORY: Section 73-30 cr. File #72-1386, December 5, 1972.

73-30-1-e rp. File #971741, Mar. 3, 1998, eff. Mar. 24, 1998.

73-30-1-f rn. File #971741, Mar. 3, 1998, eff. Mar. 24, 1998.

73-30-1-g rn. File #971741, Mar. 3, 1998, eff. Mar. 24, 1998.

73-30-3 am. File #78-1360, December 5, 1978.

73-30-3-a rc. File #971741, March 3, 1998; eff. March 24, 1998.

73-30-3-c rp. File #971741, March 3, 1998; eff. March 24, 1998.)

73-- Ice And Water Regulations

[Pages 186-188 are blank]

CHAPTER 75
MISCELLANEOUS HEALTH PROVISIONS

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75-01. Definitions. In this chapter:

1. **COMMISSIONER** means the commissioner of health, his or her designated representative within the health department, or any other city official to whom the commissioner's functions or duties under this chapter have been delegated pursuant to a memorandum of understanding.

2. **DEPARTMENT** means the health department or any department to which health department functions or duties under this chapter have been delegated pursuant to a memorandum of understanding.

75-1. Self-service Laundries; Hours.

1. **DEFINITIONS.** The following definitions shall apply in the interpretations and enforcement of this chapter:

a. "Attended" as used in relation to self-service laundries shall mean that either the applicant, or his employees, or other designated responsible persons are present in the establishment during all hours it is open to the public.

c. "Self-service laundry" shall mean, unless specifically stated otherwise, to include all establishments or parts thereof used by the general public for the purpose of washing or drying clothing or other fabrics.

d. "Unattended" as used in relation to self-service laundries means all those that are not attended.

2. **REGISTRATION REQUIRED.**

a. It shall be unlawful for any person to establish, maintain or operate a self-service laundry at a specific location in the city without a current and valid registration issued by the city clerk.

b. The person establishing, maintaining or operating a self-service laundry shall pay a registration certificate fee specified in s. 81-67. An additional weighing and measuring license fee specified in s. 81-135 shall be paid for each timing device used to establish self-laundry charges.

3. **EXEMPTION.** This section shall not apply to a self-service laundry in a residential building if the facilities of the laundry are intended for use by the residential occupants of that building, except that it shall apply to store units occupied in part for residential purposes.

4. **APPLICATION.** See s. 85-12 for application requirements.

5. **PLAN OF OPERATION.** An application for a registration certificate shall be accompanied by a completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall include:

a. The planned hours of operation for the premises.

b. The number of customers expected on a daily basis at the premises.

c. The legal occupancy limit of the premises.

d. The number of off-street parking spaces available at the premises.

e. Plans the applicant has to provide security for the premises.

f. Plans the applicant has to ensure the orderly appearance and operation of the premises with respect to litter and noise.

g. Any other licenses held by the applicant or attached to the premises.

h. A description of any provisions made for clean-up of the premises.

i. A site plan showing:

i-1. The locations of all entrances and exits. This shall include a description of how customers will enter and leave the premises.

i-2. The locations and dimensions of any off-street parking and loading areas for customers.

75-1-6 Miscellaneous Health Provisions

j. Such other reasonable and pertinent information the common council or the licensing committee may from time to time require.

6. CHANGES TO BE REPORTED. See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

7. REGISTRATION FEE. See ch. 81 for the required registration certificate fee.

8. AGE QUALIFICATION. No registration certificate shall be issued to any person or any agent of a corporation or limited liability corporation who is not 18 years of age or older.

9. DISQUALIFICATION. Whenever any application is denied, or a registration certificate is revoked, surrendered or not renewed, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

10. INVESTIGATION. Each application for a new registration certificate shall be referred to the chief of police and the commissioner of neighborhood services for investigation in accordance with s. 85-21-2.

11. OBJECTION. If the local common council member, chief of police or commissioner recommends against an application, no registration certificate shall be issued unless the applicant requests, in writing, an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the recommendation of the common council member, chief or commissioner. An appeal shall be forwarded by the city clerk to the licensing committee for its recommendation as to whether a certificate should be granted. The procedure for considering an appeal shall be as provided in s. 85-2.7.

12. ISSUANCE. See s. 85-12.5 for provisions relating to the issuance of a registration certificate.

13. POSTING. Each registration certificate shall be posted in a conspicuous place on the premises.

14. TRANSFER. See s. 85-19 for provisions relating to the transfer of a registration certificate and the change of certificate holder names.

15. RENEWAL. Application for renewal of a registration certificate shall be made to the city clerk in accordance with the provisions of s. 85-26. The city clerk shall refer the application to the chief of police. If the applicant still meets

the licensing qualifications, the certificate shall be issued unless a written objection has been filed under s. 85-3. If there is objection to renewal of the certificate, the procedure for considering the renewal application shall be as specified in ss. 85-3 to 85-5.

16. REVOCATION OR SUSPENSION OF CERTIFICATE. Any registration certificate issued under this section may be suspended or revoked for cause by the common council after notice to the certificate holder and a hearing. Notice and hearing on the revocation shall be conducted in accordance with s. 85-3.

17. SAFETY AND SANITARY REGULATIONS.

a. Washers and dryers shall be so constructed that they will cease to function when the door is open, with the exception of the fill and agitate cycles in top-load washers. Washers and dryers shall be installed under the provisions of the national electric code except where it is specifically provided otherwise by the city. Provision shall also be made so that in case of a blower motor or gas control failure, the dryer will shut off automatically.

b. All dryers shall be so constructed so as to be capable of having their doors open from the interior thereof upon the application of outward pressure against such doors.

c. Boilers shall be provided with a low-water cut-off device to protect the boiler from burning out should a low-water condition occur.

d. The platform for washers shall be so designed that any water spilling out shall be properly drained. The floor of the establishment shall be sufficiently and properly covered with a nonabsorbent paint or cement or other impervious material. Areas such as basements, offices and storage places shall have locked doors.

e. Store layout, design and lighting for the installations constructed after January 1, 1976, shall be so planned as to provide visibility of the interior of the unattended store from the street or sidewalk. Heating, ventilating and lighting shall be provided as required by the building and zoning code. If the store has a rear entrance from a parking area, an outside floodlight shall be so provided to satisfactorily illuminate the area leading to the rear of the store.

f. The premises and its facilities shall be kept reasonably clean and sanitary. Refuse disposal cans in unattended stores shall be provided and so designed that the covers shall be self-closing.

g. An approved fire extinguisher shall be installed in all unattended establishments when so ordered by the commissioner of neighborhood services.

h. Soft drink vending machines in unattended stores shall be of the type which dispenses from the machine directly in or into non-glass containers and be properly licensed under the provisions of the code. Licensed vending machines in the premises on January 1, 1976, and not of the types specified shall be exempt from this provision as long as they are in good working condition and until they are replaced.

i. Posting of information regarding the coin-operated machines shall comply with the applicable provisions of s. 82-19.

j. It shall be unlawful for any person to misuse the equipment or facilities provided for public use in a self-service laundry.

k. Only persons who are using a self-service laundry for its intended purpose, or attendants or repair persons shall be authorized on the premises. It shall be unlawful for any other person to loiter on the premises.

L. No self-service laundry shall be permitted to remain open between the hours of 10 p.m. and 6 a.m. unless an adult person is upon and in charge of the premises at all times.

18. NUISANCE. Every public self-service laundry which is not maintained and conducted as hereinbefore provided shall be declared a public nuisance and abated in the same manner as every other nuisance.

19. RESPONSIBILITY. The person to whom the registration certificate is issued shall be responsible for the premises and for the acts of attendants or employees on the premises with respect to this section.

20. PENALTY. Any person, persons, firm or corporation who shall violate this section relating to the regulation of self-service laundries shall upon conviction thereof be fined not less than \$25, plus the costs of prosecution, and not more than \$200, plus the costs of prosecution, and in default of payment thereof, may be imprisoned as provided by law.

75-5. Bed and Breakfast Establishments.

1. PERMIT REQUIRED. No person may operate any bed and breakfast establishment without first having obtained a permit from the department.

2. APPLICATION. Application forms shall be obtained from the city clerk and require the information specified in s. 85-12.

3. TRANSFERABILITY. Permits shall not be transferable from one person to another or from one premises to another.

4. PLAN OF OPERATION. An application for a bed and breakfast establishment permit shall be accompanied by a completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall include:

a. The planned hours of operation for the premises.

b. The number of customers expected on a daily basis at the premises.

c. The legal occupancy limit of the premises.

d. The number of off-street parking spaces available at the premises.

e. Plans the applicant has to provide security for the premises.

f. Plans the applicant has to ensure the orderly appearance and operation of the premises with respect to litter and noise.

g. Any other licenses held by the applicant or attached to the premises.

h. A description of any provisions made for clean-up of the premises.

i. A site plan showing:

i-1. The locations of all entrances and exits. This shall include a description of how customers will enter and leave the premises.

i-2. The locations and dimensions of any off-street parking and loading areas for customers.

j. Information required by the health department to complete a public health plan review.

k. Such other reasonable and pertinent information the common council or the licensing committee may from time to time require.

5. CHANGES TO BE REPORTED.

a. Application. A permit holder shall notify the city clerk whenever there is a change in any information that is reported on the application form or renewal application form. The permit holder shall make this notification in writing within 10 days after the change occurs.

b. Plan of Operation. If, after the permit has been issued, the permit holder wishes to deviate from the plan of operation that was submitted with the original application, the permit holder shall file a written request with the city clerk which states the nature of the change. No change shall take place until the request is approved through issuance of a new permit.

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6. PERMIT FEE. See ch. 81 for the required permit fee.

7. AGE QUALIFICATION. No permit shall be issued to any person or any agent of a corporation or limited liability corporation who is not 18 years of age or older.

8. DISQUALIFICATION. Whenever any application is denied, or a permit is revoked, surrendered or not renewed, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

9. INVESTIGATION. Each application for a new permit shall be referred to the chief of police, the commissioner of neighborhood services and the commissioner of health in accordance with s. 85-21-2. All applicants for bed and breakfast establishment licenses shall be exempt from the fingerprinting requirement provided in s. 85-21-1.

10. OBJECTION. An objection to issuance of a permit shall be based on the factors set forth in s. 85-2.7-4. If the local common council member, chief of police or commissioner recommends against an application, no permit shall be issued unless the applicant requests, in writing, an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the recommendation of the common council member, chief or commissioner. An appeal shall be forwarded by the city clerk to the licensing committee for its recommendation as to whether a permit should be granted. The procedure for considering an appeal shall be as provided in s. 85-2.7.

11. ISSUANCE. See s. 85-12.5 for provisions relating to the issuance of a permit.

12. POSTING. Each permit shall be posted in a conspicuous place on the premises.

13. TRANSFER. See s. 85-19 for provisions relating to the transfer of a permit and the change of permit holder names.

14. RENEWAL. Application for renewal of a permit shall be made to the city clerk in accordance with the provisions of s. 85-26. The city clerk shall refer the application to the chief of police. If the applicant still meets the qualifications for a permit, the permit shall be issued unless a written objection has been filed under s. 85-3. If there is objection to renewal of the permit, the procedure for considering the renewal application shall be as specified in ss. 85-3 to 85-5.

15. REVOCATION OR SUSPENSION OF PERMIT. Any permit issued under this section may be suspended or revoked for cause by the common council after notice to the permit holder and a hearing. Notice and hearing on the revocation shall be conducted in accordance with s. 85-3.

16. REGULATIONS.

a. Adoption of State Code. The city of Milwaukee adopts ch. ATP 73, Wis. Adm. Code, as amended.

b. Ice Handling. If ice is provided for persons provided accommodations, it shall be handled, transported, stored and dispensed in such a manner as to be protected against contamination.

c. Toilet and Bathing Facilities. Toilets, showers or baths serving more than one guest room shall be accessible through the room in which the guest is staying or through a public access way without having to enter through rooms occupied by other persons. All toilet, shower or bathroom doors shall be provided with locks and provide total privacy to an occupant of the room.

d. Guest Rooms. Guest room doors shall be equipped with locks for which guests will be provided keys. If more than one guest room exists, doors shall be clearly numbered or otherwise identified.

e. Furnishings. Clean bed linen in good repair shall be provided for guests who are provided accommodations, and shall be changed between guests and as often as necessary.

f. Animals. Animals shall not be allowed in any room or area in which food is prepared, stored or served.

g. Unvented Furnaces and Space Heaters. The use of unvented furnaces and space heaters fueled by natural gas, kerosene, alcohol or other fuel is prohibited.

17. NOTICES OF VIOLATION. If upon inspection the commissioner finds that any establishment is conducted or managed in violation of this section, or the laws of the state of Wisconsin, the commissioner shall serve a written order upon the permit holder, agent or employee in charge of the premises notifying of the violation.

18. EMERGENCY SUSPENSION. The emergency suspension procedures of s. 75-23-19 may be applicable to a bed and breakfast establishment permit if the situation warrants an emergency suspension.

19. PENALTY. Any person violating this section shall be subject to a penalty specified under s. 61-11.

75-15. Ambulance Certification Regulations.

- 1. DEFINITIONS.** In this section:
 - a. "Advanced life support" ("ALS") means advanced life support as defined in s. DHS 110.04(1r), Wis. Adm. Code.
 - b. "Agreement" means the ambulance service standards agreement identified in sub. 2-b-2.
 - c. "Ambulance" means a certified emergency vehicle used to transport sick, disabled or injured individuals as defined in s. DHS 110.04(4), Wis. Adm. Code and s. 340.01(3)(i), Wis. Stats.
 - d. "Ambulance rate" means the base fee for ambulance conveyance which cannot be exceeded by certified providers on city authorized dispatch.
 - e. "Basic life support" ("BLS") means basic life support as defined in s. 256.15(1)(d), Wis. Stats.
 - f. "Board" means the ambulance service board.
 - g. "Certified provider" means a provider from the private sector that applied for and obtained a certificate to supply care within the Milwaukee emergency medical services system as a certified provider within a defined service area.
 - h. "Committee" means the committee designated by the common council as responsible for ambulance service regulations.
 - i. "Emergency medical care" means medical care to sick, disabled, or injured individuals at the scene of an emergency, during transport to a hospital, while in the hospital emergency department until responsibility for care is assumed by the regular hospital staff, or during transfer of a patient between health care facilities, which is based on state-approved patient care protocols, as defined in s. DHS 110.04(21), Wis. Adm. Code.
 - j. "Emergency medical services" (EMS) means those services which are required as a result of an unforeseen attack of illness or an injury. These include rescue, ambulance, hospital emergency departments, communications and public education services.
 - k. "EMT" means emergency medical technician as defined in s. DHS 110.04(27), Wis. Adm. Code.
 - L. "Fire department" means the city of Milwaukee fire department.

m. "Incident" means each event that causes MFD dispatch, through its usual procedures to refer a request for ambulance transport service to a certified provider, by telephone or other electronic means.

n. "Limited certified provider" means a provider from the private sector that holds a certificate to supply care within the Milwaukee emergency medical services system as a certified provider without a defined primary service area and which can respond to incidents as assigned or dispatched.

o. "Milwaukee emergency medical services system" means a system composed of fire department personnel and equipment, and private sector personnel and equipment, for the purpose of providing advanced life support and basic life support responses, treatment and conveyances within city limits.

p. "Milwaukee fire department dispatch" ("MFD dispatch") means the dispatch center operated by the department of emergency communications at any location for receiving and dispatching all calls for emergency medical assistance.

q. "Non-transporting EMS provider" means an emergency medical service provider that provides emergency medical care with staff licensed as EMS practitioners to sick, disabled or injured individuals, but that does not transport patients as prescribed in s. DHS 110.04(47), Wis. Adm. Code.

r. "Paramedic" means an EMS provider licensed in the state of Wisconsin as a paramedic as defined in s. DHS 110.04(51m), Wis. Adm. Code and s. 256.01(14), Wis. Stats.

s. "Primary service area" means the geographical area in which an ambulance service provider is designated to provide first-in EMS under contract with a local government, as defined in s. DHS 110.04(60), Wis. Adm. Code. "Primary service area" does not include an area a provider services through mutual aid or back-up arrangements.

t. "Private sector" means any person, firm, partnership or corporation within the city providing ambulance services on a fee-for-service basis.

u. "Service area" means a geographically-defined area within the city assigned in accordance with sub. 13.

v. "Special event plan" means a written document in a format approved by the Milwaukee county office of emergency management - emergency medical services, specifically addressing all of the items listed in s. DHS 110.44, Wis. Adm. Code.

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2. AMBULANCE SERVICE BOARD.

a. Establishment. An 11-member ambulance service board is established consisting of:

a-1. A member of the public safety and health committee appointed by the president of the common council.

a-2. City health commissioner or designee.

a-3. Public member appointed by the mayor and confirmed by the common council. This member shall serve a term coterminous with that of the mayor. The mayor shall make his or her appointment within 60 days after commencement of a new common council-mayoral term or within 60 days after a vacancy in the board occurs, whichever is later.

a-4. Homeland security director or designee.

a-5. Milwaukee fire department medical director. This member shall not participate in disciplinary matters.

a-6. Representatives of the 5 hospital systems of Advocate Aurora, Ascension, Children's Hospital, Froedtert and the Medical College of Wisconsin, and Veterans Health Administration. A hospital representative shall not be a current medical director of a provider.

a-7. Designee of the Milwaukee county office of emergency operations emergency medical services division by action of the committee, who shall not be a current medical director of a provider.

b. Duties. b-1. The board shall advise the committee on all matters pertaining to issuance, renewal, suspension, revocation and reinstatement of certified, limited and non-transporting provider certificates, and shall, consistent with sub. 13, assist in the development and modification of service plans.

b-2. The board, with the assistance of the city attorney, the chief of the fire department and the certified providers shall oversee development and implementation of the agreement between the city and the certified providers, for specifying appropriate rules, regulations, procedures and service standards as required for the safe operation of the Milwaukee emergency medical services system.

c. The city clerk's office shall staff the board.

3. CERTIFICATION. No one from the private sector shall within the city act as a certified, limited or non-transporting provider within the Milwaukee emergency medical services system without first having obtained a

certificate as provided under this section. This section applies only to private sector providers supplying care that originates within the city of Milwaukee, or that integrates into the city of Milwaukee emergency medical services system.

4. APPLICATION FOR CERTIFICATION AS CERTIFIED PROVIDER AND SERVICE AREA. a. Applications for certificates as a certified provider, a limited certified provider, or a non-transporting provider under this section shall be filed with the fire department on forms approved by the committee. The board and the committee are authorized to require sufficient information to determine the qualifications of the applicant to engage in the business of providing basic life support and advanced life support ambulance conveyances to the Milwaukee emergency medical services system. The application signed in proper form shall be presented to the common council for referral to the committee for its recommendation.

b. Each applicant shall furnish his or her name, date of birth, address, employer's name and address, a statement as to whether the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance other than traffic violations, and any other information required by the committee, subject to s. 111.335, Wis. Stats. All applicants for certificates as certified providers shall be exempt from the fingerprinting requirement provided in s. 85-21-1.

c. The fire department shall promulgate an appropriate initial or renewal application form to all providers by not later than September 1 of each year. All applications for initial or renewal certification shall be filed not later than September 30, to be eligible for certification for the next service period.

5. FEES. An applicant filing an initial application for a certificate as a certified provider or an application for renewal shall pay the fee required in ch. 60.

6. INVESTIGATION. Upon receipt of the application for a certificate as a certified provider, the matter shall be referred to the chief of police, who shall cause an investigation of the applicant's moral character to be made for the protection of the public health, welfare and safety. As part of the investigation, the chief of police shall report to the health department all convictions, other than traffic violations, of the applicant, together with any other information in the possession of the police department as to the business conduct and moral character of the applicant.

7. HEARING. a. Upon referral of an application for certification as a certified provider from the common council to the committee, the committee shall schedule a hearing thereon. Prior to the hearing, the committee shall submit the application to the board for its consideration and advice.

b. The applicant shall receive notice of the hearing not less than 10 days prior to the hearing. At the hearing, the applicant may be represented by counsel, present witnesses and cross-examine any adverse witnesses under oath, and receive a transcript of the hearing at the applicant's expense.

c. At the conclusion of the hearing, a recommendation shall be made by the committee to the common council. Any member of the committee who votes to deny an application shall state the basis for the vote on the record.

8. CERTIFICATE ISSUANCE. The health department shall issue to each person qualifying under this section a certificate as a certified provider on which there shall be the person's true first name, surname and middle initial, the number of the certificate, and the period of time for which the certificate is valid. The certificate shall be in such form so to avoid alteration. The certificate shall be maintained by the provider and be exhibited to any person requesting to see it. Furthermore, the health department shall assign to each qualified person a series of numbers, which shall be used to identify the provider's ambulances. These numbers shall be placed on the front doors of the ambulances and shall be at least 5 inches high and in a color to contrast with the background on which it is placed.

9. APPROVAL OR DENIAL OF CERTIFICATE. a. The committee may recommend the denial of any application for certification as a certified provider for any of the following reasons:

a-1. The applicant is not of good character.

a-2. The applicant has violated any of the required or prohibited practices set forth in this section.

a-3. The applicant's previous certificate has been revoked for any reason whatsoever.

a-4. The applicant's inability to substantially understand the required business regulations provided by this section.

a-5. The qualifications of the applicant, when compared with the qualifications of applicants receiving a recommendation of approval, is deficient in any material respect.

a-6. The applicant's failure in the past or refusal in the future to act in accordance with this section or with the terms of the agreement.

a-7. The applicant's physical location for operations is not within the city limits.

b. The common council may upon receipt of the recommendations of the committee for approval or denial of applications for certification as certified providers, grant the number of certificates which, in its discretion and judgment, the public welfare, safety and interest require. Thereafter, a list of those providers granted certification as certified providers by the common council shall be provided to the board for designation of service area assignments in a manner consistent with sub. 13.

10. INSPECTION. No ambulance shall be granted a permit to operate under the terms of this section until it has been inspected and found to be in a thoroughly safe condition for the transportation of the sick and injured. The inspection shall be made by the Wisconsin department of transportation, division of state patrol, which shall determine that the ambulance complies with all the requirements set forth in ch. Trans 309, Wis. Adm. Code. Verification of the inspection shall be provided to the board at the annual certification hearing.

11. FINANCIAL RESPONSIBILITY.

a. **Insurance Requirement.** A certified, limited, or non-transporting provider shall furnish the city with a certificate of insurance, issued by a company authorized to do business in the state of Wisconsin, confirming that the certified provider has been issued a current policy insuring the provider against loss or damage that may result to any person or property, the policy of insurance to be in the limits of \$1,000,000 for any one person injured or killed, \$3,000,000 for all persons injured or killed in case of one accident resulting in bodily injury or death of more than one person, and \$3,000,000 for injury or destruction to the property of others in the case of accident. The policy shall guarantee payment of any final judgment rendered against the provider within the limits provided in this paragraph irrespective of the financial responsibility or any act of omission of the certified provider. The city of Milwaukee shall be named as an additional insured.

b. **Cancellation.** All certificates shall be executed by an insurance company licensed to do business in the state of Wisconsin. All certificates shall be approved as to form and execution by the city attorney before they are accepted by the fire department, and shall contain a provision or endorsement by which the

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insurance carrier shall be required to notify the fire department by registered mail or personal service of the cancellation of the insurance policy. Notice of cancellation shall be received by the fire department at least 30 days prior to the effective date of cancellation. If at any time the policy of insurance is cancelled by the issuing company, or the authority of the issuing company to do business in the state of Wisconsin is revoked, the fire chief shall require the certified provider to replace the policy with another policy satisfactory to the chief, and in default thereof the certified provider's certificate issued under this section may be suspended until proof of valid policy is presented by a certified provider. Suspension shall be at the discretion of the board and effectuated by vote of the common council.

c. Transporting and non-transporting private sector providers furnishing care for special events or private facilities shall assume the same financial responsibility as private providers participating in the 911-based EMS system.

d. Exceptions. Private sector providers who are not participating within the city emergency medical services system, and who are providing transport services that terminate, but do not originate, within the city of Milwaukee, need not file the insurance required herein. This exception also applies to private sector providers providing emergency medical care within the city of Milwaukee as a form of mutual aid or back-up.

12. REQUIREMENTS. All certified providers shall adhere to the following general conditions and specifications concerning Milwaukee emergency medical service systems incidents:

a. Seek reimbursement from those requesting service from the Milwaukee emergency medical services system or any third-party payer, and provide the most economical service in accordance with accepted medical practice. The city will not be responsible for collection or payment of any charge for services rendered by reason of its having dispatched the service relative to this section, with the exception of services provided to those individuals pursuant to sub. 18.

b. Not pursue beyond a reasonable limit compensation for conveyance where a conveyed party has demonstrated an inability to pay the service charge.

c. Charge an ambulance rate, which is approved by the common council. The approval of the ambulance rate may be taken in conjunction with the common council's approval

of the ambulance service plan, in accordance with the ambulance rate provisions of sub. 14.

d. Charge fees for equipment and procedures other than the rates established under par. c. The fees shall be determined by the fire department and approved by the common council. The fire department shall review the fees on an annual basis, with any necessary adjustments being submitted to the common council for approval in conjunction with approval of the ambulance rate under par. c.

e. Utilize the incident command system for all special events, mass casualty incidents, and major incidents.

f. Maintain an annual subscription to and utilize the fire department approved secure EMS electronic incident surveillance system for all special events which may require the provider to be dispatched by the public safety access point operated by the city.

13. SERVICE AREAS. a. Criteria. In establishing and re-establishing the number and geographical boundaries of the service areas, the common council shall endeavor to provide effective ambulance service within the Milwaukee emergency medical services system. The common council shall take into consideration all the information obtained through the certification process, including the service capacities of each prospective provider and the previous performances, if any, of each certified provider.

b. Assignment of Service Areas.

b-1. Service Plan Development. Following common council certification of one or more providers from the private sector as certified providers, the fire department shall propose a service plan and transmit it to the board which shall develop a proposed service plan to be utilized during the next service period. In developing the service plan, the fire department and board shall take into consideration all the information obtained through the certification process, including the service capacities of each certified provider and the previous performances, if any, by each certified provider. The plan shall include the number of service areas, the geographical size and boundaries of each service area, and a designation of a certified provider for assignment to each service area. The number of service areas shall be determined by the best interests of the Milwaukee emergency medical services system. The geographical size and boundaries of each service area shall be determined by the service capabilities and past performance of each certified provider to be assigned to a service area. Each certified provider designated for

service area assignment shall, within 15 days of announcement by the board of its proposed service plan, file a written response of its acceptance or objection to the plan. Each certified provider accepting the plan shall also file with the board a properly executed agreement. The board shall thereafter submit the plan to the committee for its review and recommendation to the common council. Upon approval by the common council of any service plan for the next scheduled service period, the plan shall be implemented by the Milwaukee emergency medical services system for that period, subject to subd. 2.

b-2. Duration. Service plans shall be approved by the common council annually commencing on January 1, 2008. Notwithstanding such approval, the board shall recommend modifications of the size of the service areas and assignments of certified providers to service areas during the pendency of any service period, and the common council, with the recommendation of the board, shall modify any service plan during the pendency of any service period, if it is determined that one or more certified providers are not meeting the requirements of the agreement. The board shall also review the service plan and geographical size and boundaries of each service area on an annual basis, to determine if the certified providers are complying with requirements of the agreement and if service area adjustments are necessary. The board shall provide the common council with the board's reasons for recommending or not recommending any changes in the service plan or service areas subsequent to the board's annual review.

c. Subcontracting of Service Areas. To ensure the equitable and effective distribution of EMS services, a certified provider may subcontract with a provider with limited certification to provide supplemental services within the certified provider's area. The conditions of subcontracting agreements shall be presented to the fire department for approval and integration in the CAD system to minimize system disruption and inappropriate dispatching of resources.

d. Revocation of Service Area. In addition to any revocation under the agreement or sub. 19, the board shall revoke the assignment of any service area for any certified provider no longer certified.

14. DETERMINING RATES BILLED BY PRIVATE SECTOR PROVIDERS. a. The fire department annually shall review and report to the common council by April 1 with respect to the ambulance conveyance rate established under par. c and recommend, if appropriate, an adjustment in the conveyance rate.

b. Upon request, the legislative reference bureau shall provide the fire department with information from health-related cost indexes, including the medical care component of the Chicago-Naperville-Elgin, IL-IN-WI and the Minneapolis-St. Paul-Bloomington, MN-WI consumer price index issued by the U.S. bureau of labor statistics.

c. The rate charged for conveyance by private providers, or when the fire department provides BLS transports with an ALS apparatus due to turn-back or other extenuating circumstances, shall be as follows:

c-1. For patients who are residents of the city of Milwaukee, for basic life support, \$778.92 and, for basic life support-lights-and-sirens response, \$778.92. When patients require treatment without transport, a \$249.47 basic life support non-transport fee shall apply.

c-2. For patients who are not residents of the city of Milwaukee, for basic life support, \$901.03 and, for basic life support-lights-and-sirens response, \$901.03. When patients require treatment without transport, a \$358.94 basic life support non-transport fee shall apply.

c-3. In addition to the charges provided in subds. c-1 and 2, a charge of \$21.20 per mile shall be assessed for mileage, mileage to be defined as the distance traveled with the patient in the ambulance from the point of patient origin to destination.

d. In those instances where a certified provider has a contract with any insurer or health maintenance organization with respect to establishment of fees for ambulance services for persons insured through the organization, the fees established in the contract shall take precedence over those in par. c and sub. 15, and the certified provider shall charge only those fees established in the contract.

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15. BASIC LIFE SUPPORT ANCILLARY CHARGES BILLED BY PRIVATE SECTOR PROVIDERS. Pursuant to sub. 12-d, certified providers are authorized to charge the following:

- a. Ancillary charges.
- a-1. Airway supplies: \$28.49.
- a-2. Ventilation and CPR supplies: \$417.55.
- a-3. Bandaging and Trauma Treatment supplies: \$24.26.
- a-4. Personal Protection Equipment supplies: \$36.84
- a-5. Obstetrics and Child Delivery supplies: \$258.11.
- a-6. Splinting and Immobilization supplies: \$523.12.
- a-7. Oxygen Therapy and supplies: \$112.24.
- a-8. BLS supplies (COVID decontamination or other routine supplies) \$36.84.
- a-9. CPAP Mask supplies: \$59.84.
- b. Drug charges. Drugs allowed by the state of Wisconsin emergency medical technician basic scope of practice and approved by the Milwaukee county council on emergency medical services, shall be charged at the same rates established under sub. 17.

16. CHARGES FOR ADVANCED LIFE SUPPORT PATIENT SERVICES DELIVERED BY PRIVATE PROVIDERS. Whenever a certified provider performs an advanced life support conveyance under the agreement, the certified provider is authorized to charge the same rates as established for the fire department, pursuant to sub. 17-a and b. When performing an advanced life support, certified providers are authorized to charge the same ancillary charges established for the fire department under sub. 17-c and d. These charges shall in no way be construed so as to circumvent the role of the fire department as the designated responder to advanced life support service calls.

17. CHARGES FOR PATIENT SERVICES DELIVERED BY THE FIRE DEPARTMENT. The fire department shall bill for and collect all revenues generated from advanced life support conveyances and service provisions using fee schedules that have been adopted by the common council. The rate charged for conveyance and services delivered by fire department paramedic fleet shall be as follows:

a. For advanced life support for patients who are residents of Milwaukee county:

a-1. Paramedic non-invasive service or treatment without conveyance: \$299.19.

a-2. Paramedic invasive service or treatment without conveyance: \$299.19.

a-3. Paramedic service with transport Level ALS-1: \$926.17.

a-4. Paramedic service with transport Level ALS-2: \$1018.57.

b. For advanced life support for patients who are not residents of Milwaukee county:

b-1. Paramedic non-invasive service or treatment without conveyance: \$421.29.

b-2. Paramedic invasive service or treatment without conveyance: \$421.29.

b-3. Paramedic service with transport Level ALS-1: \$1043.87.

b-4. Paramedic service with transport Level ALS-2: \$1201.16.

c. Advanced life support ancillary charges:

c-1. ALS supplies: \$105.64.

c-2. Intubation supplies: \$194.37.

c-3. I.V. and supplies: \$79.88.

c-4. Defibrillation supplies: \$237.60.

c-5. EKG and supplies: \$204.60.

c-6. Oxygen and supplies: \$112.24.

d. Drugs included in the Milwaukee county office of emergency management, emergency medical services program adopted by the Milwaukee county association of fire chiefs and the intergovernmental cooperation council of Milwaukee county:

d-1. Items approved in Drugs, Group 1: Acetaminophen (1000 mg tablet & 160 mg/5 mL Liquid), Albuterol (2.5mg)/Ipratropium (0.5mg)/3 mL (.83%), Amioderone HCl (150mg), Aspirin (chewable 81 mg), Atropine Sulfate (0.3 mg), Calcium Gluconate (10 ml), Dextrose 10% (D10), Dextrose 5% (D5), Duoneb, IV-D5W, Glucose (oral gel 15 g), IV-Sodium Normal Saline (bags & capped), Ondansetron Tabs, Ondansetron IV/IO, shall be charged a rate of \$42.93.

d-2. Items approved in Drugs, Group 2: Diphenhydramine 50 mg, Dopamine, EPL 1 mg/10 mL IV, EPI 1 mg/cc IV, Lidocaine Drip 1 gm/25 mL, Lidocaine HCl (2%) 50 mg, Sodium Bicarbonate (50 CC), shall be charged a rate of \$49.42.

d-3. Items approved in Drugs, Group 3: Fentanyl, Ketamine (Pediatric) Infusion, Ketorolac 30 mg/1 mL, Midazolam HCl 1 mg, Nitroglycerine Spray 0.4 mg IV, Norepinephrine 4 mg/4mL, shall be charged a rate of \$63.73.

e. Other items shall be charged at the following rates:

e-1.	Adenosine:	\$119.67.
e-2.	Glucagon, up to 1 mg:	\$119.67.
e-3.	Dexamethasone 20mg/5mL:	\$78.05.
e-4.	E-Z IO:	\$160.01.
e-5.	Patient ID & Tracking:	\$4.18.
e-6.	Hydroxocobalamin (Cyano-kit):	\$1201.90.
e-7.	CPAP mask supplies:	\$59.84.
e-8.	Airway Supplies:	\$28.49
e-9.	Ventilation and CPR Supplies:	\$417.55.
e-10.	Bandaging and Trauma Supplies:	\$24.26.
e-11.	Personal Protective Supplies:	\$36.84.
e-12.	Obstetrics and Child Delivery Supplies:	\$258.11.
e-13.	Splinting and Immobilization Supplies:	\$523.12.

f. For lift assistance, access and conveyance of bariatric patients:

f-1. When the fire department provides basic life support transport, with an ALS apparatus, for a bariatric patient, the department is authorized to charge the rate specified in subd. a-3 or b-3 as appropriate.

f-2. When the fire department Heavy Urban Rescue Team is required to alter a structure, the department is authorized to charge a supplemental charge of \$631.56 to cover the costs of supplemental materials and equipment.

f-3. When the fire department is dispatched to assist a licensed provider at the request of a commercial property or a skilled nursing facility to perform a lift assist for a patient not requiring transport, the department is authorized to charge the rate outlined in sub. 14-c-1 or 14-c-2 as appropriate to the facility or firm.

g. When the fire department provides advanced life support services to a cardiac arrest patient who is not resuscitated in the field, the department is authorized to charge the rate specified in subd. a-4 or b-4, as appropriate.

h. In addition to the charges provided in pars. a to e, a mileage charge indicated in sub. 14-c-3 shall be assessed for the distance traveled with the patient in the ambulance from the point of patient origin to destination.

18. CONVEYANCE OF POLICE PRISONERS AND THOSE IN PROTECTIVE CUSTODY. Certified providers under contract with the city for payment for conveyance of police prisoners for medical treatment, those

incapacitated persons in protective custody and those in need of emergency detention, in situations where the person conveyed is unable to pay for conveyance shall be paid a rate equal to 60% of the conveyance rate and mileage charge in sub. 14 and 60% of the services fees charged in sub. 15. Charges for services rendered by the fire department under this subsection shall be paid a rate equal to 60% of all patient services delivered by the department pursuant to sub. 17.

19. VIOLATIONS. a. Suspension and Revocation. The common council may, subsequent to a hearing conducted by the committee, suspend, revoke, deny, not renew or place other limitations on a certificate issued under this section for any reasonable cause which shall be in the best interests and good order of the city, including, but not limited to, the following findings:

a-1. Conviction of a violation of this section.

a-2. Where the committee, on hearing of evidence, determines that the certified provider has been violating any of the provisions of this section even though the certified provider may not have been convicted in a court for this violation.

a-3. Conviction of a criminal statute or city ordinance involving moral turpitude.

a-4. Violation of a city ordinance where the violation is connected with or a part of carrying on the business for which the certificate is issued.

a-5. Failure to obtain any permit required under the ordinances of the city or laws of the state of Wisconsin, or employing persons not authorized to do any specific work as required under the ordinances of the city, or the laws of the state of Wisconsin.

a-6. Failure to comply with any of the provisions of the agreement.

a-7. In the case of a limited provider or a non-transporting EMS provider, where the committee, on hearing evidence, determines the provider has failed to follow a special event plan, any standard set forth by DHS, or any of the other requirements in this ordinance or has substantially underperformed in its responsibility to provide care or transport, the common council may suspend, revoke, deny, not renew, or place limitations or restrictions on the certificate issued under this section on the provider's ability to supply care within the Milwaukee emergency medical services system as a service provider which shall be appropriate under the circumstances.

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b. Hearing.

b-1. Whenever the committee has scheduled a hearing for determining whether to recommend suspension, revocation or limitation of a certified provider's certificate, the certified provider shall receive written notice of the hearing not less than 10 days prior to the hearing. The notice shall specify the nature of the complaint against the certified provider.

b-2. The certified provider may attend the hearing and be represented by counsel, may present witnesses and confront and cross-examine any adverse witnesses under oath, and may obtain a transcript of the hearing at the certified provider's own expense.

b-3. At the conclusion of the hearing, the committee shall make its recommendation to the common council. If the recommendation is to suspend, revoke or limit a certified provider's certificate, each member of the committee voting in favor of the action shall state the basis therefore on the record.

b-4. The certified provider shall be provided with written notice of any recommendation of the committee. If the recommendation is to suspend, revoke or limit the certified provider's certificate, the provider may, within 10 days of the notice, appeal the recommendation by filing written notice with the city clerk. If notice of appeal is filed, a copy of the transcript of the hearing shall be provided to each common council member at least 3 days prior to the common council vote on whether to accept or reject the recommendation of the committee.

c. Penalty. Anyone who acts as a certified provider without having obtained a certificate to do so, or who violates any other part of this section, shall upon conviction be subject to a forfeiture of not less than \$25,000, and in default of payment, be committed to the county jail or house of correction for a period of time not to exceed 10 days. Each day in which any person shall operate as a certified provider without having obtained a certificate, or after revocation of the same, shall constitute a separate offense.

20. ANNUAL REPORT. The fire chief shall present an annual status report to the common council on all fire department advanced life support billing activities, including descriptions of the amounts invoiced, collected and outstanding, no later than June 30 commencing June 30, 2008.

21. HIGH UTILIZERS. City of Milwaukee residents, identified through the quality control process of the fire department, private provider, or a healthcare partner, whose usage of the EMS system exceeds 5 calls in a

12-month period shall be enrolled in a program to assess the needs of the individual and identify ways to monitor and improve the individual's personal health in an effort to reduce the individual's utilization of the EMS system. Evaluation and intervention may include members of medical direction, the applicable hospital systems represented in sub. 2-a-6 or recognized independent clinics, and the personal physician, primary care provider or appropriate specialist of the indicated patient, with discussions and plans to be held in private to protect the individual's privacy. The fire department may utilize resources within its mobile integrated health system and the health department to facilitate positive outcomes for these patients.

22. COMMUNITY HEALTHCARE ACCESS PROGRAM (CHAP) REFERRAL. The fire department shall, upon identifying that a patient lacks health insurance, refer the patient to the health department's CHAP administrator, transmitting the necessary information for the referral through a secure electronic medium, for the purpose of identifying an appropriate health insurance plan, and reducing the financial burden of the residents of the city of Milwaukee.

23. HEALTH INFORMATION EXCHANGE (HIE) CONTRIBUTION. The health department, in its operation of clinics, and the fire department, in its operation of an EMS system, shall contribute appropriate patient information to the state of Wisconsin health information exchange for the purpose enabling access to the patient's longitudinal care record, promoting positive health outcomes through prevention, and providing patient records to supplemental clinicians, providers and healthcare systems in accordance with the centers for medicare and medicaid services (CMS) interoperability and patient access final rule (CMS-9115-F). Patients may opt out of contributing their information at the site of care in accordance with HIE policies.

24. SPECIAL EVENT PLANS. a. Any provider providing services for a special event shall submit a written plan approved by Milwaukee county office of emergency management - emergency medical services containing, at a minimum, the items described in s. DHS 110.44, Wis. Adm. Code.

b. In the event a 911 caller requests EMS from an approved special event during the scheduled dates and times, the approved special event provider, and not the assigned service area provider, shall be dispatched. If the special event provider's ambulance is not available or not on the scene, a response commensurate with the

caller's request shall be dispatched by the provider assigned to the service area.

c. The plan for an event with total projected attendance exceeding 5,000 people shall include a mass casualty plan approved by the fire department and sufficiently address the items listed in s. DHS 110.44(20r), Wis. Adm. Code.

d. A provider providing service for a special event shall have an approved plan to integrate its service into the 911 dispatch service of the city of Milwaukee.

e. Unless specifically waived, all BLS and ALS service provided at a special event shall be in accordance with Milwaukee county office of emergency management emergency medical services standards of care.

f. A provider shall not charge more than the city-approved rates for any emergency medical care provided to an attendee at a special event within the city that falls within the Milwaukee county office of emergency management emergency medical services standards of care.

g. A special event plan for a multiday event, or a sporting event, shall not exceed 90 calendar days or the normal season for a given single sport, whichever is greater. A blanket plan covering multiple sports, separate events or geographic locations substantially removed from each other shall not be considered.

h. A limited or non-transporting certified provider not providing a 911-based response system shall pay to the fire department a fee of \$200 to review and approve each special event plan. The fee shall also cover temporary modifications to the computer-aided dispatch system for routing calls and notifying appropriate agencies as noted in s. DHS 110.44(15) and (16), Wis. Adm. Code.

i. Class AA, A, and B events as defined in s. 105-55.5, serviced by non-transporting or limited certification providers shall incur fees from the department of emergency communication for routing calls and integrating the provider into the city's incident command system in compliance with s. DHS 110.44(15), Wis. Adm. Code, and providing emergency incident support to appropriate agencies as noted in S. DHS 110.44(15) and (16), Wis. Adm. Code.

j. In the event of a mass casualty incident, the provider shall immediately notify the fire department via dispatch and shall fold into the incident command system under the department, should circumstances dictate.

k. Any provider not receiving approval from the fire department shall be considered as not having met the requirements of s. DHS 110.44(10), (14), (17) and (20), Wis. Adm. Code.

25. TARGET HAZARDS. A private provider furnishing non-911-based services for skilled care medical facilities shall complete the limited certification process set forth in sub. 4.

26. ADVERTISING. a. A provider shall submit all forms of proposed advertising, for clinical care or transport, to the general public to the fire chief for review prior to the advertising being disseminated in any form. The review is for the purpose of ensuring that the communication has no adverse impact upon the substantial interests of the EMS system. If the fire chief makes an adverse finding, he or she shall immediately advise the provider and work with the provider to develop an unobjectionable alternative.

b. All of a provider's advertising and marketing materials directed to the general public for clinical care or transport shall state: "In case of emergency, call 911." If the provider places a telephone number on the exterior of an ambulance, the words, "In case of emergency, call 911" shall also appear.

27. DISPUTE RESOLUTION FOR PRIVATE PROVIDER AGREEMENT. In the event a certified provider and the fire department are unable to resolve a dispute regarding an alleged breach of the terms of the agreement, the common council shall, subsequent to a hearing conducted by the committee on hearing the evidence, make a determination and issue any remedies allowed under the agreement. The determination shall be considered a final, appealable determination.

75-17. False Communications; Emergency Medical Service Systems.

1. UNLAWFUL. It shall be unlawful for any person within the city to give, or cause to be given, a false communication, knowing the same to be false, requesting ambulance conveyance for emergency medical assistance as provided for in s. 75-15.

2. PENALTY. Any person guilty of the violation of this section shall, upon conviction thereof, be fined a sum of not more than \$500, and in default of payment of such fine and costs shall be imprisoned in the house of correction of Milwaukee county for not more than 30 days.

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75-19. Conversion Therapy Prohibited.

1. DEFINITIONS. In this section:
 - a. "Person" means any natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association, or other entity or business organization.
 - b. "Conversion therapy" means any practices or treatments offered or rendered to consumers for a fee, including psychological counseling, that seeks to change a person's sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender. "Conversion therapy" does not include counseling that provides assistance to a person undergoing gender transition, or counseling that provides acceptance, support, and understanding of a person or facilitates a person's coping, social support, and identity exploration and development, including sexual-orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices, as long as such counseling does not seek to change an individual's sexual orientation or gender identity.
2. UNLAWFUL. It is unlawful for any person to practice conversion therapy with anyone under 18 years of age.
3. RULES AND REGULATIONS. The department is authorized to promulgate any rules and regulations it deems necessary to implement and enforce the provisions of this section.
4. PENALTY. Any person convicted of violating this section shall be subject to a forfeiture of not less than \$500 nor more than \$1,000 for each violation, and in default of payment thereof shall be imprisoned as provided by law. For purposes of this section, each day a person is found to have practiced conversion therapy shall be considered a separate violation.

75-20. Swimming Pools and Places.

1. ADOPTION OF STATE CODE. Except as otherwise provided in this section, the city of Milwaukee adopts ch. SPS 390, and ch. ATCP 76, Wis. Adm. Code, as amended, as part of this code.
2. DEFINITIONS. In this section:
 - a. "Approved" means approved by, or in accordance with, regulations established by the commissioner.
 - b. "Automatic" means a mechanical action which does not rely upon human control

during normal operations, except for maintenance or occasional readjustment.

- c. "Beach" means any swimming place used for swimming, wading, or other full or partial body contact created at a naturally occurring body or source of water, the flow of which is not regulated or fully controllable.

- d. "Commissioner" means the commissioner of health, the commissioner of neighborhood services or any other city official to whom the function of regulating swimming pools and swimming places has been delegated pursuant to a memorandum of understanding.

- e. "Cross connection" means any arrangement whereby a potable water system is connected, either directly or indirectly, to another water system, sewer system or any system containing another fluid, in such a manner that the possibility exists, under proper conditions, that the fluids of one system could contaminate the other.

- f. "Enclosure" means an approved structure or barrier which defines the limits of a given area and contains points of ingress and egress.

- g. "Hose bib" means a valved plumbing fitting connected to a water supply and threaded for hose connection.

- h. "Person" means any person, firm, partnership, association, corporation, company, contractor, governmental agency, club or organization of any kind.

- i. "Pool depth" means the depth of the water at a given point in the pool which shall extend vertically from the pool floor to the horizontal axis of the overflow point of the pool.

- j. "Potable water" means water which is safe to drink by reason of applicable health standards.

- k. "Private swimming place" means any swimming place maintained only for the exclusive use of no more than 2 individual residential quarters and their occasional guests, is capable of having a pool depth of 36 inches and has a potential volume of at least 3,965 gallons.

- L. "Public swimming place" means any swimming place other than a private installation. This includes a municipal, county, association, club, camp, school, motel, hotel, bed and breakfast, apartment building and a similar installation, whether or not a fee is charged for use. A public pool shall not include a pool drained to waste, cleaned and refilled with fresh potable water prior to use by each individual.

m. "Strainer basket" means a device designed to filter large material from the pool water before such water enters the pump and other water treatment equipment.

n. "Swimming place" means that portion of a body of water used, in whole or in part, for swimming, wading, or recreational bathing, together with all shores, adjacent areas, buildings, equipment and appurtenances pertaining to such place.

o. "Swimming pool" means a structure, basin, chamber or tank used for wading, swimming, diving, water recreation, therapy or bathing, whether installed or erected above or below ground elevation and whether temporary or permanent, whether indoors or outdoors.

3. AUTHORITY. Authority for the control of swimming places is vested in the commissioner. The commissioner is authorized to examine public and private swimming places during all periods of operation. The commissioner is also authorized to test the water for any type of contamination that may endanger the public. Swimming places shall include natural, artificial, prefabricated, permanent, or movable swimming places and their facilities.

4. RULES AND REGULATIONS. The commissioner is authorized and empowered to make and adopt written rules and regulations necessary for the proper enforcement of this section and to assure the health and safety of the public. A copy of all rules and regulations shall be kept on file in the office of the commissioner, in the office of the city clerk and in the legislative reference bureau.

5. POSTING OF NOTICES TO BUYERS REQUIRED. Stores or businesses selling private pools to be constructed within the city, whether above or below ground, shall have posted on the premises in a prominent and conspicuous manner in the vicinity of the swimming pool display, a placard stating as follows: "IMPORTANT NOTICE TO POTENTIAL PRIVATE SWIMMING POOL BUYERS: The city of Milwaukee has limitations and regulations, including the requirement of an installation permit, for private swimming pool construction. These regulations apply to all pools installed in the ground and to all pools installed above the ground which have a potential depth of 36 inches or a potential volume of 3,965 gallons. To determine the limitations concerning such pools and to obtain permits, prior to installation, contact the Milwaukee Department of Neighborhood

Services, Nuisance and Environmental Health Division."

6. PERMIT REQUIRED. In addition to the requirements of ch. SPS 390, Wis. Adm. Code, no person shall construct, install, enlarge, establish, maintain or make any alteration to any public swimming place or any outdoor private swimming place without a pool construction permit issued by the commissioner.

a. Application.

a-1. Any person wishing to obtain a permit for a private pool under this section shall file an application on forms provided by the commissioner. The application shall be accompanied by the fees required in s. 60-83.

a-2. Any person wishing to obtain a permit for a public pool under this section shall file an application on forms provided by the commissioner. The application shall be accompanied by one set of plans and specifications which will be retained by the commissioner and the plan examination fee required in s. 60-83. The plans and specifications shall be prepared by a registered architect or engineer. The names and addresses of the owner and the architect or engineer, and the location of the swimming place shall be filed with the application. Plans shall be drawn to a scale and accompanied by sufficiently detailed specifications so as to permit a comprehensive engineering review including the piping and hydraulic details and shall include:

a-2-a. Plans and sectional views with all necessary dimensions of the pool, servicing facilities and surrounding area.

a-2-b. A piping diagram showing all appurtenances including chemical treatment facilities in sufficient detail as well as pertinent elevation data to permit a full analysis of the system.

a-2-c. An electrical layout diagram for the entire installation, if applicable.

a-2-d. Specifications which shall contain details on all treatment equipment, including catalogue identification of pumps, chlorinators, chemical feeders, filters, strainers and all related equipment.

a-2-e. Operating data which shall include flow rates, heads, metering valves and their locations, flow diagram, locations of flow meters, pressure gauges, thermometers, test cocks and sight glasses, along with the system for disposal of pool water.

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a-2-f. Such other items as may be required by the commissioner to properly evaluate the swimming pool within the purposes of this section.

a-3. All permits for swimming places shall be approved by the commissioner prior to construction.

b. Revocation. The commissioner reserves the right to revoke a permit.

c. Right of Appeal. Before a permit is revoked, the person to whom the permit has been issued shall be served pursuant to s. 200-12-3 a notice in writing from the commissioner enumerating instances of failure to comply with the regulations. Any person so affected shall be granted a hearing on the matter before the commissioner, provided that such person shall file in the office of the commissioner a written petition requesting such hearing and setting for a statement of the grounds thereof within 20 days after the day the notice was served.

d. Changes Approved. Upon issuance of the permit, construction shall be undertaken subject to the conditions of the permit and in accordance with the plans as approved. No change or modification of any item governed by any provision of this section, or the rules and regulations adopted pursuant thereto, shall be made without having obtained express written approval from the commissioner.

e. Permit Lapse. Except as regulated herein, if any construction for which a permit has been issued is not started within 6 months from the date of the issuance of the permit, or if construction ceases for more than 6 months, then the permit shall lapse and be void and no construction shall be begun or resumed until a new permit is obtained and the fees prescribed in this section paid therefor.

7. PUBLIC POOLS. No public swimming place shall be permitted to operate until approved by the commissioner in accordance with the requirements of this section and the rules and regulations adopted thereto.

a. License Required. No public swimming place shall be used until a valid license to operate has been obtained from the commissioner. When all applicable provisions of this section have been complied with by the applicant, the commissioner shall issue a license to operate a swimming place upon payment of the fee required in s. 60-81. The license shall be issued annually by the commissioner after an inspection reveals that the swimming place is in full compliance with this section and the rules and regulations adopted pursuant thereto.

a-1. License Displayed. The license shall be publicly displayed on the premises. The license may contain whatever limitations are deemed necessary by the commissioner for the protection of the public.

a-2. Exemptions. Beaches posted during the entire swimming season "SWIM AT YOUR OWN RISK - LIFEGUARDS NOT PROVIDED", shall not be required to obtain a license. Such beaches shall comply with the provisions of sub. 14-d when applicable.

b. Suspension.

b-1. Noncompliance. The commissioner shall have the authority to suspend the license issued to any person upon evidence of the failure of the person to operate or maintain the swimming place in conformity with this section and the rules and regulations adopted pursuant thereto. No license shall be suspended by the commissioner until written notice has first been served pursuant to s. 200-12-3 on the licensee advising the licensee of the violations of these provisions and rules and regulations adopted pursuant thereto and allowing him or her a reasonable period of time to correct the conditions. When, in the opinion of the commissioner, failure to operate or maintain the swimming place in conformity with this section and the rules and regulations adopted pursuant hereto has resulted in a serious and immediate hazard to the health or safety of any person, the commissioner shall have the right summarily to suspend the operating license. Upon suspension of the license, the swimming place shall remain closed until such time as compliance has been obtained and the license reinstated.

b-2. Hearings. The commissioner may revoke any license for failure to comply with the regulations referred to in this section or when the license has been obtained through nondisclosure, misrepresentation or misstatement of a material fact. Before a license is revoked, the person to whom the license has been issued shall be served pursuant to s. 200-12-3 notice in writing from the commissioner enumerating instances of failure to comply with the regulations. The owner or operator affected by any notice which has been issued in connection with the enforcement of any provision of this section or any rule or regulations adopted pursuant thereto may request and shall be granted a hearing on the matter before the commissioner, provided that the person shall file in the office of the commissioner a written petition requesting a hearing and setting forth a statement of the grounds therefor within 20 days

after the day the notice was served. Within 10 days of receipt of a petition, the commissioner shall set a time and place for a hearing and shall give the petitioner written notice thereof. At the hearing, the petitioner shall be given an opportunity to be heard and to show cause why the notice should be modified or withdrawn. The hearing before the commissioner shall be commenced not later than 30 days after the date on which the petition was filed, provided that upon written application of the petitioner to the commissioner, the commissioner may postpone the date of the hearing for a reasonable time beyond such 30 day period if in the commissioner's judgment the petitioner has submitted a good and sufficient reason for such postponement. The commissioner may also postpone the hearing to gather testimony and data. The commissioner shall have the power to administer oaths and affirmations in connection with the conduct of any hearing held in accordance with this subdivision.

8. FEES; SWIMMING POOLS AND PLACES. See ss. 60-81 and 60-83 for the required fees.

9. PERMIT TRANSFER NOT ALLOWED. No permit or license for a public swimming place which has been issued under this section shall be transferable.

10. NUISANCES. Nothing in this section shall be construed or interpreted to in any way impair or limit the authority of the city to define and declare nuisances or of the commissioner to cause the removal or abatement of nuisances by summary proceedings or other appropriate proceedings.

11. FLOODING; POOL DRAINAGE. When draining water from a swimming pool, the pool owner shall take steps that are necessary to prevent water from being discharged onto neighboring properties. If swimming pool water is drained in a manner that causes flooding or damage on neighboring properties, it shall be deemed a nuisance and a violation of this section and shall be subject to the penalties in sub. 17.

12. PUBLIC POOL REQUIREMENTS. In addition to the provisions of ch. SPS 390, Wis. Adm. Code, and ch. DHS 172, Wis. Adm. Code, public swimming places shall comply with the requirements listed in this subsection.

a. **Attendant Required.** Public swimming places with pools that have a surface area of less than 2,000 square feet shall provide an attendant at all times that the pool is not locked and secured from public access. Exemptions from this provision may be granted

by the commissioner or his or her designee in cases where the operator can demonstrate that access to the pool will be controlled to prevent unauthorized access.

b. **Warning Device.** A red light shall be provided in the pool area which shall be actuated whenever the recirculation pump ceases to supply water to the filter. The light shall be readily visible to attendants or operators and patrons when an attendant is not provided. A sign shall be posted immediately below the light when an attendant is not provided indicating the person to contact if the light is on.

c. **Automatic Water Level Control.** A device shall be provided which automatically maintains the water level in the pool at the level which is optimum for proper skimming. The water inlet shall be installed to prevent a cross connection with the potable water supply.

d. **Strainer Basket.** A spare strainer basket shall be provided for each filter pump.

e. **Cartridge Filters.** When used, a spare set of cartridge filters shall be provided on site.

f. **Trained Operator.** Trained operator required at pools: certificate of competency required. Every public swimming place shall be operated under the supervision of a trained operator. The commissioner may require a certificate of competency obtained through attendance and successful completion of a swimming pool operator's training course approved by the commissioner as evidence of compliance with this section.

g. **Drinking Fountains.** In addition to the drinking fountain requirements of ch. SPS 390, Wis. Adm. Code, public swimming places with water surface areas greater than 2000 square feet shall provide a low mounted drinking fountain for use by children.

h. **Temperature Gauges.** Where a water heater is provided, fixed temperature gauges shall be installed on the supply and return lines of the recirculation system. The gauges shall be installed and maintained to be easily read by the operator.

i. **Health and Safety Hazards Not Covered.** The commissioner reserves the right to require correction of any health or safety hazard or nuisance which may be found that is not covered in this code.

j. **Animals.** No animals shall be allowed in any swimming pool at any time insofar as the regulation of the same is possible.

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13. PRIVATE OUTDOOR SWIMMING PLACE REQUIREMENTS.

a. Cross Connection With Water Supply. There shall be no cross connections between the city water supply and the swimming pool water or the pool recirculation system. Approved back flow prevention shall be supplied for all threaded hose bibs.

b. Cross Connection With Sewer System. There shall be no cross connections or submerged inlets between the swimming pool or pool system and any other reservoir or conduit which holds or transmits polluted materials.

c. Sewer and Waste Water.

c-1. The sewer or waste water system shall be adequate to serve the swimming pool system and facility.

c-2. No inground swimming pool shall be installed within 25 feet of a septic system or 50 feet of a soil absorption system.

d. Proper Pool Enclosure Required. Every private swimming pool shall, at all times, be properly enclosed so as to prevent children and animals from entering such pools when unattended. The enclosure shall meet the requirements of this paragraph.

d-1. The vertical water enclosing wall of the swimming pool may serve as an approved barrier if it is a non-climbable solid wall of durable material. Such walls shall extend more than 3 feet above the level of the ground immediately adjacent to the pool on all sides of the pool. Such a solid wall barrier shall not be located within 6 feet of any other wall, tree, deck, fence or other object which can be readily climbed and used by children to enter the pool. Ladders, platforms and other devices used to access the pool shall be removed or secured to prevent child access when the pool is not in use.

d-2. An approved barrier shall consist of a properly erected and maintained non-climbable wall or fence at least 48 inches in height which entirely surrounds the pool. The wall or fence shall be constructed so that a 4 inch-diameter sphere cannot be passed through any opening. Every fence shall be constructed in accordance with ss. 239-2 and 245-4.5. Every wall or fence shall be located not less than 4 feet from the vertical, water enclosing wall of the pool. All gates in the walls or fences shall be self-closing and self-latching and shall be at least 48 inches above the ground level. The gate latch release mechanism shall be mounted on the pool side of the gate at least 3 inches from the top of the gate. The gate latch shall be guarded or made inaccessible to children to prevent them from

reaching through rather than over the gate and activating the mechanism. The gate shall be open out from the pool area. A natural barrier, hedge or wall of a structure or other protective device may be used in lieu of a fence or wall if approved by the commissioner and if the degree of protection is not less than that afforded by a wall, fence, gate and latch as described herein.

e. Electrical Service Conductor Clearance. A pool shall be placed to maintain the distances to electrical service conductors required in NFPA 70, ch. 1, articles 680-8 and 680-10.

14. PUBLIC BEACHES.

a. Location. Public beaches shall be located to the best extent possible to minimize exposure to pollutants and safety hazards.

a-1. Public beaches shall be located to allow ready supervision of the entire area and appurtenances.

b. Design and Construction.

b-1. Swimming areas shall contain a gradually sloped bottom with no sudden drop-offs in water 5 1/2 feet or less. The bottom material shall be sand or other fine particle that does not produce a safety hazard.

b-2. When possible, the swimming area shall be marked at the 5 1/2-foot depth point with solidly anchored brightly colored floats no more than 6 feet on center. The entire off shore boundary of the swimming area should be encompassed by a floating lifeline.

b-3. The beach shall slope gradually to the swimming area and be composed of sand or other approved material.

b-4. When lifeguards are provided, a plan showing the location and number of lifeguards and guard stands, safety equipment, first aid equipment and first aid stations shall be submitted to the commissioner for approval. Lifeguards shall be provided during hours that the beach is officially open to the public. Where lifeguards are not provided, the beach shall be posted: "LIFEGUARDS NOT PROVIDED, SWIM AT YOUR OWN RISK."

b-5. Bulletin boards or other approved structures shall be provided nearby to post safety rules, water quality recommendations and water temperatures. Bulletin boards shall also be provided to post conspicuous notices when the beach is closed and to inform patrons that a life guard is not being provided and swimming is at their own risk.

c. Maintenance of Beach and Swimming Areas.

c-1. Before the beach area is to be used each season, the sand shall be sifted or otherwise treated to remove all material that would constitute a hazard.

c-2. At the beginning of each swimming season, the bottom of the swimming area shall be inspected and all materials that may cause a health or safety hazard shall be removed.

c-3. During the swimming season, the beach and swimming area shall be inspected daily, except during inclement weather, and all weeds, weed mats, animal matter, glass, paper and other foreign material shall be removed. Signs shall be posted which indicate the period when daily inspections are conducted.

c-4. Cladophora mats shall be removed from the beach area as soon as possible. While any mats are present, approved signs shall be posted that recommend that swimmers should not enter the water as safe access to the water does not exist due to the cladophora hazard.

d. Sanitary Facilities.

d-1. Showers and dressing rooms, when supplied, shall be constructed of water impervious materials. Floors and walls shall be smooth and easily cleaned with no cracks. Floors shall be non-slip and constructed to provide immediate drainage. Showers and dressing rooms shall be kept clean and disinfected.

d-2. Separate toilet facilities shall be provided nearby for both sexes. The male toilet room shall be provided with one water closet, one urinal and one lavatory for each 16,000 square feet of beach area. The female toilet room shall be provided with 2 toilets and one lavatory for each 16,000 feet of beach area.

15. BIOLOGICAL AND CHEMICAL HAZARDS. To preserve the public health the commissioner may test or otherwise evaluate the water quality at any beach or public swimming place, or require that the operator test the water at any beach or swimming place for contamination that may endanger the patrons or the public. The commissioner may post water quality recommendations or require that recommendations be posted by the operator. The commissioner shall also have the authority to have the swimming place closed to swimming to protect the health of the patrons and the public.

16. COMPETITIVE CODES. The provisions of this section shall not abrogate the responsibility of any person to comply with any provision of the Wisconsin state codes or other applicable city code. Where there is a conflict in

these codes, the most stringent regulation shall apply.

17. PENALTIES. a. Any person who violates subs. 1 to 15 or any rule or order of the commissioner issued under these subsections shall upon conviction be subject to the penalties specified in s. 61-11.

b. Lien. If any owner or agent fails, omits, neglects or refuses to obey any order from the department of health or the department of neighborhood services, the appropriate department may take such steps as are necessary to remove the nuisance or hazard. Pursuant to s. 66.0627, Wis. Stats., a special charge shall be made against the subject property for the nuisance or hazard abatement and shall be due and payable 30 days after billing or if not paid within that time become a lien on the subject property. The lien shall automatically be extended upon the current or next tax roll as a delinquent tax against the property and all proceedings in relation to the collection, return and sale of the property for delinquent real estate taxes shall apply to the special charge. The special charge shall not be payable in installments.

c. Appeal. Appeal of the determination of the commissioner imposing special charges against premises may be submitted to the administrative review appeals board as provided by s. 320-11. Appeals filed pursuant to this section shall be filed no later than 30 days after the special charges are imposed.

75-21. Massage Establishment Regulation.

1. DEFINITIONS. In this section:

a. "Commissioner" means the commissioner of health or an authorized representative.

b. "Massage" means the manipulation of the soft tissue of the body for therapeutic purposes and may include but is not limited to effleurage, petrissage, tapotement, compression, vibration, friction, stroking or kneading, either by hand or with mechanical or electrical apparatus, for the purpose of body massage. This may include the use of oil, salt glows, hot and cold packs and other recognized forms of massage therapy. The term does not include diagnosis or any service or procedure for which a license to practice medicine is required by law.

c. "Massage establishment" means a place where massage, as defined in sub. b, is performed.

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2. LICENSE REQUIRED. No person may carry on the business of operating a massage establishment without a valid license issued under this section for each place of business.

3. EXEMPTIONS. This section does not apply to:

a. Physicians, surgeons, chiropractors, osteopaths or physical therapists licensed or registered to practice their respective professions under the laws of the state of Wisconsin.

b. Barbers and cosmetologists licensed under the laws of the state of Wisconsin, provided that such massage practiced is limited to the head and scalp.

c. Accredited high schools and colleges and coaches and trainers therein while acting within the scope of their employment.

d. Trainers of any amateur, semi-professional athlete or athletic team.

e. Organizations formed exclusively for the purpose of ballet performance and instruction which have received tax-exempt status from the U.S. internal revenue service, upon the presentation of documentation of such status to the health department.

4. APPLICATION. License application forms shall be obtained from the city clerk and require the information specified in s. 85-12.

5. PLAN OF OPERATION. An application for a massage establishment license shall be accompanied by a completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall include:

a. The planned hours of operation for the premises.

b. The number of customers expected on a daily basis at the premises.

c. The legal occupancy limit of the premises.

d. The number of off-street parking spaces available at the premises.

e. Plans the applicant has to provide security for the premises.

f. Plans the applicant has to ensure the orderly appearance and operation of the premises with respect to litter and noise.

g. Any other licenses held by the applicant or attached to the premises.

h. A description of any provisions made for clean-up of the premises.

i. A site plan showing:

i-1. The locations of all entrances and exits. This shall include a description of how customers will enter and leave the premises.

i-2. The locations and dimensions of any off-street parking and loading areas for customers.

j. Such other reasonable and pertinent information the common council or the licensing committee may from time to time require.

6. CHANGES TO BE REPORTED. See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

7. LICENSE FEE. See ch. 81 for the required license fee.

8. AGE QUALIFICATION. No license shall be issued to any person or any agent of a corporation or limited liability corporation who is not 18 years of age or older.

9. DISQUALIFICATION. Whenever any application is denied, or a license is revoked, surrendered or not renewed, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

10. FINGERPRINTING AND INVESTIGATION REQUIREMENTS. Each application for a new license shall be referred to the chief of police, the commissioner of neighborhood services and the commissioner of health in accordance with s. 85-21.

11. OBJECTION. An objection to issuance of a license shall be based on the factors set forth in s. 85-2.7-4. If the local common council member, chief of police or commissioner recommends against an application, no permit shall be issued unless the applicant requests, in writing, an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the recommendation of the common council member, chief or commissioner. An appeal shall be forwarded by the city clerk to the licensing committee for its recommendation as to whether a permit should be granted. The procedure for considering an appeal shall be as provided in s. 85-2.7.

12. ISSUANCE. See s. 85-12.5 for provisions relating to the issuance of a license.

13. POSTING. Each license shall be posted in a conspicuous place on the premises.

14. TRANSFER. See s. 85-19 for provisions relating to the transfer of a license and change of licensee names.

15. RENEWAL. Application for renewal of a license shall be made to the city clerk in accordance with the provisions of s. 85-26. The city clerk shall refer the application to the chief of

police. If the applicant still meets the licensing qualifications, the license shall be issued unless a written objection has been filed under s. 85-3. If there is objection to renewal of the license, the procedure for considering the renewal application shall be as specified in ss. 85-3 to 85-5.

16. REVOCATION OR SUSPENSION OF LICENSE. Any license issued under this section may be suspended or revoked for cause by the common council after notice to the licensee and a hearing. Notice and hearing on the revocation shall be conducted in accordance with s. 85-3.

17. INSURANCE. Every license applicant shall, at the time of applying for the license, file with the city clerk a certificate of general liability and property damage insurance in the sum of not less than \$25,000 per person/\$50,000 per accident bodily injury liability or combined single limit of not less than \$60,000 per occurrence.

18. MESSAGE ESTABLISHMENT FACILITY REQUIREMENTS. Every massage establishment shall maintain facilities meeting the following requirements:

a. The establishment shall have a minimum of one washbasin.

b. The massage room shall have a minimum of 40 foot-candles of lighting for the purpose of observing possible contra-indications of massage.

c. Massage tables shall have a surface which is impervious to liquids and shall be furnished with linen, either disposable or washable, which are changed for each client.

d. Doors to rooms where massage is administered shall be unlocked during business hours.

e. For the purpose of ascertaining compliance with this section and conducting routine inspections, police officers, health inspectors and building inspectors shall have the right of entry onto the premises of any massage establishment during business hours.

19. MESSAGE ESTABLISHMENT OPERATION. Massage establishments shall comply with the following operation requirements:

a. An establishment may not commence operations before 6 a.m., and the hours of operation may not extend later than 10 p.m. These hours shall pertain to on-site massages.

b. Massage establishments shall prominently and publicly display their licenses on the premises during all business hours.

c. Massage establishments shall at all times be equipped with an adequate supply of clean sanitary towels, coverings and linens and proper storage areas for such linens. Soiled linens and paper towels shall be deposited in receptacles.

d. Massage shall not be given unless a client's genitals are fully covered by linens or towels at all times. Female clients shall also have their breasts covered at all times.

20. PROHIBITED PRACTICES. No operator of a massage establishment may allow massages of the genital area of any patron or the breasts of any female patron.

21. EMERGENCY SUSPENSION. The emergency suspension procedures of s. 75-23-19 may be applicable to a massage establishment license if the situation warrants an emergency suspension.

22. PENALTY. a. Any person violating this section shall be subject to a forfeiture specified under s. 61-15.

b. Citations may be issued for all violations of this section with or without prior notice. The stipulation, forfeiture and court procedure set forth in s. 50-25 shall apply.

75-23. Tattooing and Body-Piercing.

1. COMMON COUNCIL FINDINGS. The common council finds that:

a. It is important to the health, safety and welfare of all residents of Milwaukee to promote safe and adequate care and treatment for individuals who receive tattoos or body piercing.

b. Tattooing and body piercing can expose individuals to communicable disease or infection unless great care is taken to ensure the cleanliness of the instruments and techniques used.

c. Some tattooing and body-piercing activities may be performed in such a dangerous and unsafe manner that protection of public health and safety requires the city to immediately abate the danger and suspend the activities without notice.

2. DEFINITIONS. In this section:

a. "Body piercer" means a person who performs body piercing on another.

b. "Body piercing" means perforating any human body part or human tissue, except an ear, and placing a foreign object in the perforation in order to prevent the perforation from closing.

c. "Dentist" means an individual licensed under s. 447.03(1), Wis. Stats.

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d. "Department" means the health department.

e. "Physician" means an individual licensed to practice medicine and surgery under s. 448.03(1), Wis. Stats.

f. "Tattoo" has the meaning given in s. 948.70(1)(b), Wis. Stats.

g. "Tattooist" means a person who tattoos another.

h. "Variance" means a written document approved by the department that authorizes a modification or waiver of one or more regulatory requirements, if in the opinion of the department the modification will not result in a health hazard or nuisance.

3. STATE STATUTES AND ADMINISTRATIVE CODE ADOPTED. The city of Milwaukee adopts ch. DHS 173, Wis. Adm. Code, as amended, as part of this code. The city of Milwaukee adopts ss. 463.10, 463.12, 463.16 and 948.70, Wis. Stats., as part of this code.

4. DEPARTMENT AS AGENT OF STATE. The department is authorized to act as an agent of the Wisconsin department of health and family services, as authorized under ss. 463.10, 463.12, 463.16, Wis. Stats., and ch. DHS 173, Wis. Adm. Code subject to the agreement required under s. 463.16(1), Wis. Stats. The department is authorized, as agent of the state, to enforce the tattooing and body-piercing regulations of ss. 463.10, 463.12, 463.16 and 948.70, Wis. Stats., and ch. DHS 173, Wis. Adm. Code subject to the agreement required under s. 463.16(1), Wis. Stats.

5. LICENSE REQUIRED. a. Except as provided in par. b, no person may tattoo or attempt to tattoo another, designate or represent himself or herself as a tattooist or use or assume the title "tattooist" and no tattoo establishment may be operated unless the person and the establishment are licensed under this section or applicable Wisconsin statute. No person may pierce the body of or attempt to pierce the body of another, designate or represent himself or herself as a body piercer or use or assume the title "body piercer" and no body-piercing establishment may be operated unless the person and the establishment are licensed under this section or applicable Wisconsin statute.

b. The licensure requirement of par. a does not apply to a dentist or to a physician who, in the course of the dentist's or physician's professional practice, tattoos or offers to tattoo an individual or who pierces the body of or offers to pierce the body of an individual.

6. APPLICATION. License application forms shall be obtained from the city clerk and require the information specified in s. 85-12.

7. PLAN OF OPERATION. An application for a license required under this section shall be accompanied by a completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall include:

a. The planned hours of operation for the premises.

b. The number of customers expected on a daily basis at the premises.

c. The legal occupancy limit of the premises.

d. The number of off-street parking spaces available at the premises.

e. Plans the applicant has to provide security for the premises.

f. Plans the applicant has to ensure the orderly appearance and operation of the premises with respect to litter and noise.

g. Any other licenses held by the applicant or attached to the premises.

h. A description of any provisions made for clean-up of the premises.

i. A site plan showing:

i-1. The locations of all entrances and exits. This shall include a description of how customers will enter and leave the premises.

i-2. The locations and dimensions of any off-street parking and loading areas for customers.

j. Information required by the health department to complete a public health plan review, which shall include:

j-1. A floor plan indicating the procedure areas, restroom, hand washing sinks, customer lounge /reception area, equipment sterilization room with associated sinks and sterilization equipment, mop sink and utility sink area.

j-2. An equipment list of all items to be used during a tattoo or body art procedure or used for sterilization.

j-3. A list of all finish materials used on floors, walls, ceilings, counter tops, storage cabinets and procedural tables and surfaces.

j-4. A lighting plan, showing locations of light fixtures and specifications of fixtures to be used.

j-5. A plan for sharps disposal.

j-6. An insect and rodent control plan.

j-7. An infection prevention and control plan, including either a copy of the initial spore test results or a request for a variance if all disposable equipment is to be used.

j-8. A copy of the practitioner licenses for all artists.

j-9. A copy of the client log, consent form, aftercare instructions, and age limitation sign to be used.

k. Such other reasonable and pertinent information the common council or the licensing committee may from time to time require.

7.5. VARIANCE. a. At the commissioner's discretion, if strict adherence to any state regulation adopted in s. 75-23-3 is impractical for a particular tattoo or body-piercing operation, the commissioner may approve a variance for that tattoo or body-piercing operation if the commissioner is provided with satisfactory proof that the granting of the variance will not jeopardize public health, safety, or welfare.

b. Application for a variance shall be submitted in writing to the commissioner on a form provided by the department. The application shall be accompanied by the documentation specified in par. e.

c. Upon receipt of a complete application, the commissioner shall review the request and grant or deny the request in writing within 30 days. If a variance is granted, the commissioner shall maintain a copy of the variance in the tattoo or body-piercing operation's file.

d. A variance shall be considered a change to a tattoo or body-piercing operation's operational plan requiring review and approval.

e. Documentation supporting a proposed variance shall include each of the following:

e-1. A description of the proposed variance from this chapter, or state regulations, citing relevant section numbers.

e-2. A description of how the potential public health hazards and nuisances addressed by the code requirement from which the variance is sought will be alternatively addressed if the variance is granted.

e-3. A hazard analysis and critical control points plan if relevant to the variance request or required by the commissioner.

f. A variance to health regulatory requirements shall be valid for 5 years from the date of issuance unless revoked for non-compliance. An operator wishing to extend a variance approval shall submit a variance

renewal request. Failure to file a request for variance renewal prior to expiration shall result in the application being considered a new application.

g. Failure by an operator to adhere to the terms of modification or variance approval shall be grounds for corrective enforcement, including, but not limited to, revocation of the variance approval.

8. CHANGES TO BE REPORTED. See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

9. LICENSE FEE. See ch. 81 for the required license fee.

10. AGE QUALIFICATION. No license shall be issued to any person or any agent of a corporation or limited liability corporation who is not 18 years of age or older.

11. DISQUALIFICATION. Whenever any application is denied, or a license is revoked, surrendered or not renewed, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

12. FINGERPRINTING AND INVESTIGATION REQUIREMENTS. Each application for a new license shall be referred to the chief of police, the commissioner of neighborhood services and the commissioner of health in accordance with s. 85-21.

13. OBJECTION. An objection to issuance of a license shall be based on the factors set forth in s. 85-2.7-4. If the local common council member, chief of police or commissioner recommends against an application, no permit shall be issued unless the applicant requests, in writing, an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the recommendation of the common council member, chief or commissioner. An appeal shall be forwarded by the city clerk to the licensing committee for its recommendation as to whether a permit should be granted. The procedure for considering an appeal shall be as provided in s. 85-2.7.

14. ISSUANCE. See s. 85-12.5 for provisions relating to the issuance of a license.

15. POSTING. Each license shall be posted in a conspicuous place on the premises.

16. TRANSFER. See s. 85-19 for provisions relating to the transfer of a license and change of licensee names.

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17. RENEWAL. Application for renewal of a license shall be made to the city clerk in accordance with the provisions of s. 85-26. The city clerk shall refer the application to the chief of police. If the applicant still meets the licensing qualifications, the license shall be issued unless a written objection has been filed under s. 85-3. If there is objection to renewal of the license, the procedure for considering the renewal application shall be as specified in ss. 85-3 to 85-5.

18. REVOCATION OR SUSPENSION OF LICENSE. Any license issued under this section may be suspended or revoked for cause by the common council after notice to the licensee and a hearing. Notice and hearing on the revocation shall be conducted in accordance with s. 85-3.

19. EMERGENCY SUSPENSION.

a. Whenever the department finds that the activities of a licensee constitute an immediate danger to public health, the department may immediately act to abate that danger and may immediately suspend without notice a license issued under this section. Activities that constitute an immediate danger to public health include, but are not limited to, use of unsterile needles or instruments, lack of properly operating sterilization equipment on the premises or infections that the department has attributed to the activities of the licensee.

b-1. An emergency suspension shall be for no longer than 14 calendar days. The department may, before expiration of an emergency suspension, determine that the immediate danger to public health continues to exist, and that the temporary order shall remain in effect after the expiration date of the original emergency suspension until a hearing has been concluded and the environmental health board has made a decision on the matter.

b-2. The department may inform the licensee in writing, at the time the suspension is imposed or at any later time prior to the expiration of the emergency suspension, that the suspension may be continued after the expiration date if the department determines that the immediate danger to public health continues to exist.

c. Whenever an emergency suspension is imposed, the department shall at the same time provide written notice to the licensee that the environmental health board shall hold a hearing on the suspension. The notice shall specify either the date of the hearing or a telephone number and address where this information can be obtained. The notice shall

state that a written notice of hearing shall be mailed to the licensee.

d. The board, by certified mail, return receipt requested, shall mail a written notice of hearing to a licensee whose license has been suspended under this subsection. The notice shall be mailed to the address on the application or a more recent address furnished in writing by the licensee to the department, which shall constitute service on the licensee or the licensee's agent. The notice shall be sent to the applicant so that the applicant has at least 4 calendar days' notice of the hearing. The notice shall specify the date, time and location of the hearing. The notice shall state that the licensee shall be given an opportunity to respond to and challenge any reason for suspension, to present witnesses under oath and to confront and cross-examine opposing witnesses under oath. The notice shall state that the licensee may be represented by an attorney of the licensee's choice at the licensee's expense, if the licensee so wishes.

e. The board shall hold a hearing on the suspension not more than 14 calendar days after the imposition of the suspension. After the hearing, the board shall determine whether the suspension shall be discontinued or continued. The hearing shall be a due process hearing under sub. 20.

f. The hearing under par. e need not be held if the licensee and the department mutually agree that no purpose would be served by a hearing.

20. DUE PROCESS HEARING. a. At the hearing, the board chair shall open the meeting by stating that a notice was sent and shall make the notice part of the record. The chair shall advise the appellant that the appellant has an option to proceed with a due process hearing, represented by counsel, with all testimony both direct and cross-examination under oath, or that the appellant may simply make a statement to the board.

b. A due process hearing shall be conducted in the following manner:

b-1. All witnesses shall be sworn in.

b-2. The chair shall ask the department to proceed first.

b-3. The appellant shall be permitted an opportunity to cross-examine.

b-4. After the conclusion of the department's testimony, the appellant shall be permitted to present the appellant's own witnesses, subject to cross-examination.

b-5. Board members may ask questions of witnesses.

b-6. Both the department and the appellant shall be permitted brief summary statements.

c. The decision of the board regarding the appellant shall be based only on the preponderance of evidence presented at the hearing. Probative evidence concerning whether or not the appeal should be upheld may be presented on the factors enumerated in sub. 9-b or 11-a, whichever is applicable.

d. The board may decide whether the department's decision shall be upheld, modified or reversed immediately following the hearing or at a later date. Written notice of the board's decision, including the specific reasons for the decision, shall be mailed to the appellant. The notice shall be mailed to the address on the application or a more recent address furnished in writing by the appellant to the department.

21. ENFORCEMENT. a. The department shall enforce this section by issuance of orders and citations. A citation may be issued for a violation of this section without prior issuance of an order for that violation.

b. The police department shall enforce this section by issuance of citations.

22. PENALTIES. a. Except as otherwise provided in par. b, a person who violates this section or fails to comply with an order issued under this section shall be subject to a forfeiture not to exceed \$500 for each violation or failure to comply.

b. Any person who tattoos or offers to tattoo a person under 18 years of age shall be subject to a forfeiture not to exceed \$200.

75-30. Reinspection. 1. Any responsible party who receives notification of the assessment of reinspection fees shall remit the fees to the department within 15 days of mailing or service of the notification of charges. Failure to remit in full within this time period may subject the responsible party to an action to collect the sum in a civil action. An alternative to the commencement of a civil action collection may be enforced as follows:

a. Where the responsible party is operating under a license or permit issued by the department and the reinspection fee is assessed, failure to pay the reinspection fee as required is declared just cause for the commissioner to suspend such license or permit following notification to the responsible party.

b. No license or permit shall be issued or renewed by the department for any operation which has an outstanding unpaid reinspection fee.

2. Any responsible party who receives notification of the assessment of reinspection fees may appeal such assessments as to appropriateness or amount by the following procedure:

a. Within 10 days of mailing or service of the notification of the reinspection assessment, the responsible party shall notify the commissioner in writing that he or she is appealing the assessment and setting forth the reasons for appeal.

b. The commissioner shall within 7 days of receipt of the appeal notify the responsible party by mail of the date and time of a hearing to consider the appeal.

c. The commissioner shall consider the testimony of the responsible party and that of the department's representatives responsible for the issuance of the order, the report of the reinspection and subsequent reinspection assessment fees. The commissioner may affirm, modify or cancel the charges as may be proper in the circumstances. The action taken shall be reduced to writing and mailed to the responsible party within 10 days. Such notification shall inform the responsible party that if the party is not satisfied with the decision, he or she may appeal pursuant to the procedure set forth in s. 320-11.

75-40. Environmental Health Board.

1. ESTABLISHMENT. An environmental health board is established consisting of 3 members appointed by the health commissioner. At least 2 members shall be professional environmental health personnel. Members are not required to be city residents. Elected officials and city employees who serve on the board shall not receive remuneration.

2. DUTIES. a. The environmental health board shall serve as an appeal board with respect to the nonrenewal, suspension or revocation of permits and licenses issued under chs. 66 and 75 except for those under ss. 75-15 and 75-23 and under ss. 76-20, 84-45 and 84-48, and with respect to the denial or granting with conditions of permits applied for under s. 66-12-5.

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b. The environmental health board shall serve as an appeal board for appeals of an order or other action of the health department or the health commissioner pursuant to s. 66-22-13.

3. FUNCTION. Each board member serves as an officer of the city exercising a quasi-judicial function within the scope of s. 893.80, Wis. Stats.

For legislative history of chapter 75, contact the Municipal Research Library.

CHAPTER 76 INDUSTRIAL HEALTH

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76-01. Definitions. In this chapter:

1. **COMMISSIONER** means the commissioner of health, his or her designated representative within the health department, or any other city official to whom the commissioner=s functions or duties under this chapter have been delegated pursuant to a memorandum of understanding.

2. **DEPARTMENT** means the health department or any department to which health department functions or duties under this chapter have been delegated pursuant to a memorandum of understanding.

76-1. Factory Inspections. 1. **APPOINTMENT OF SANITARY POLICE.** Subject to s. 17-04 of the charter, the commissioner is authorized to appoint sanitary police, in the number determined from time to time by the common council, one of whom to be a woman, for the purpose of inspection of factories and working places as hereinafter provided.

2. **DUTY OF COMMISSIONER OF HEALTH.** It is made the duty of the commissioner and he is empowered to order and supervise factory inspections in the city through and by means of the assistants mentioned in sub 1, insofar as the said inspection is not covered by statutes of this state, for the purposes and in the respects hereinafter mentioned.

3. **AUTHORITY TO INSPECT.** All industries within the city wherein material is used producing lint, dust or other particles which fly in the air, and all industries such as foundries, paint shops, dye works, chemical works and all other industries where chemical gases or fumes are created or where the air is otherwise made impure shall be under the control and inspection of the commissioner

insofar as the same are not regulated by the statutes of the state. The commissioner is authorized and empowered to order the inspection of all factories and working places within the city for the purposes of inspecting, examining and considering the ventilation thereof and estimating the sufficiency or insufficiency of the amount of pure air and fresh air furnished each workman therein, and for the purpose of inspecting the general sanitary condition of such factory or working place, and to ascertain the facts as to whether or not each workman therein is provided with sufficient light to avoid injury to his or her eyes, and to ascertain whether or not persons afflicted with tuberculosis are employed therein, and to ascertain the degree of heat or cold to which such factory is heated or cooled.

4. **POWER OF ENTRY; BADGES.** Each such assistant shall be furnished with a badge bearing his photograph, name and official designation, showing him to be such assistant, and when wearing the same, shall have the right of admission and shall be admitted during working hours by persons, corporations or associations operating or controlling any factory or working places within the city to make the inspection referred to in this section.

5. **USE OF FANS TO PREVENT FLYING DUST, ETC.** No employer and officer or agent of any employing corporation, co-partnership or association shall permit or cause any employe to work in any factory building or other building at any industry within the city wherein material is used producing lint, dust or other particles which fly in the air unless the flying of the lint, dust or other particles is prevented as much as practical by suction fans, currents of air or some other means.

6. **VENTILATION WHERE GASES OR FUMES ARE CREATED.** No employer and no officer or agent of any employing corporation, co-partnership or association shall cause or permit any employe to work in any factory building or other building where chemical gases or fumes are created or where the air is rendered impure without ventilating the same or causing the same to be ventilated so as to remove the gas or other impurities as much as practical.

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7. FRESH AIR IN FACTORIES. No employer and no officer or agent of any employing corporation, co-partnership or association shall cause any employe to work in any room where there are so many persons employed as to use up the fresh air therein, without providing means hereby sufficient fresh air will be either let in or forced into the said room so as to provide sufficient fresh air for each employe therein.

8. ILLUMINATION OF FACTORIES. No employer and no officer or agent of any employing corporation, co-partnership or association shall cause or permit any person to be employed in any factory or working place at a place so far removed from a window or other light-giving aperture and so far from an artificial light as to be injurious to the eyes or eyesight of the average man, and in the seasons of the year when a working day is longer than a day of light or when night work is done, each employer shall furnish adequate artificial light at all times when the light of the sun is not sufficient to give adequate light for the work to be done.

9. EMPLOYES AFFLICTED WITH CONTAGIOUS DISEASES, ETC. No employer and no officer or agent of any employing corporation, co-partnership or association shall knowingly permit any person afflicted with tuberculosis to work in the same room with a person not afflicted with that disease, and no such employer and no such agent or officer shall knowingly permit any person afflicted with any infectious or contagious disease to work in the same room with any other person not afflicted with the same. A written notice signed by any duly licensed physician or by the commissioner of health certifying that any such person has any such disease and which notice shall be left with any such employer or with any such officer or agent shall constitute knowledge of the fact that any such person has any such disease.

10. POWER OF COMMISSIONER TO ORDER CHANGES. The commissioner is authorized and empowered to order changes and improvements in the structure, windows, ventilation, equipment, location of machinery, lights and air purifying devices of any factory or working place within the city to meet the requirements of subs. 5 to 8 and where new equipment shall be in his judgment needed to carry out the purposes of said subsections he is

authorized and empowered to order the same put in and kept in operation during working hours; but before the said commissioner shall order any such change or new equipment he shall confer, either in person or by an assistant, with such employer or with an officer of such employing company, and if such employer or such officer shall concede that such change or new equipment is advisable, and if such change or the installation of such new equipment is started within 10 days thereafter and prosecuted in good faith to completion, then the said commissioner shall not order the same to be done. If, however, such employer or such officer shall refuse to comply with said request or fail to make or commence such change or the installation of such improvement within 10 days after consenting to do so, then the said commissioner shall order the same to be done in a written order signed by him and left with said employer or officer of such employing company and the said order shall be complied with within 60 days thereafter.

11. COMMISSIONER TO REPORT VIOLATIONS OF STATE LAW. The assistants mentioned herein and the commissioner shall report all violations of the state law as to factories and working places and kindred subjects that may come to their attention to the proper state authorities.

12. PENALTY. Any person violating this section shall be punished by a fine of no less than \$25 and no more than \$200 for each such offense.

76-20. Dry Cleaning Establishments with Category I, II, IIIA and IIIB Equipment.

1. DEFINITIONS. In this section:
a. "ACGIH" means the American Conference of Governmental Industrial Hygienists.

b. "Attendant" means a person other than the operator who works at a dry cleaning establishment.

c. "Dry Cleaning Equipment" means any device which uses an organic solvent such as but not limited to perchloroethylene (perc) or any halogenated hydrocarbons to clean fabric or clothing.

d. "Category I - Transfer Style" means a separate washer/extractor and separate dryer/reclaimer.

e. "Category II - Vented Dry to Dry" means a single machine which completes both cleaning and drying. At the end of the dry cycle, a vent opens to the outside atmosphere or a separate carbon absorber for aeration. Installations of this type use cold water to recover solvent vapors during the dry cycle.

f. "Category IIIA - Non-vented Dry to Dry" means a single machine with refrigeration recovery of solvent vapor during the dry cycle. This category of dry cleaning equipment does not vent to the room or outside atmosphere during the wash/extract/dry cycle.

g. "Category IIIB - Non-vented Dry to Dry" means a single machine which includes all the features of category IIIA dry cleaning equipment plus an integral hermetically sealed carbon recovery system.

h. "Dry Cleaning Establishment" means any building or structure where dry cleaning solvents are used to clean any type of natural or synthetic fabric.

i. "Dry Cleaning Solvent" means a solvent used in the dry cleaning process including but not limited to halogenated hydrocarbons and stoddard solvents.

j. "Dwelling" means any building or structure which is wholly or partly used or intended to be used for living or sleeping by human occupants that include any appurtenances attached thereto.

k. "Floor Plan" means a blueprint or detailed sketch of the dry cleaning establishment that includes but is not limited to the following information: location of dry cleaning equipment, spill containment area, chemical storage areas, location of exhaust ventilation units, switches for ventilation units and all entrances and exits to the dry cleaning establishment.

L. "Low Toxicity Solvent" means any solvent with a TLV (Threshold Limit Value) 8-hour TWA (time-weighted average) greater than 500 ppm (parts per million).

m. "Operator" means a person who operates the dry cleaning equipment.

n. "PEL" means permissible exposures limit established by the federal occupational safety and health administration (OSHA) which is the time weight average (TWA) concentration that must not be exceeded during any 8-hour work shift of a 40-hour work week.

o. "Person" means any individual, firm, corporation or other legal entity.

p. "TLV" means threshold limit value established by the ACGIH which is the maximum time weighted average concentration of a substance to which nearly all workers may be repeatedly exposed, day after day, without adverse health effects.

q. "VOC" means volatile organic compounds.

2. PERMIT REQUIRED. No person, firm or corporation shall install or operate any dry cleaning equipment in any building located in the city unless they hold a valid permit issued by the department in the name of the person and for the specific building within which the dry cleaning equipment is contained.

3. APPLICATION FOR PERMIT. Any person, firm or corporation intending to install or operate dry cleaning equipment shall file an application for such permit on forms obtained from and returned to the department. In addition, a detailed floor plan shall be submitted with the application. The person shall apply for or have obtained an occupancy permit, issued by the department of city development, prior to application to the department for the operation of a dry cleaning establishment. No person shall modify an existing dry cleaning establishment without written notification and approval of the department and the department of city development.

4. ISSUANCE OF PERMIT, FEES.

a. When all applicable provisions of this section and all rules and regulations adopted pursuant thereto have been complied with by the person, firm or corporation, the department shall issue a permit upon the payment of the fee required in s. 60-17.

b. Whenever any person, firm or corporation to whom a permit has been issued sells, leases or otherwise relinquishes control of a dry cleaning establishment, they shall within 5 business days hereafter notify the department and as a part of such notification provide the department with the name and address of the person to whom such control has been relinquished.

c. Permits are not transferable and are personal to the person issued and cannot be transferred, sublet, leased, assigned, given away or sold under any circumstances.

5. REVOCATION, DENIAL OR SUSPENSION OF PERMIT. a. Whenever inspection of any establishment containing dry cleaning equipment indicates that there is a violation of this section or of any rule or

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regulation promulgated pursuant to this section, the department may give notice to the person to correct such violation and revoke, deny or suspend the permit unless the violation is eliminated.

b. A permit to operate may be revoked, denied or suspended for cause or failure to comply with the requirements of this section.

c. A person, firm or corporation whose permit to operate has been revoked, denied or suspended shall, upon written petition to the commissioner, be afforded a hearing before the environmental health review board within 10 days of such petition.

6. INSPECTION OF PREMISES. The department is authorized to enter any part of the premises in which dry cleaning equipment is located at any time for the purpose of inspecting the installation and operation of said equipment and the building in which the same is located.

7. PERMISSIBLE BUILDINGS. Dry cleaning equipment shall not be installed in any building a part of which is occupied as a dwelling nor in any building or portion of a building except a single story structure; provided, that this subsection shall not apply to that part of any building for which the department of city development had, prior to May 9, 1997, issued an occupancy permit for operation of a dry cleaning establishment. The floor of every dry cleaning equipment area shall be constructed of materials which are impervious to dry cleaning solvents. Every such building shall be structurally sound and in good state of maintenance and repair.

8. INSTALLATION AND OPERATION. Dry cleaning equipment shall be installed and operated in accordance with the following requirements:

a. A copy of the detailed installation, operation and maintenance manual of the current dry cleaning equipment in use shall be kept on the premises.

b. An operator who has been trained and understands the proper operation of the dry cleaning equipment shall be present on the premises whenever the dry cleaning equipment is operating. An emergency telephone number shall be posted for use by the operator or attendant in case of an emergency.

c. Access to all establishment storage, equipment and maintenance areas shall be prohibited to customers.

d. Category I and II dry cleaning equipment shall be provided with an exhaust system capable of maintaining a minimum of 100 linear feet per minute face velocity through the loading doors whenever this door is open. The duct work connections from this system shall be sealed, soldered or taped. Category IIIA & Category IIIB dry cleaning equipment not equipped with loading door ventilation (as designed by the manufacturer) are exempt from the loading door ventilation requirement.

e. A department approved method of containing liquid leaks within storage, equipment and maintenance areas shall be provided. This may include, but is not limited to, diking of the floor in these areas, or providing an enclosure around the machine base large enough to hold a liquid volume equal to the maximum quantity of solvent which might escape. A means shall be provided by the dry cleaning establishment for draining the containment area of solvent in the event of a spill or leak. In the event of a spill or leak, the solvent shall be removed from the enclosure or diked area immediately. Documentation of proper disposal or reuse of solvent must be submitted to the department within 5 business days. In the event of a spill, if the recovered solvent is transferred to a holding tank, the tank shall be vented to the outside atmosphere. No underground tanks are permitted for storage of dry cleaning solvents.

f. The machine design and operation shall be such that the cleaned items are completely dried and minimal (de minimus) solvent is retained upon completion of the full dry cleaning cycle.

g. An interlock system shall be provided on all dry cleaning equipment to prevent the loading door from being opened during the entire cleaning cycle. This system may be either electrical or mechanical and so connected that in the event of a power failure only the operator can open the loading door.

h. Only the solvent or solvents specified by the manufacturer shall be used in the dry cleaning equipment.

i. Make-up air shall be provided at a rate sufficient to allow for proper operation of all gas and oil-fired equipment on the premises and shall be in compliance with all state and local building code regulations. A minimum work area temperature of 65°F shall be maintained at all times.

j. Exhaust ventilation stacks of all dry cleaning equipment shall be located so as to prevent any type of health hazard or nuisance including those related to odor or noise.

k. Dry cleaning equipment shall be maintained in a good state of repair.

L. All dry cleaning equipment and operations must meet all existing local, state and federal regulations.

m. Ambient solvent concentration levels must be maintained below the TLV established by the ACGIH or the PEL established by OSHA, whichever is more stringent, anywhere within the establishment. The department shall set maximum ambient concentration levels for solvents with no established TLV or PEL.

n. Enclosed Set-ups: Only the front side of the dry cleaning equipment shall be exposed for enclosed set-ups. The remaining portions of the equipment shall be enclosed by a ceiling height partition which is solid, except as provided hereinafter. The partition of the dry cleaning equipment housing shall contain grill openings located within 24 inches of the floor on the wall opposite the exhaust fan. Air shall flow through the grill openings at the following minimum flow rates.

Minimum Flow Rate

<u>No. of Machines</u>	<u>Per Machine (cfm)</u>
1-3	500
4-8	400
9-16	375
17 (or more)	360

n-1. The exhaust ventilation rates established in par. m shall be maintained on a continuous basis at all times while the dry cleaning equipment is operating.

n-2. An additional fan to provide emergency ventilation at the rate of 500 cfm per machine and vented to the outside atmosphere shall be provided within the enclosure so that such fan may be used in case of serious solvent leakage. The switch for this ventilation equipment shall be located outside the enclosure, readily accessible and clearly identified for the employees and emergency responders.

o. Non-enclosed set-ups include all dry cleaning equipment not described as an enclosed set-up.

o-1. General exhaust shall provide a minimum of 6 air changes per hour within the room where the dry cleaning equipment is located. Exhaust ventilation rates shall be maintained on a continuous basis at all times while the dry cleaning equipment is operating.

o-2. Manually operated emergency ventilation for spills or leaks shall be installed within the room where the dry cleaning equipment is located and shall provide 12 air changes per hour in combined capacity with general exhaust requirements. The switch for this ventilation equipment shall be clearly identified and readily accessible to employees and emergency responders.

p. Category IIIA and category IIIB machines installed on or after March 1, 2008, are exempt from the requirements of pars. n and o, but must comply with the provisions of the 2006 International Fire Code, ch. 12. Category IIIA and category IIIB machines installed before March 1, 2008, which are already in compliance with the requirements of the International Fire Code, ch. 12, are exempt from the requirements of pars. n and o.

9. VOC EMISSION AND AMBIENT AIR COMPLIANCE REQUIREMENTS. Dry cleaning establishments shall comply with all ambient air and emission standards described under chs. NR 423 and 468, Wis. Adm. Code, as amended. Compliance with these requirements shall be determined through any/or all of the following:

- a. On-site inspections.
- b. Review of any required monitoring results.
- c. Active sampling of emission or ambient air for VOCs by representatives of the health department or the Wisconsin department of natural resources.

10. MISCELLANEOUS REQUIREMENTS. a. Dry cleaning solvents shall be stored in closed containers and transferred in a line free of leaks.

b. Filters, still bottoms and other residues containing dry cleaning solvents shall be stored, handled and disposed as defined in ch. NR 600, Wis. Adm. Code, as amended. A sealed and properly labeled container shall be used for temporary storage of such residues and filters so as not to create a health hazard nuisance. Disposal manifests and related records for dry cleaning solvent residues shall be kept on site by the owner/operator of the establishment.

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c. No heating devices having an open flame or incandescent surfaces shall be placed, operated or stored in areas where solvent vapors are likely to be present. Air intakes of all combustion equipment shall be placed so that solvent contaminated air cannot enter.

d. All chemicals and products used in the dry cleaning establishment must be properly labeled and stored in accordance with occupational safety and health administration (OSHA) regulations, 29 CFR 1910.1200, as amended.

11. WORKER HEALTH AND SAFETY.

a. All employees shall be thoroughly trained as to the health hazards involved with the handling and use of dry cleaning solvents and other chemicals used in the performance of their duties. All attendants and operators shall be trained in the safety hazards with the equipment used.

b. When an employer requires an employee to wear respiratory protection equipment, the employer shall comply in accordance with occupational safety and health administration (OSHA) regulations, 29 CFR 1910.134, as amended.

c. Material safety data sheets for all chemicals used shall be kept on the premises and available for employee review. In addition, the employer shall comply with occupational safety and health administration (OSHA) regulations, 29 CFR 1910.1200, as amended.

d. Representative full shift exposure monitoring shall be conducted on dry cleaning equipment operators at a frequency based on the category of dry cleaning equipment used. The monitoring must be conducted for the specific solvent in use in a manner approved by the department. A copy of all monitoring results shall be submitted to the department within 2 weeks of receipt of the results. Whenever exposure monitoring results exceed the ACGIH-TLV or OSHA-PEL, immediate measures must be taken to reduce airborne solvent levels. Retesting that is representative of initial exposure monitoring must be conducted to verify that airborne solvent concentrations have been reduced to levels in accordance with this section.

The following schedule shall be used to determine the minimum frequency of exposure monitoring:

d-1. Category I equipment: quarterly

d-2. Category II equipment:
semi-annually

d-3. Category IIIA & IIIB equipment:
annually

12. ADDITIONAL RULES AND REGULATIONS. The department is authorized and directed to make such further and additional rules and regulations as may be necessary from time to time to assure the safety of the public and carry out the intent of this section, and such rules and regulations shall have the same force and effect as if specifically set forth in this section 30 days after the same have been promulgated by the department. A copy of all such rules and regulations shall be kept on file in the department and in the legislative reference bureau and copies shall be made available by the department to any person requesting the same.

13. PENALTIES AND ENFORCEMENT.

a. Any person, firm or corporation who violates this section or fails to obey an order of the commissioner to conform to this section shall be liable upon conviction to a Class J penalty under s. 61-16.

b. Citations may be issued for all violations of this section with or without prior order or notice. The stipulation, forfeiture and court procedure set forth in s. 50-25 shall apply.

14. TO ACT ON NUISANCES. Nothing in this section shall be construed or interpreted to limit or impair in any way the authority of the city to define and declare nuisances or of the commissioner to cause the removal or abandonment of any nuisance by summary or other appropriate proceedings.

76-21. Dry Cleaning Establishments with Category IV Dry Cleaning Equipment.

1. DEFINITION. In this section: "Category IV" means any machine which uses Class II, Class IIIA and Class IIIB solvents as defined in s. 1202 of the International Fire Code, as amended.

2. REQUIREMENTS. Any person, firm or corporation operating Category IV dry cleaning equipment shall comply with and be subject to all applicable provisions and requirements of ch. 12 of the International Fire Code, as amended.

3. MONITORING. Representative full shift exposure monitoring shall be conducted on dry cleaning equipment operators on an annual basis. The monitoring must be conducted for the specific solvent in use in a manner approved by the department. A copy of all monitoring results shall be submitted to the department within 2 weeks of receipt of the results. Whenever exposure monitoring results exceed the ACGIH-TLV or OSHA-PEL, immediate measures must be taken to reduce airborne solvent levels. Retesting that is representative of initial exposure monitoring must be conducted to verify that airborne solvent concentrations have been reduced to levels in accordance with s. 76-20-11.

76-(HISTORY) Industrial Health**LEGISLATIVE HISTORY
CHAPTER 76**Abbreviations:

am = amended
cr = created

ra = renumbered and amended
rc = repealed and recreated

rn = renumbered
rp = repealed

<u>Section</u>	<u>Action</u>	<u>File</u>	<u>Passed</u>	<u>Effective</u>
76-01	cr	980963	12/18/98	1/1/99
76-1-1	am	980963	12/18/98	1/1/99
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76-1-3	am	980963	12/18/98	1/1/99
76-1-10	am	980963	12/18/98	1/1/99
76-1-11	am	980963	12/18/98	1/1/99
76-20	rc	961958	4/22/97	5/9/97
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CHAPTER 77 DRUGS AND POISONS

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77-5	Pesticide
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77-01. Definitions. In this chapter:

1. **COMMISSIONER** means the commissioner of health, his or her designated representative within the health department, or any other city official to whom the commissioner's functions or duties under this chapter have been delegated pursuant to a memorandum of understanding.

2. **DEPARTMENT** means the health department or any department to which health department functions or duties under this chapter have been delegated pursuant to a memorandum of understanding.

77-1. Distribution of Drugs. 1. NOT TO BE THROWN ON STREET, ETC. It is made unlawful for any person, firm or corporation, or for any officer, member, agent, servant or employe of any firm or corporation to leave, place, throw, deposit or distribute any sample packages of any patent or proprietary medicine, or any preparation, pill, tablet or drugs, or compounded drug whatsoever in or upon any lot, doorstep, private dwelling house, public building, store or office building, or to deliver to any child under the age of 15 years, when not accompanied by an adult, any patent or proprietary medicine, or any preparation, pill, tablet or drug, or compounded drug whatsoever, or to place, throw, deposit or distribute any sample packages of any patent or proprietary medicine, or any preparation, pill, tablet or drug, or compounded drug whatsoever, in or upon any sidewalk, highway or other public place or park within the limits of the city.

2. **PENALTY.** Every person, firm or corporation, and every officer, member, agent or servant of any firm or corporation who shall violate this section shall, on conviction thereof, be punished by a fine of not less than \$1 nor more than \$50 together with the costs of the

action, and in default of payment thereof shall be imprisoned in the house of correction of Milwaukee county for not less than 30 days nor more than 90 days in the discretion of the court.

77-3. Wood Alcohol. 1. LABELING REQUIRED. No person, firm or corporation shall keep any wood alcohol or preparations containing wood alcohol in any quantity on any premises in the city either for commercial purposes or sale purposes, nor shall such wood alcohol or preparation containing wood alcohol be sold or offered for sale in wholesale or retail lots unless the container thereof is plainly marked showing the presence of wood alcohol and labeled "poison" in letters that are large enough to apprise the purchaser thereof that said contents are poisonous.

2. PENALTY. Any person, firm or corporation violating this section shall, upon conviction, be punished by a fine not exceeding \$100 or, in default thereof, by imprisonment in the house of correction for not exceeding 60 days.

77-4. Monoxide Poisoning Warning Signs. The commissioner is empowered to prepare and cause to be distributed in the city to the owner and owners of every public and private garage, barn or building in which motor vehicles are kept for display therein, a suitable placard or sign warning of the danger of death from monoxide poisoning caused by automobile motors permitted to be run and operated in unventilated buildings, barns or closed garages. These placards or signs shall be of a design and size and contain the printed matter prescribed by the commissioner. (See also s. 80-7.)

77-5. Pesticide. 1. DEFINITIONS. In this section:

a. "Commercial pesticide applicator" means any person who applies or supervises the application of pesticides for remuneration or other consideration.

b. "Pesticide" means any substance or mixture of substances labeled, designed or intended for use in preventing, destroying, repelling or mitigating any pest, or used as a plant regulator, defoliant or desiccant.

77-6 Drugs and Poisons

c. "Pesticide application" means the use or application of any pesticide by any method, including, but not limited to, broadcasting, drop spreading, fumigation, misting, soil injection or spraying.

2. APPLICABILITY. The provisions of this section shall apply to the use of any pesticide on or around any exterior premises, except those pesticides only used adjacent to and not more than 2 feet away from a dwelling on the premises and those rodenticides used in tamper-resistant bait stations or placed in burrows.

3. REGISTRATION. a. Required. No person shall apply, advertise to apply or supervise the application of a pesticide, on or around any premises without first applying for and obtaining a registration certificate from the department as a commercial pesticide applicator.

b. Exemption. This sub. shall not apply to:

b-1. The owner or occupant of a single, 2-family or multifamily dwelling of 12 or less units, if a pesticide is applied by a non-commercial applicator.

b-2. Public employees certified under the regulations of ch. ATPC 29, Wis. Adm. Code.

c. Application. Registration forms for commercial pesticide applicator certificates shall be obtained from and returned to the department and shall contain the following information:

c-1. Full name, address, date of birth and phone number of applicant.

c-2. Valid proof of certification as a commercial pesticide applicator under s. 171.3(7) of the federal standards for certification of pesticide applicators by equivalent certification in accordance with the provisions of ch. 94, Wis. Stats., and for any subsequently adopted subcategories, including, but not limited to, fumigation or wood destroying organism control.

d. Certificate Issued. Upon full and proper completion of the registration form, and payment of the fee required in s. 60-67, the commissioner shall issue a commercial pesticide applicator registration certificate to the applicant. No pesticide applicator certificate is transferrable.

e. Change of address. Any change in the address of a pesticide applicator permittee shall be reported to the department within 60 days of the change.

f. Compliance. Pesticide applicators shall be required to comply with all applicable city, state and federal laws and regulations concerning the health of workers, occupants, the public, the environment and the community.

5. ACCIDENTAL SPILL OR DISCHARGE. In the event any pesticide spills or discharges accidentally, the person responsible for the spill or discharge shall:

a. Notify the fire department immediately.

b. Take action to control the spill or discharge in a safe and approved manner.

c. Remove the spilled or discharged substance, as well as any tainted tools, utensils or equipment, to an approved location for disposal.

d. To the extent possible, restore the site to its original condition.

6. ENFORCEMENT. The department shall enforce the provisions of this section.

77-6. Penalty. 1. Any person who violates any provision of s. 77-5 or who fails to obey an order of the commissioner to conform to those provisions shall be liable upon conviction to a Class F penalty as provided in s. 61-12.

2. Citations may be issued for all violations of this section with or without prior notice. The stipulation, forfeiture and court appearance set forth in s. 50-25 shall apply.

LEGISLATIVE HISTORY
CHAPTER 77

Abbreviations:

am = amended
cr = created

ra = renumbered and amended
rc = repealed and recreated

rn = renumbered
rp = repealed

<u>Section</u>	<u>Action</u>	<u>File</u>	<u>Passed</u>	<u>Effective</u>
77-01	cr	980963	12/18/98	1/1/99
77-4	am	980963	12/18/98	1/1/99
77-5	rc	910641	3/24/92	6/9/92
77-5-3-a	am	980963	12/18/98	1/1/99
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77-5-4-b-4	am	921861	3/23/93	4/9/93
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CHAPTER 78 ANIMALS

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78-1. Definitions. In this chapter:

1. **ANIMAL FANCIER** means any person in a residential dwelling unit who keeps, harbors, raises or possesses any combination of rabbits, dogs or cats numbering not less than, nor more than, 5 animals over the age of 5 months.
2. **APIARY** means the assembly of one or more colonies of bees at a single location.
3. **APPROVED** means approved by the commissioner.
4. **AT LARGE** means an animal is off the premises of its owner and on any public street or alley, school grounds, a public park, or other

public grounds or on private property without the permission of the owner or person in lawful control of the property. An animal shall not be deemed to be at large if:

- a. It is attached to a leash not more than 6 feet in length which is of sufficient strength to restrain the animal and the leash is held by a person competent to govern the animal and prevent it from annoying or worrying pedestrians or trespassing on private property or trespassing on public property where such animals are forbidden; or
- b. It is properly restrained within a motor vehicle; or
- c. It is a dangerous animal that is in compliance with the requirements of s. 78-23-2.

5. BEEKEEPER means a person who owns or has charge of one or more colonies of bees and has demonstrated to the commissioner that he or she has obtained formal education or sufficient practical experience to act as a beekeeper.

6. BEEKEEPING EQUIPMENT means anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

7. BODILY HARM means physical pain or injury or any impairment of physical condition.

8. CARETAKER means any person 16 years of age or older who, in the absence of the owner, temporarily harbors, shelters, keeps or is in charge of a dog, cat or any other domesticated bird or animal.

9. CAT means a domesticated member of *felis domestica*.

10. COLONY means an aggregate of bees in a hive consisting principally of workers, but having, when perfect, one queen and at times many drones, including brood, combs, honey and the receptacle inhabited by the bees.

11. COMMISSIONER means the commissioner of health, his or her designated representative within the health department, or any other city official to whom the commissioner's functions or duties under this chapter have been delegated pursuant to a memorandum of understanding.

12. COMMISSIONER OF PUBLIC WORKS means the legally designated head of the department of public works of the city of Milwaukee or his or her authorized representative.

13. DANGEROUS ANIMAL means:
a-1. Any animal which, when unprovoked, bites or otherwise inflicts bodily

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harm on a person, domestic pet or animal on public or private property.

a-2. Any animal which chases or approaches a person in a menacing fashion or apparent attitude of attack without provocation upon the streets, sidewalks or any public grounds or on private property without the permission of the owner or person in lawful control of the property.

a-3. An animal with a known propensity, tendency or disposition to attack, to cause injury to, or to otherwise threaten the safety of humans or other domestic pets or animals.

b. The biting or injury of a person by an animal shall in the absence of contrary evidence be presumed to be due to an unprovoked attack. Provocation of the animal by the person or animal that is bitten or injured or the fact that the animal bit or injured another person or animal as a result of provocation shall be considered in mitigation and if the provocation is purposeful or substantial, the court may accept the alleged bite or injury as self-defense by the animal and not classify the animal as dangerous.

c. An animal shall not be deemed a dangerous animal if it bites, attacks or menaces any person or animal to:

c-1. Defend its owner, caretaker or another person from an attack by a person or animal.

c-2. Protect its young or another animal.

c-3. Defend itself against any person or animal which has tormented, assaulted or abused it.

c-4. Defend its owner's or caretaker's property against trespassers.

14. DEPARTMENT means the health department or any department to which health department functions or duties under this chapter have been delegated pursuant to a memorandum of understanding.

15. DOG means a domesticated member of *canis familiaris*.

16. DOMESTICATED ANIMAL means any bird or animal of any species which usually lives in or about the habitation of humans as a pet or animal companion. The term does not include a dangerous animal, a prohibited dangerous animal or a feral cat.

18. DWELLING UNIT means one or more rooms, including a bathroom and kitchen facilities, which are arranged, designed or used as living quarters for one family or household.

23. FOWL means all domesticated birds and nondomesticated game birds ordinarily considered to be edible.

24. GROOMING means care or service provided to the exterior of an animal to change its

looks or improve its comfort but does not mean the treatment of physical disease or deformities.

25. GROOMING ESTABLISHMENT means a business establishment in which a domesticated bird or animal is received for grooming.

26. HIVE means an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times many drones, including brood, combs, honey and the receptacle inhabited by the bees.

27. HONEY BEE means all life stages of the common domestic honey bee, *apis mellifera* species.

28. KENNEL means an establishment in which more than 3 dogs or 3 cats, or any combination thereof, over the age of 5 months may be kept for boarding, breeding, safekeeping, convalescence, humane disposal, placement, sale or sporting purposes. This is the same type of facility referred to as an "animal boarding facility" in ch. 295.

29. MULTIPLE DWELLING means a commercial or residential building consisting of 3 or more dwelling units.

30. OWNER means any person owning, harboring, sheltering or keeping a dog, cat or any other domesticated bird or animal.

31. PERSON means any individual, firm, corporation or other legal entity.

32. PET SHOP means a business establishment, other than a kennel, where domesticated mammals, birds, fish or reptiles are kept for sale.

33. PIT BULL means any dog which is one-half or more American staffordshire terrier, staffordshire terrier, American pit bull terrier, miniature bull terrier or staffordshire bull terrier.

34. PROHIBITED DANGEROUS ANIMAL means:

a. Any animal that is determined to be a prohibited dangerous animal under s. 78-25.

b. Any animal that, while off the owner's or caretaker's property, has killed a domestic pet or animal without provocation.

c. Any animal that, without provocation, inflicts substantial bodily harm on a person on public or private property.

d. Any animal brought from another city, village, town or county that is described under s. 78-5-2-b.

e. Any dog that is subject to being destroyed under s. 174.02(3), Wis. Stats.

f. Any dog trained, owned or harbored for the purpose of dog fighting.

35. ROTTWEILER means any dog which is one-half or more rottweiler.

37. SUBSTANTIAL BODILY HARM means bodily injury that causes a laceration that requires stitches, any fracture of a bone, a concussion, a loss or fracture of a tooth or any temporary loss of consciousness, sight or hearing.

78-3. Owner or Caretaker's Duty; Presumption.

1. The owner or caretaker of any animal shall confine, restrain or maintain control over the animal so that the unprovoked animal does not attack or injure any person or domesticated animal.

2. The occupant of any premises on which a dog, cat or any other domesticated bird or animal remains or to which it customarily returns daily for a period of at least 10 days shall be presumed, for purposes of enforcement of this chapter, to be harboring, sheltering or keeping the animal.

78-5. Keeping of Animals Within City.

1. PERMITTED ANIMALS. No animal that is not a domesticated animal may be kept or brought into the city except as provided in this chapter or as otherwise authorized by the commissioner.

2. CERTAIN ANIMALS PROHIBITED.

a. Except as otherwise provided in this chapter, no person shall keep within the city, either temporarily or permanently, any live cows, cattle, horses, sheep, swine, goats, roosters, ducks, turkeys, geese or any other domesticated livestock, or undomesticated fowl provided, however, that the animals or fowl may be kept at places approved by the commissioner for slaughtering, educational purposes, research purposes and for circuses or similar recreational events. Upon approval by the commissioner, horses used for livery service may be kept within the city. No rabbits or guinea pigs shall be kept within any portion of any multiple dwelling.

b. No person may bring into or keep in the city an animal that a Wisconsin city, village, town or county has declared dangerous or vicious, has banished from the city, village, town or county or has ordered to be destroyed. The commissioner may declare such an animal to be a prohibited dangerous animal in Milwaukee upon receipt of an official written declaration from the other city, village, town or county setting forth the grounds for the declaration, the name of the animal, if known, and the description of the animal.

c. No person may bring into or keep in the city, for sale or otherwise, either for food or for any other purposes whatsoever, any animal which,

in accordance with the recommendations of the Compendium of Animal Rabies Control from the National Association of State Public Health Veterinarians, Inc., is not able to be effectively vaccinated against rabies, or any animal dead or alive, bird, insect, reptile or fish which is otherwise dangerous or detrimental to health.

3. NUMBER PERMITTED. No person may keep, harbor, shelter or possess at any time more than 4 rabbits, dogs or cats or any combination thereof which are over the age of 5 months unless the person holds a valid animal fancier permit, kennel permit, pet shop permit or grooming establishment permit. The keeping of more than 4 rabbits, dogs or cats over the age of 5 months per dwelling unit in a multiple dwelling is declared to be a nuisance. No person in a multiple dwelling shall be granted an animal fancier permit. There shall be no more than one animal fancier permit issued to any qualified dwelling unit.

4. ANIMAL REMOVAL. The department may confiscate and remove animals from a premises for violation of sub. 1, 2 or 3 or ss. 78-6, 78-6.5, 78-23, 78-25 and 78-31, or if the animals constitute a public health threat as determined by the health department. The department may convey such animals to be housed and handled appropriately. If necessary, such animals may be disposed of in a humane manner by the department or their designee.

78-6. Keeping of Honey Bees in the City.

1. PERMIT REQUIRED. No person shall keep honey bees in the city without being a beekeeper and obtaining a valid permit issued by the commissioner. The permit process requires a completed application accompanied with a fee prescribed in s. 60-7-7, and an inspection which must meet all provisions of sub. 3. The permit application is also subject to a potential objection hearing pursuant to sub. 2.

2. NEIGHBORHOOD APPROVAL REQUIRED. Before a permit is issued for the keeping of bees the following process must be followed:

a. Once a permit is applied for all property owners within a circular area having a radius of 200 feet, centered on the premises for which a permit has been requested, shall be notified by the commissioner. This shall be done via first-class U.S. mail.

b. Property owners shall have 14 working days to file a written objection and request for a hearing to the commissioner if they object to the granting of a permit.

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c. If a timely written objection and request for a hearing has been submitted to the commissioner, the commissioner shall hold a hearing within 14 days.

d. Within 10 days of completion of the hearing conducted pursuant to par. c, the commissioner shall mail to the objector and permit applicant his or her written determination on the granting of the permit, taking into consideration factors listed under sub.3.

3. KEEPING OF HONEY BEE HIVES. A permit authorizes the keeping of honey bee hives on a premise, provided the following:

a. No more than 2 hives are allowed on a lot.

b. Honey bees are limited to eastern european races of apismelifera.

c. All honey bees shall be kept in hives with removable frames which shall be kept in sound and usable condition.

d. A minimum 6-foot high closed fence, closed hedge, building or other solid flyway barrier or other barrier which the commissioner determines to be of sufficient height shall be located between hives and the property lines for all hives located within 20 feet of the property line. A supply of water shall be located within these enclosures and flyway barriers. A flyway barrier is not needed if the bee hive is kept at least 10 feet off the ground.

e. All hives and related structures that form the apiary shall be located a minimum of 20 feet from the front property line and 10 feet from all other property lines.

f. Hives shall be located a minimum of 50 feet from dwellings, porches, gazebos, decks, swimming pools, permanently affixed play equipment and any other habitable area on any adjoining lots unless the owner of the adjoining property has provided written permission for closer hive placement.

g. Hives shall be provided with fresh water throughout the day and be designed to allow bees to access water by landing on a hard surface. This is not required during the winter.

h. Hives shall be actively maintained. Hives not under active human management and maintenance shall be dismantled or removed by the most recent permit holder.

i. In any instance in which a hive exhibits unusually aggressive characteristics it shall be the duty of the beekeeper to destroy or requeen the hive. Queens shall be selected from stock bred for gentleness and non-swarming characteristics

j. In addition to compliance with the requirements of this section, no beekeeper shall

keep a hive or hives that cause any unhealthy conditions or interfere with the normal use and enjoyment of human or animal life of others, any public property or property of others.

k. A permit application that is denied because it does not meet the standards of this subsection may be appealed to the commissioner, who may waive or modify the requirements of this subsection consistent with professional practice guidelines promulgated by the University of Wisconsin system, Milwaukee County Extension, or other similar professional or academic material.

4. PERMIT REVOCATION. A permit shall be subject to revocation upon failure to comply with any provisions of this section. Once a permit is revoked, a permit shall not be reissued.

78-6.5. Keeping of Chickens in the City.

1. PERMIT REQUIRED. No person shall keep chickens in the city without obtaining a valid permit issued by the commissioner. The permit process requires a completed application accompanied with a fee prescribed in s. 60-7-8. The permit application is also subject to notification and approval pursuant to sub. 2.

2. NEIGHBORHOOD APPROVAL REQUIRED. Before a permit is issued for the keeping of chickens, the following process shall be followed:

a. Once a permit is applied for, the property owner, if someone other than the applicant, and owners of all directly or diagonally abutting properties, including those across an alley, shall be notified by the commissioner. This shall be done via first-class U.S. mail.

b. Property owners shall have 14 working days to file a written objection and request for a hearing to the commissioner if they object to the granting of a permit.

c. If a timely written objection and request for a hearing has been submitted to the commissioner, the commissioner shall hold a hearing within 14 days.

d. Within 10 days of completion of the hearing conducted pursuant to par. c, the commissioner shall mail to the objector and permit applicant his or her written determination on the granting of the permit, taking into consideration factors listed under subs. 3 and 4.

3. KEEPING OF CHICKENS ALLOWED. The keeping of up to 4 chickens, with a permit, is allowed on a residential premise, provided the following:

a. No person shall keep any rooster.

b. No person shall slaughter any chickens.

c. Chickens shall be provided with fresh water at all times and adequate amounts of feed.

d. Chickens shall be provided with a sanitary and adequately-sized covered enclosure, or coop, and shall be kept in the covered enclosure or a sanitary and adequately-sized and accessible fenced enclosure, or yard, at all times.

e. Chicken coops shall be constructed in a workmanlike manner, be moisture-resistant and either raised up off the ground or placed on a hard surface such as concrete, patio block or gravel.

f. Chicken coops and yards shall be constructed and maintained to reasonably prevent the collection of standing water, and shall be cleaned of hen droppings, uneaten feed, feathers and other waste daily and as is necessary to ensure that the coop and yard do not become a health, odor or other nuisance.

g. Chicken coops and yards together shall be large enough to provide at least 16 square feet per chicken.

h. No enclosure shall be located closer than 25 feet to any residential structure on an adjacent lot.

i. No enclosure shall be located in the front yard of a dwelling.

j. In addition to compliance with the requirements of this section, no one shall keep chickens that cause any nuisance, unhealthy condition, create a public health threat or otherwise interfere with the normal use of property or enjoyment of life by humans or animals.

4. PUBLIC HEALTH REQUIREMENTS.

a. Chickens shall be kept and handled in a sanitary manner to prevent the spread of communicable diseases among birds or to humans.

b. Any person keeping chickens shall immediately report any unusual illness or death of chickens to the health department.

c. The commissioner may order testing, quarantine, isolation, vaccination or humane euthanasia of ill chickens or chickens believed to be a carrier of a communicable disease.

5. PERMIT REVOCATION. A permit is subject to revocation upon failure to comply with any provisions of sub. 3 or 4. Once a permit is revoked, a permit shall not be reissued.

78-7. Kennels, Horse Stables and Animal Fancier Permits. 1. KENNELS AND HORSE STABLES.

a. Permit Required. No person shall operate a kennel or horse stable without a valid permit issued by the commissioner. When all applicable provisions of this section along with applicable federal and state of Wisconsin requirements have been complied with by the applicant and a valid occupancy permit for this business has been issued by the commissioner of neighborhood services, the commissioner shall issue a permit to operate upon payment of the fee required in s. 60-51.

b. Kennels; Operation. Kennels shall be operated in accordance with the following requirements:

b-1. All animals shall be maintained in a healthy condition, or if ill shall be given appropriate treatment immediately.

b-2. The quarters in which the animals are kept shall be maintained in a clean condition and in a good state of repair.

b-3. Animal pens or enclosures shall be large enough to provide freedom of movement to the animals contained therein and shall be constructed of nonporous and noncorrosive materials. Dogs and cats over the age of 5 months shall be housed in separate enclosures with enough space as set by applicable federal requirements with no more than 3 dogs or 3 cats contained within the same enclosure. Animals shall not have the freedom to roam the business establishment.

b-4. Food supplies shall be stored in rodent-proof containers and food and water containers shall be kept clean.

b-5. Litter or bedding material shall be changed as often as necessary to prevent an odor nuisance.

b-6. Feces shall be removed from yards, pens and enclosures at least daily and stored in tightly covered metal containers until final disposal.

b-7. Yards, pens, premises and animals shall be kept free of pest infestations.

b-8. No odor nuisance shall be permitted. Any animal holding area containing animals shall be provided with fresh air by means of windows, doors, vents, exhaust fans or air conditioning so as to minimize drafts, odors and moisture condensation.

b-9. Kennels shall also be operated in accordance with requirements set forth in s. 78-9-3 to 5. Nothing in this section shall apply where

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kennel services are incidental to the operation of a veterinary hospital.

c. Horse Stables; Operation. Horse stables shall, in addition to the requirements set forth in sub. b-1, 2, 4 to 8 and s. 78-5, be operated in accordance with the following:

c-1. Horse stalls or enclosures shall be large enough to provide freedom of movement to the animals contained therein and shall be constructed of such materials and in such a manner as to comply with all local, state and federal requirements.

c-2. Horses shall be stabled indoors.

c-3. The temperature of the stable shall comply with all local, state and federal animal welfare regulations.

c-4. An approved water supply shall be provided to all parts of the stable for the horses and to be used for wet cleaning.

c-5. Floor drains connected to an approved sewage system must also be provided.

2. ANIMAL FANCIER PERMITS. a. The commissioner shall issue an animal fancier permit upon the payment of all applicable fees required in s. 60-3, provided that the owner has no outstanding violations under this chapter.

b-1. Whenever the department requests an inspection of the interior and exterior premises of a person holding an animal fancier permit or of an applicant for an animal fancier permit, the animal fancier or applicant shall schedule such an inspection and allow the inspection to be completed no later than 10 days after the date of the request. A request for a department inspection under this paragraph may be made by any of the following means:

b-1-a. An oral request delivered in person to the applicant or permit holder.

b-1-b. An oral request delivered by telephone to the applicant or permit holder.

b-1-c. A written request left at the residence or place of occupation of the applicant or permit holder.

b-1-d. A written request delivered to a competent adult occupant of the applicant's or permit holder's residence.

b-1-e. A written request addressed to the applicant or permit holder at his or her residence and mailed by first class, prepaid mail.

b-2. A person who fails to comply with an inspection request as required by this paragraph shall be charged a delayed inspection fee in the amount provided in s. 60-3-4.

c. A person holding an animal fancier permit shall conform to the requirements set forth in sub. 1-b-1 to 8.

d. An animal fancier permit may be revoked if an owner does not conform to the requirements set forth in sub. 1-b-1 to 8.

78-9. Pet Shops. 1. PERMIT REQUIRED. No person may operate a pet shop unless the person holds a valid permit issued by the commissioner. When all applicable provisions of this section have been complied with by the applicant and a valid occupancy permit for this type of business has been issued by the commissioner of city development, the commissioner shall issue a permit to operate a pet shop upon the payment of the fee required in s. 60-69.

2. OPERATION. Pet shops shall be operated in accordance with the requirements set forth in s. 78-7-1-b-1 to 8.

3. IMMUNIZATION. No pet shop may sell or offer for sale any dog or cat 5 or more months old unless the dog or cat has been vaccinated against rabies by use of a vaccine currently licensed by the U.S. department of agriculture. The vaccine shall be administered by or under the supervision of a licensed veterinarian. A certificate of vaccination identifying the dog or cat including its approximate age, date of vaccination and signed by the vaccinating veterinarian shall be given the purchaser at the time of sale.

4. RECORD OF SALE. Every pet shop shall keep a record of every dog and cat sold by the establishment setting forth the date and source of acquisition, date of rabies vaccination, the date of sale and the name and address of the purchaser. Such records shall be maintained on the pet shop premises for at least one year following the date of sale of each dog and cat, and such records shall be open to inspection by the commissioner at all times during which the pet shop is open to the public.

5. SALE OF BATS, FOXES, RACCOONS AND SKUNKS PROHIBITED. No pet shop may engage in the purchase, keeping, distribution or sale of any species of bats, foxes, raccoons or skunks.

78-11. Grooming Establishments. 1. PERMIT REQUIRED. No person may operate a grooming establishment without a valid permit issued by the commissioner. When all applicable provisions of this section have been complied with by the applicant and a valid occupancy permit for this business has been issued by the commissioner of city development, the commissioner shall issue a permit to operate a grooming establishment upon the payment of the fee required in s. 60-43.

2. OPERATION. Animal grooming establishments shall, in addition to the requirements set forth in s. 78-7-1-b-2, 3 and 8, be operated in accordance with the following:

a. The floor of any room in which grooming operations are conducted or in which animals are kept shall be covered with an impervious, smooth, cleanable surface. The floors shall be cleaned and disinfected daily.

b. All animal hair and manure shall be removed from the floors daily and shall be stored in tightly covered, waterproof containers in such a manner as to prevent a nuisance until the final disposal.

c. In each grooming establishment that uses a bathtub, such bathtub shall be large enough to accommodate the largest animal groomed. The tub shall be made of approved material and shall be properly connected to an approved water system consisting of hot and cold running water and to an approved sewer or waste disposal system

d. No animals shall be kept in any grooming establishment other than during regular office hours unless a valid kennel or pet shop permit is also issued for the same location. Nothing in this section shall apply to an establishment where grooming is incidental to the operation of a veterinary hospital.

e. The premises shall be kept free of insect and rodent infestation.

f. The premises shall be maintained and operated in a nuisance free manner.

78-13. Posting of Permit. Every kennel, pet shop or grooming establishment permit issued by the commissioner shall be posted in a conspicuous place open to the public.

78-15. Sanitary Conditions of Commercial Animal Establishment. All commercial kennels, hutches, runs, yards or any other commercial structures or premises where animals permitted to be kept in accordance with this chapter are housed or kept shall be maintained in a clean and sanitary condition.

78-17. Dog and Cat Licenses. 1. REQUIRED. Any person owning, keeping, harboring or having custody of any dog or cat over 5 months of age within the city of Milwaukee shall obtain a license as provided in this section and in accordance with ch. 174, Wis. Stats., relating to dogs, and ch. 26, Milwaukee County Code of Ordinances, relating to cats. Any person obtaining a dog or cat that is older than 5 months of age shall have 30 days to apply for an original license, except this

requirement will not apply to a nonresident keeping a dog or cat within the city for less than 30 days.

2. APPLICATION. Application for licenses shall be made to the Milwaukee area domestic animal control commission and shall include the name and address of the applicant, description of the animal, the appropriate fee, whether the animal is spayed or neutered and a rabies certificate or tag issued by a licensed veterinarian illustrating that the animal for which the license is sought has received current immunization for rabies or a statement issued by a licensed veterinarian that the immunization for rabies is contraindicated for the animal. A rabies certificate or tag shall be deemed valid if the termination date of the immunization falls after the date of the application for the license. Written proof is required from a licensed veterinarian illustrating that the animal being licensed has been spayed or neutered in order to qualify for a reduced license fee.

3. FEES. A license shall be issued after payment of the fee specified in s. 60-7.

4. PAYMENT RESPONSIBILITY. The owner, harborer, shelterer or head of the family shall be liable for payment of the license fee of any dog or cat owned, harbored or kept by any member of the family.

5. ISSUANCE. Upon acceptance of the license application and fee, the Milwaukee area domestic animal control commission shall issue a tag and a license. The tag shall be securely attached by the licensee to a collar or harness and the collar or harness with the tag attached shall be kept on the dog or cat for which the license is issued at all times. This requirement does not apply to a dog or cat securely confined indoors or in a fenced area.

78-19. Animals at Large; Animal Litter Nuisance.

1. UNLAWFUL. No owner or caretaker of any animal may permit or suffer the animal to be at large. Any animal found at large shall be deemed to be so with the permission or at the sufferance of its owner or caretaker. Any adult person alone or together with other adults may seek relief from animals at large by a complaint to the commissioner setting forth the specific date and approximate time an animal of a particular owner was observed by them to be at large. The commissioner shall notify the owner or caretaker of the animal, in writing, of the alleged violation and provisions of this section. If the petitioners subsequently observe that the animal is again at large, they may submit a written petition to the city attorney for commencement of prosecution to

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obtain compliance with this section. Such written petition shall contain:

- a. Name and address of complainant.
- b. Description of animal and address of owner.
- c. Dates and times violations were noted.
- d. Date reported to commissioner.
- e. Statement that petitioners will be willing to sign complaint and testify in court.

2. SETTING AT LARGE. No person may permit an animal to run at large by opening any door or gate of any premises or loosen any restraining device or otherwise entice any animal to leave any place of confinement.

3. ANIMAL LITTER NUISANCE. No owner or caretaker of any animal may appear with the animal on any street, alley, sidewalk, lawn, field or any public property or upon a property other than their own without a shovel, scoop, bag or other items for the removal of fecal matter. The owner or caretaker of an animal shall immediately after deposit of fecal matter on such premises remove all fecal matter by shovel, scoop, bag or other item and properly wrap and deposit the fecal matter in an approved waste container as specified in s. 79-4 situated upon his or her own premises.

4. COMPLAINTS. Any adult person alone or together with other adults may seek relief from animal fecal matter deposits as described in sub. 3 by a complaint to the commissioner in the same manner and procedure as set forth in sub. 1.

78-20. Humane Officer. **1. APPOINTMENT.** A humane officer shall be appointed by the commissioner, and serve upon confirmation by the common council.

2. DUTIES. The humane officer shall advise the commissioner and the Milwaukee police department on issues relating to animal cruelty, serve as an expert witness as needed and serve as a member of the dangerous animal panel as provided in s. 78-25-2-b-2.

3. AUTHORITY. The humane officer has the authority to seize an animal found at large and impound it in a place designated by the commissioner. In addition, a humane officer may request law enforcement officers to enforce and prosecute violations of this section and state statutes, and may cooperate in those prosecutions.

78-21. Impounding of Animals.

1. IMPOUNDING. Any police officer or humane officer finding an animal at large may seize the animal and impound it in the place designated by the commissioner. The commissioner may also cause the seizure and impoundment of animals at large.

2. REPOSSESSION. The possession of any animal so seized or impounded may be obtained by the owner upon payment of the fee required in s. 60-5 plus the current daily fee for keeping such animal for each calendar day or fraction thereof during which the animal has been impounded. The possession of an unlicensed dog or cat may be obtained by the owner after he or she obtains the required license and pays the specified impoundment and daily fee for keeping the dog or cat.

78-22. Pit-Bull and Rottweiler Dogs. The owner of any pit bull dog, as defined in s. 78-1-33, or any rottweiler dog, as defined in s. 78-1-35, shall comply with all of the following:

1. While leashed, the leash shall be held by a person 16 years of age or older, who is competent to govern the animal. The leash may be held by a person younger than 16 years of age upon prior written approval of the department of neighborhood services or when shown in a sanctioned American Kennel Club show or other organized competition among trained owners and dogs. The written approval shall be carried by the person younger than age 16.

2. Have a yard or kennel area with a fence which the commissioner determines to be of sufficient height to contain the dog. The kennel area shall have a concrete floor.

3. Attend a minimum of one dog behavior or training class offered by a trainer recommended by the Wisconsin humane society, Milwaukee dog training club or Milwaukee area domestic animal control commission.

78-23. Harboring Dangerous Animals.

1. DANGEROUS ANIMALS REGULATED.

a. No person may harbor or keep a dangerous animal within the city unless all provisions of this section are complied with. Any animal that is determined to be a prohibited dangerous animal under s. 78-25-2 shall not be kept or harbored in the city.

b. The commissioner may determine an animal to be a dangerous animal whenever the commissioner finds that an animal meets the definition of a dangerous animal in s. 78-1-13.

c. The issuance of a citation for a violation of this section need not necessarily be predicated on a determination by the commissioner that an animal is a dangerous animal.

2. LEASH AND MUZZLE. No person owning, harboring or having the care of a dangerous animal may permit such animal to go outside its kennel or pen unless the animal is securely leashed with a leash no longer than 4 feet in length. No person may permit a dangerous animal to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person who is 16 years of age or older, competent to govern the animal and capable of physically controlling and restraining the animal is in physical control of the leash. The animal may not be leashed to inanimate objects such as trees, posts and buildings. A dangerous animal on a leash outside the animal's kennel shall be muzzled in a humane way by a muzzling device sufficient to prevent the animal from biting persons or other animals. A dangerous animal shall not be required to be muzzled upon prior written approval of the health department or when shown in a sanctioned American Kennel Club show. The written approval shall be carried by the owner or caretaker.

3. CONFINEMENT. a. Except when leashed and muzzled as provided in sub. 2, all dangerous animals shall be securely confined indoors or in a securely enclosed and locked pen or kennel that is located on the premises of the owner or caretaker and constructed in a manner that does not allow the animal to exit the pen or kennel on its own volition.

b. When constructed in an open yard, the pen or kennel shall, at a minimum, be constructed to conform to the requirements of this paragraph. The pen or kennel shall be child-proof from the outside and animal-proof from the inside.

A strong metal double fence with adequate space between fences (at least 2 feet) shall be provided so that a child cannot reach into the animal enclosure. The pen, kennel or structure shall have secure sides and a secure top attached to all sides. A structure used to confine a dangerous animal shall be locked with a key or combination lock when the animal is within the structure. The structure shall either have a secure bottom or floor attached to the sides of the pen or the sides of the pen shall be embedded in the ground no less than 2 feet. All structures erected to house dangerous animals shall comply with all city zoning and building regulations. All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

4. CONFINEMENT INDOORS. No dangerous animal may be kept on a porch, patio or in any part of a house or structure on the premises of the owner or caretaker that would allow the animal to exit the building on its own volition. No dangerous animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the animal from exiting the structure.

5. SIGNS. The owner or caretaker of a dangerous animal shall display, in prominent places on his or her premises near all entrances to the premises, signs in letters of not less than 2 inches high warning that there is a dangerous animal on the property. A similar sign is required to be posted on the kennel or pen of the animal. In addition, the owner or caretaker shall conspicuously display a sign with a symbol warning children of the presence of a dangerous animal.

6. SPAY AND NEUTER REQUIREMENT. Within 30 days after an animal has been designated dangerous, the owner or caretaker of the animal shall provide written proof from a licensed veterinarian that the animal has been spayed or neutered.

7. LIABILITY INSURANCE. The owner or caretaker of a dangerous animal shall present to the department or police department proof that the owner or caretaker has procured liability insurance in an amount not less than \$1,000,000 for any personal injuries inflicted by the dangerous animal. Whenever such a policy is cancelled or not renewed, the insurer shall so notify the department.

8. WAIVER BY COMMISSIONER. Upon request, the commissioner may waive any requirement specified in subs. 2 to 7 that the commissioner deems to be inappropriate for a particular dangerous animal.

9. DECLARATION AND ORDER. Upon investigation, a department may issue an order declaring an animal to be a dangerous animal and ordering the owner or caretaker to present the animal to the Milwaukee area domestic animal control commission for the purpose of having a microchip inserted for identification purposes. The cost of the microchip procedure shall be at the expense of the owner.

9.5. APPEAL. Whenever an owner or caretaker wishes to contest an order, he or she shall, within 72 hours after receipt of the order, deliver to the department a written objection to the order. If an owner or caretaker makes such an

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objection to the order, the department shall convene a hearing before a dangerous animal panel. The procedure for such appeal and the composition of the panel shall all be as specified ins. 78-25.

10. NOTIFICATION. The owner or caretaker shall notify the department or police department within 24 hours if a dangerous animal is at large, is unconfined, has attacked another animal or has attacked a human being, has died, has been sold or has been given away. If the dangerous animal has been sold or given away, the owner or caretaker shall also provide the department or police department with the name, address and telephone number of the new owner of the dangerous animal. If the dangerous animal is sold or given away to a person residing outside the city, the owner or caretaker shall present evidence to the department or police department showing that he or she has notified the police department or other law enforcement agency of the animal's new residence, including the name, address and telephone number of the new owner of the dangerous animal.

11. EUTHANASIA. If the owner or caretaker of an animal that has been designated a dangerous animal is unwilling or unable to comply with the regulations for keeping the animal in accordance with this section, he or she may have the animal humanely euthanized by an animal shelter, the humane society or a licensed veterinarian.

12. WAIVER. The commissioner may waive the provisions of subs. 2 to 7 for a law enforcement or military animal upon presentation by the animal's owner or handler of a satisfactory arrangement for safe keeping of the animal.

78-25. Prohibited Dangerous Animals.

1. NOT ALLOWED IN CITY. No person may bring into or keep in the city any animal that is a prohibited dangerous animal under this section.

2. DETERMINATION OF A PROHIBITED DANGEROUS ANIMAL. a. The commissioner may determine an animal to be a prohibited dangerous animal whenever the commissioner finds that an animal meets the definition of a prohibited dangerous animal in s. 78-1-34 or is a dangerous animal in non-compliance with any of the provisions of s. 78-23.

b. Declaration and Appeal. b-1. Upon investigation, a department or humane officer may issue an order declaring an animal to be a prohibited dangerous animal and ordering the owner or caretaker to present the animal to the

Milwaukee area domestic animal control commission for the purpose of having a microchip inserted for identification purposes. The cost of the microchip procedure shall be at the expense of the owner.

b-2. Whenever an owner or caretaker wishes to contest an order, he or she shall, within 72 hours after receipt of the order, deliver to the department a written objection to the order. The written objection shall include the specific reasons for objecting to or contesting the order. If an owner or caretaker makes such an objection to the order, the department shall convene a hearing. The hearing shall be conducted before a 3-person dangerous animal panel composed of an environmental health professional, a humane officer and a veterinarian, as designated by the commissioner of neighborhood services. Each panel member serves as an officer of the city exercising a quasi-judicial function within the scope of s. 893.80, Wis. Stats. At the hearing, the owner or caretaker shall have the opportunity to present evidence as to why the animal should not be declared a prohibited dangerous animal. The hearing shall be held promptly and within no less than 5 days nor more than 10 days after service of a notice of hearing upon the owner or caretaker of the animal.

c. Pending the outcome of the hearing, the animal must be securely confined in a humane manner either on the premises of the owner or caretaker or with a licensed veterinarian. The commissioner may order impoundment of the animal pending the result of the hearing.

d. After the hearing, the owner or caretaker shall be notified in writing of the panel's determination. If a determination is made that the animal is a prohibited dangerous animal, the owner or caretaker shall comply with sub. 1 in accordance with a time schedule established by the commissioner or chief of police, but in no case more than 30 days after the date of the determination. If the owner or caretaker further contests the determination, he or she may, within 5 days of receiving the panel's decision, appeal the decision to the administrative review appeals board.

3. DESTRUCTION. Any dog that has caused bodily harm to a person or persons on 2 separate occasions off the owner's premises, without reasonable cause, may be destroyed as a result of judgment rendered by a court of competent jurisdiction, as specified under s. 174.02(3), Wis. Stats. The city attorney may

petition an appropriate court to obtain a court order to destroy such a dog.

4. ENFORCEMENT. The department and police department may make whatever inquiry is deemed necessary to ensure compliance with this section.

5. WAIVER. The commissioner may waive the provisions of this section for a law enforcement or military animal upon presentation by the animal's owner or handler of a satisfactory arrangement for safe keeping of the animal.

78-27. Control of Rabid Animals. 1. The owner of any animal which has contracted rabies or which has been exposed to rabies or which is suspected of having rabies or which has bitten any person and is capable of transmitting rabies shall upon demand of the police department or commissioner produce and surrender the animal to the police department or commissioner to be held in quarantine in a place designated by the commissioner for observation for a period of time determined by the commissioner.

2.a. If, upon investigation by the commissioner an animal other than a dog or cat has bitten a person or appears to be infected with rabies, the animal may be destroyed as directed by the commissioner, in accordance with s. 95.21(4)(b), Wis. Stats.

b. If, upon investigation by the commissioner and a determination by a veterinarian that a dog or cat exhibits symptoms of rabies, the dog or cat may be destroyed as directed by the commissioner, who shall act in accordance with s. 95.21(5)(d), Wis. Stats.

3. No person may knowingly harbor or keep any animal infected with rabies or any animal known to have been bitten by a rabid animal.

78-29. Animals; Disturbing the Peace.

1. COMPLAINTS. No person may own, keep, have in his or her possession or harbor any bird or animal which by frequent and habitual howling, yelping, barking or otherwise shall cause serious annoyance or disturbance to persons in the neighborhood. No prosecution may be commenced except upon the request of the commissioner following written complaint signed by one or more affected adult persons. No persons may be convicted under the provisions of this section except upon testimony of one or more adult persons.

2. CITATIONS. Notwithstanding sub. 1, enforcement personnel from the department and the police department may utilize a citation to help

obtain relief from animal annoyances. In such instances, a notice shall be issued to the owner or caretaker of the animal producing the alleged nuisance specified by the complainant. Following issuance of such notice and where subsequent complaints are received of an alleged continued nuisance, the designated enforcement agencies may attempt to verify the reported animal nuisance. Where such verification is accomplished, these enforcement personnel may issue or cause to be issued a citation in accordance with other provisions of this chapter on the owner or caretaker of the animal causing the disturbance.

78-31. Cruelty to Animals. 1. CRUELTY. a. No person may cause, allow or personally beat, frighten, overburden, neglect or abuse any animal or bird, or use any device or chemical substance by which pain, suffering or death may result, whether the animal or bird belongs to the person or another, except that reasonable force may be used to drive off dangerous or trespassing animals.

b. No person shall abandon or transport any animal or bird in a cruel manner.

2. FOOD AND WATER. No person owning or having custody of any animal or bird may neglect or fail to provide it with necessary nourishing food at least once daily and provide a constant supply of clean water to sustain the animal or bird in good health.

3. SHELTER. a. No person may fail to provide any animal or bird in his or her charge with shelter from inclement weather to insure the protection and comfort of the animal or bird.

b. When sunlight is likely to cause overheating or discomfort to any animal or bird, shade shall be provided by natural or artificial means to allow protection from the direct rays of the sun.

c. Dogs and cats kept outdoors for more than one hour at a time shall be provided with moisture proof and windproof shelter of a size which allows the animal to turn around freely and to easily sit, stand and lie in a normal position and to keep the animal clean, dry and comfortable. Whenever the outdoor temperature is below 40° F, clean, dry bedding material in quantity and type approved by a duly appointed humane society officer shall be provided in such shelters for insulation and to retain the body heat of the animal. Automobiles shall not be used as animal shelters.

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d. No person shall keep, harbor, raise or possess any animal or bird in any garage, shed or vacant structure.

4. LEASHES. Chains, ropes or leashes shall be placed or attached so that they cannot be entangled with another animal or object and shall be of sufficient length in proportion to the size of the animal to allow the animal proper exercise and convenient access to food, water and shelter. A leash shall be located so as not to allow an animal to trespass on public or private property nor in such a manner as to cause harm or danger to persons or other animals.

5. ANIMAL FIGHTING. a. Instigation. No person shall cause or allow any animal to lunge at, or fight any other animal or person.

b. Spectators. No person shall intentionally be a spectator of animal fighting.

6. ANIMAL FIGHTING PARAPHERNALIA. a. Definition. In this subsection, "animal-fighting paraphernalia" means equipment, products or materials of any kind that are used, intended for use or designed for use in the training, preparation, conditioning or furtherance of animal fighting, including but not limited to the following:

a-1. A breaking stick, or device designed for insertion behind the molars of a dog for the purpose of breaking the dog's grip on another animal or object.

a-2. A cat mill, or a device that rotates around a central support with one arm designed to secure a dog and one arm designed to secure a cat, rabbit or other small animal beyond the grasp of the dog.

a-3. A treadmill, or an exercise device consisting of an endless belt on which an animal walks or runs without changing places.

a-4. A springpole, or a biting surface attached to a stretchable device, suspended at a height sufficient to prevent a dog from reaching the biting surface while touching the ground.

a-5. A fighting pit, or a walled or otherwise defined area designed to contain an animal fight.

a-6. Any other instrument commonly used in the furtherance of pitting one animal against another animal.

b. Prohibited Activity. No person shall intentionally own, possess, sell, transfer or manufacture animal-fighting paraphernalia with the intent to engage in or otherwise promote or facilitate animal fighting.

c. Penalty. c-1. Any animal-fighting paraphernalia used in violation of this section shall be seized and forfeited to the city.

c-2. Any person who violates this subsection shall, upon conviction, be subject to a

forfeiture of not more than \$500, together with the costs of prosecution, and upon default of payment be imprisoned as permitted under law.

7. VETERINARY CARE. No owner or caretaker of any animal shall fail to get prompt veterinary care for the animal if the animal is bleeding or injured, and the owner or caretaker shall provide a copy of a current dog or cat license upon request.

8. ANIMALS IN PARKED VEHICLES.

a. Prohibited. No person shall leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of the animal due to heat, cold, lack of adequate ventilation, lack of food or water, or any other circumstance that could reasonably be expected to cause suffering, disability, or death to the animal.

b. Removal of Animal. A member of the police department or fire department who observes a violation of par. a is authorized to take all steps that are reasonably necessary for the removal of an animal from an unattended motor vehicle after making a reasonable effort to locate the motor vehicle owner or other person responsible.

78-33. Nuisance Birds. Starlings, English sparrows and feral pigeons are declared a public nuisance and may be trapped or destroyed under the supervision of the commissioner subject to applicable federal and state regulations.

78-35. Bird Feeding. Feed for birds shall be placed in a covered hopper, gravity type feeder. The platform of the feeder shall be of reasonable size and surrounded by a ledge to deter food from blowing off. The feeder shall be placed on top of a rodent-proof pole which extends at least 3.5 feet above the ground and shall be placed at least 6 feet from the nearest climbable object, or the feeder may be suspended from a tree if protected by rodent guards. Feed for birds shall not be placed on the ground where it is accessible to rodents. No more than 4 bird feeders shall be located on any premises. The feeder shall be maintained in a sanitary condition and cleaned regularly. The area below the feeder shall also be kept free of accumulations of feed.

78-37. Pigeon Harborages. Whenever the owner or tenant of any property in the vicinity of a premises upon which there are pigeon harborages makes a complaint to the department of a feral pigeon nuisance and if a pigeon nuisance is found to exist, the commissioner shall order the owner or manager of the premises to make the premises

reasonably pigeon-proof and when necessary cover openings with hardware cloth or other suitable material for preventing pigeons from entering in or upon the premises.

78-39. Selling Baby Fowls. No person may display, give away or sell baby chicks or ducklings or any other young of domestic or nondomestic fowl as pets or novelties provided, however, that this prohibition does not apply to baby chicks kept pursuant to s. 78-6.5.

78-41. Stuffed Animals; Preservatives. No person may sell dead, stuffed birds or animals as novelties which have been preserved with arsenic or any other substance toxic to humans.

78-43. Turtles. No person may sell live turtles with a carapace length of less than 4 inches as pets or novelties.

78-45. Giving Away Animals as Prizes. No person may raffle or give as a prize or premium any live animal.

78-47. Display of Birds in Food Establishments. No person may display birds of the psittacine family in any store selling, giving away or preparing food or drink for human consumption unless the birds are so enclosed as to prevent any possible contamination of the food or drink.

78-49. Removal of Dead Animals. Any person owning or having charge or control of any dead animal except those intended for food purposes shall remove the same from the city within 12 hours after the time of the death of the animal. Any person who fails to do so shall relinquish all rights to any such animal, and the commissioner may order the animal removed after the expiration of such time.

78-51. Disposal of Dead Animals and Condemned Meat Products. The commissioner of public works shall collect and dispose of all dead animals reported or found within the city, any fish, poultry or meat products which may be condemned by and ordered removed by the commissioner, and dead fish harvested by the harbor commission. Such collection and disposal may be provided by representatives of the commissioner of public works, or the commissioner of public works may cause the

collection and disposal by private contractor. All collection and disposal shall be undertaken within 12 hours of notice and in a safe and sanitary manner satisfactory to the commissioner.

78-53. Conveyance of Dead Animals.

1. **PARKING.** No person may cause or allow any means of conveyance, including railway cars, used for the transport of dead animals, whether filled or partially filled, to remain at any point within the city for a period longer than 24 hours. No odor nuisance may be created by such parking.

2. **SANITARY CONDITION.** No person may cause or allow any conveyance or vehicle which is used for the transport of dead or live animals when the same is not in use to be stored or kept on any premises in the city unless the conveyance or vehicle has been cleaned, disinfected and deodorized or as may otherwise may be directed by the commissioner.

3. **CONSTRUCTION.** No person may use or cause to be used any conveyance or vehicle to carry or hold dead animals or animal refuse in the city, unless the conveyance or vehicle has watertight floors and sides and unless the conveyance or vehicle is constructed and arranged to shield its contents from view and prevent leakage or loss of contents or escape of odors

78-55. Penalties and Enforcement.

1. **BY ORDER.** a. Whenever any violation of this chapter is found, the commissioner may issue a written order setting forth the character of the violation. This order may be served in any of the following ways:

a-1. Personally.

a-2. By posting in a conspicuous location on the premises where an animal is kept.

a-3. By mailing with an affidavit of the same to the operator of the establishment or place, or to a person responsible for a violation at his or her last known address.

a-4. By leaving a copy at his or her usual place of business with a responsible employee, or his or her usual place of abode in the presence of some competent member of the family at least 14 years of age, which employee or family member shall be informed of the contents of the order.

b. The order shall direct the person to correct such practices or conditions within a reasonable period of time to be determined by the commissioner. The order shall also state the potential legal or enforcement consequences if

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such practices or conditions have not been corrected within that period of time.

2. SUSPENSION OR REVOCATION OF PERMITS. a. Suspension. If at the end of a period of time set forth in an order, a reinspection by the commissioner reveals that the practices or conditions have not been corrected and such practices or conditions pose a potential threat to the health of persons exposed, the commissioner may notify the operator of the business or place of the commissioner's intent to suspend the permit and give such notice in writing to the operator and also the operator's right to a hearing and the request procedure. When the commissioner determines that existing conditions and violations pose an imminent and immediate and dangerous threat to the health of persons exposed to such conditions, the commissioner may order immediate suspension of a permit by written notification along with instructions on the hearing procedure for review of such an action.

b. Revocation. The commissioner may serve written notice to an operator of the commissioner's intent to revoke a permit issued pursuant to this chapter and shall notify the operator of his or her right to a hearing prior to the action and the process for appeal. Grounds for the commissioner's intent to revoke a permit shall include any of the following:

b-1. The operator has a record of excessive, continuing or recurring violations.

b-2. The violations pose an immediate threat to the public's health or an imminent danger to other animals in the community and unsatisfactory action has been taken by the operator to eliminate the conditions.

b-3. A permit issued pursuant to this chapter has been suspended, and the corrections necessary for reinstatement of the permit have not been made within 6 months following notice of the suspension.

b-4. The operator or persons representing the operator have interfered with the lawful inspection or enforcement activities of the commissioner concerning the place of permit by physical abuse or denial of entry.

3. HEARING. Any person whose permit to operate an establishment or place regulated under this chapter has been suspended, or who has received notice from the commissioner that the permit is to be suspended unless existing conditions or practices at the establishment are corrected, or that the permit is to be revoked, may request and shall be granted a hearing on the matter before the commissioner. If no written petition for a hearing is filed in the office of the commissioner within 15 days following the day on

which the notice was mailed or delivered, the permit shall be deemed to have been automatically suspended or revoked. Upon receipt of notice of permit suspension or revocation, the operator shall cease to operate the establishment. Upon receipt of petition for a hearing, the commissioner shall within 10 days notify the petitioner of the date, time and place of the hearing. Following the hearing the commissioner shall modify or withdraw the notice of permit suspension or revocation or shall suspend or revoke the permit, as in the commissioner's judgment is necessary to protect the public health, safety and welfare of the citizens of Milwaukee and shall notify the petitioner in writing of the decision.

4. APPEALS. Decisions of the commissioner may be appealed to the administrative review appeals board.

5. CITATIONS. The police department may issue citations for any violation of this chapter except that the police department may not determine an animal to be a prohibited dangerous animal under s. 78-25.

6. VIOLATIONS OF CERTAIN REGULATIONS. a. Any person violating any of the following provisions of this chapter listed in Column A for which specific penalties are not provided elsewhere in this subsection shall be liable on conviction to the penalties listed in column B and described in ch. 61:

A	B
78-3-1	Class I
78-5-1	Class F
78-5-2-a	Class C
78-5-2-b	Class L
78-5-2-c	Class F
78-5-3	Class C
78-6 to 78-19	Class C
78-22	Class F
78-23-1 to 78-23-7	Class F
78-23-10	Class I
78-25-1	Class K
78-27 to 31	Class F
78-35 to 47	Class C
78-49	Class F
78-53	Class F

b-1. Any person who commits a second or subsequent violation of s. 78-17-1 or s. 78-19-1, or who commits a second or subsequent violation of an order issued under s. 78-17-1 or s. 78-19-1, shall be liable upon conviction to a Class D penalty under ch. 61.

b-2. Any person who commits a first violation of s. 78-23-2, 78-23-3 or 78-23-4, or who commits a first violation of an order issued under s. 78-23-2, 78-23-3 or 78-23-4 that results in a dangerous animal being at large, shall be liable upon conviction to a Class I penalty under ch. 61.

b-3. Any person who commits a second or subsequent violation of s. 78-23-2, 78-23-3 or 78-23-4, or who commits a second or subsequent violation of an order issued under s. 78-23-2, 78-23-3 or 78-23-4 that results in a dangerous animal being at large, shall be liable upon conviction to a Class L penalty under ch. 61.

b-4. Any person who commits a violation of s. 78-23-1 that results in a dangerous animal causing bodily harm to a person shall be liable upon conviction to a Class L penalty under ch. 61.

b-5. Any person who commits a second or subsequent violation of s. 78-25-1 or who commits a second or subsequent violation of an order issued under s. 78-25-1 shall be liable upon conviction to a Class L penalty under ch. 61, each day of violation or noncompliance being a separate violation.

b-6. Any person who commits a second or subsequent violation of s. 78-31-1 or s. 78-31-5-a, or who commits a second or subsequent violation of an order issued under s. 78-31-1 or s. 78-31-5-a, shall be liable upon conviction to a Class L penalty under ch. 61.

c. If a person continues in violation of an order, the person shall be liable for further prosecution, conviction and punishment upon the same order without the necessity of the commissioner issuing a new order.

7. CITATIONS. a. Citations may be issued for all violations listed in sub. 6 with or without a prior order or notice.

b. The stipulation, forfeiture and court procedure as set forth in s. 50-25 shall apply.

For legislative history of chapter 78,
contact the Municipal Research Library.

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CHAPTER 79 SOLID WASTE REGULATIONS

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SUBCHAPTER 1 SOLID WASTE REGULATIONS

79-1. Definitions. The following definitions shall apply in the interpretation and enforcement of this subchapter.

1. APPROVED shall mean approved by the commissioner of public works.

2. COMMISSIONER shall mean the commissioner of public works and such supervisory employees of the department to whom his authority may be delegated.

2.5. COMPOSTING means the controlled biological reduction of organics to humus.

3. DEPARTMENT shall mean the department of public works.

4. DWELLING UNIT shall mean any habitable room or group of adjoining habitable rooms located within a dwelling and forming a single unit with facilities which are used or intended to be used for living, sleeping, cooking or eating of meals.

4.3. ELECTRONIC DEVICE has the meaning given in s. 287.17 (1) (gm), Wis. Stats.

4.5. EXTRA GARBAGE CART means any city-issued garbage cart in excess of one garbage cart per dwelling unit provided for the collection of solid waste pursuant to s. 79-4-1.3.

5. HAZARDOUS SUBSTANCE means any substance or combination of substances including any waste of a solid, semi-solid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may

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pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration, or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives.

5.5. LANDFILL MATERIAL means material that is neither recyclable material nor suitable for composting.

6. LIQUID WASTE shall include drain oil, dirty or waste grease, paints, lacquers, varnishes, thinners, cleaning agents or solvents, and other similar waste materials.

7. LITTER shall include any waste or other things, substances or materials such as garbage, rubbish, used tires, manure, stones, gravel, sand, earth, grass, hay, leaves, twigs, shrubs, branches, ashes, cinders, sawdust, sweepings, dirt, glass, earthenware, wire, nails, construction waste, liquid waste, ice, snow, paper, electronic devices, oil filters, oil absorbent materials and all other debris and discarded materials of similar nature.

7.5. MULTIPLE-FAMILY DWELLING means a property containing 5 or more dwelling units, including those which are occupied seasonally.

8. NAUSEOUS OR OFFENSIVE MATERIALS are those which are unwholesome in nature or have an unpleasant smell or are otherwise nauseous or offensive, such as manure, filth, slops, carcasses, carrion, meat, fish, entrails, hides and hide scrapings, paint, kerosene, oily or greasy substances, and also objects that may cause injury to any person or animal, or damage to vehicle tires such as nails, tacks, pieces of metal, wire, briar thorns, broken glass, and other similar materials or substances.

8.5. OIL ABSORBENT MATERIALS means materials that are used to absorb waste oil.

8.7. OIL FILTER means a filter for motor vehicle engine oil.

8.13. WASTE OIL means any petroleum-derived or synthetic oil that has been used or spilled.

9. PERSON includes any individual, contractor, firm or corporation, or agent or servant thereof.

10. PREMISES shall mean a platted lot or part thereof or unplatted lot or parcel of land or plot of land, either occupied or unoccupied by any dwelling or nondwelling structure.

11. RECYCLABLE MATERIAL has the meaning specified in s. 79-23-23.

11.5. RESIDENTIAL DWELLING means a property containing 4 or fewer dwelling units.

12. SOLID WASTE consists of the following categories:

a. Bulky waste is discarded articles, including, but not limited to, furniture designed or manufactured for indoor use, including, but not limited to, upholstered furniture, that has been left exposed in an outdoor area, including an unenclosed porch. The term does not include electronic devices, as defined in sub. 4.5, or major appliances as defined in s. 79-23-10.

b. Commercial waste is garbage, rubbish, tree waste, bulky waste, liquid waste, or nauseous or offensive materials resulting from the operation of business enterprises, including, but not limited to, factories, offices, stores or restaurants.

c. Construction waste is waste resulting from construction, demolition, alteration or repair, including excavated material. This includes, but is not limited to, roofing material, brick, stones, concrete, lumber, drywall, paneling and other construction material and is exclusive of any waste resulting from a fire, any painted bricks, blocks or concrete, any asphalt, or any concrete containing iron rods.

d. Domestic waste is garbage, rubbish, tree waste, or certain liquid waste or nauseous or offensive materials resulting from human habitation and the usual routine of housekeeping of residential or multiple-family dwelling units, churches, charitable educational institutions, charitable organizations or residence buildings used by such charitable organizations incident to their operation.

e. Garbage is all waste, animal, fish, fowl, fruit, or vegetable matter incident to and resulting from the use, preparation or storage of food for human consumption, including spoiled food.

f. Manufacturing waste is waste resulting from manufacturing or industrial processes, but shall not include waste generated by human habitation of the manufacturing or industrial premises.

g. Organics is compostable garbage and yard waste.

h. Rubbish is miscellaneous waste material resulting from housekeeping or ordinary mercantile enterprises, including boxes, cartons, excelsior, paper, ashes, cinders, tin cans, bottles, broken glass, metals, rubber, packaging, including flexible packaging or multi-layer containers, plastics, lawn or garden waste or similar materials.

i. Tree Waste is domestic or commercial waste resulting from the removal, pruning or trimming of trees, including branches, limbs, trunks and stumps having a diameter of greater than 6 inches.

j. Yard waste is leaves, grass clippings, garden debris and brush. Brush includes branches and tree limbs having a diameter of less than 6 inches.

13. WASTE TIRE means a tire that is no longer suitable for its original purpose because of wear, damage or defect. The term includes an unserviceable tire as defined in s. 84-48.

79-2. Collection Regulations. 1. GENERAL REGULATIONS; MULTIUNIT DWELLINGS.

a. Mixed solid waste of domestic origin, unless contents are specifically excluded, shall be collected by the department, provided such waste is properly handled, contained, stored and located in conformance with the rules of the commissioner.

b. The department shall charge a fee to the owners of multiunit dwellings with 5 or more units, except condominiums, to recover 100% of the cost of collection services.

b-1. The fee charged under this paragraph shall include indirect costs.

b-2. The amount of the fee charged under this paragraph shall be determined on or before January 31 of each year by the commissioner of public works, subject to the approval of the common council. After January 31 of each year, based on the level of revenue being generated during that year, the commissioner may change the charge rate no more than once additionally per year to meet the cost recovery goal cited above, again subject to the approval of the common council.

b-3. The commissioner of public works shall annually on or before September 28, submit a report to the common council relating to the number of multiunit dwellings with 5 or more units serviced, fees collected versus not-collected and net cost recovery rate.

b-4. Whenever any fee authorized to be collected under this paragraph has been billed but has not been timely paid, the commissioner may impose a special charge against the property for the amount of the unpaid fee as provided in s. 79-16-2-b.

c. Owners of multiunit dwellings with 5 or more units who choose not to have city removal of solid waste shall be required to provide for removal of solid waste on a weekly basis.

2. DOMESTIC GARBAGE shall be drained of all free liquid, placed in plastic bags or wrapped in several thicknesses of paper or other

similar material and stored in approved containers. The department may refuse to collect undrained garbage that is not properly stored.

3. COMMERCIAL GARBAGE need not be wrapped, but must be stored in approved containers. Such unwrapped garbage may be collected by the department, subject to the rules of the commissioner. Undrained garbage of a liquid or semi-liquid nature shall not be collected.

4. RUBBISH shall be stored in approved containers. Ashes shall be sufficiently dampened to prevent spreading of particles and dust, but shall not be wet beyond this point. Rubbish that is larger than can be stored in approved containers shall be securely tied in compact bundles, not to exceed 100 pounds in weight or more than 4 feet in length, or more than 2 feet in diameter, and placed adjacent to waste containers. Tree logs and branches shall not exceed 4 feet in length, or 10 inches in diameter, and shall be placed immediately behind the curb or alley line.

5. SMALL DEAD ANIMALS found in the public right-of-way shall be collected by the department.

6. NAUSEOUS OR OFFENSIVE WASTE. Liquid, manure, and other offensive or harmful waste. All liquid, hazardous or toxic waste, and certain nauseous or offensive waste shall be stored separately from all other waste in approved containers. Such containers shall be clearly labeled, rodent resistant, nuisance free, safe and secured to prevent access by the public, or as otherwise provided in the rules of the commissioner and not contrary to any order from the commissioner of health or the commissioner of neighborhood services. Such waste shall be considered commercial waste, and need not be collected by the department.

7. CONSTRUCTION WASTE. No owner, lessee, managing agent or contractor shall permit an accumulation of construction waste to remain upon any premises, street, alley or public place. Such waste shall be stored and handled in an approved manner and not contrary to any order of the commissioner of health or the commissioner of neighborhood services. Such waste shall be considered commercial waste and need not be collected by the department except such persons may apply to the department for special collection service as provided under s. 79-6.5.

8. DOMESTIC TREE AND BULKY WASTE. a. Trees, logs and branches generated in normal household maintenance not exceeding 2 cubic yards shall be collected by the department between April 1 and November 30.

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The waste shall be stored and handled in an approved manner and not contrary to any order of the commissioner of health or the commissioner of neighborhood services. Collection shall be scheduled as practical by the department.

b. Bulky waste not exceeding one cubic yard shall be collected by the department. The waste shall be stored and handled in an approved manner and not contrary to any order of the commissioner of health or the commissioner of neighborhood services. Collection shall be scheduled as practical by the department.

9. **MANUFACTURING WASTE** shall be clearly labeled and stored in an approved manner, not contrary to any order of the commissioner of health or the commissioner of neighborhood services. No person shall allow an excessive accumulation of such waste upon any premises, but shall cause such waste to be removed regularly and as necessary. The department shall not be responsible for collection of such waste.

10. **LEAD ACID BATTERIES.** In this subsection, "lead acid battery" means any battery which is primarily composed of both lead and sulfuric acid, with a capacity of 6 volts or more.

a. No person may place a used lead acid battery in mixed municipal solid waste or discard or otherwise dispose of a lead acid battery except by delivery to an automotive battery retailer or wholesaler, a collection or recycling facility or a secondary lead smelter.

b. No automotive battery retailer may dispose of a used lead acid battery except by delivery to the agent of a battery wholesaler, to a battery manufacturer for delivery to a secondary lead smelter, to a collection or recycling facility or to a secondary lead smelter.

c. Each battery improperly disposed under pars. a or b shall constitute a separate violation.

d. Retailers and wholesalers of lead acid batteries shall provide for collection of used lead acid batteries for recycling as follows:

d-1. Any person selling lead acid batteries at retail shall accept at the point of transfer, in a quantity at least equal to the number of new batteries purchased, used lead acid batteries offered by customers.

d-2. Any person selling lead acid batteries at wholesale shall accept at the point of transfer, in a quantity at least equal to the number of new batteries purchased, used lead acid batteries offered by customers. Any automotive battery wholesaler accepting batteries from any automotive battery retailer shall remove batteries

from the retail point of collection not less than every 90 days.

11. **YARD WASTE.** Yard waste shall not be collected by the department. Residents shall dispose of yard waste generated on their properties at sites designated by the commissioner.

a. Yard waste shall be disposed of at least once every 2 weeks during the yard waste season as determined by the commissioner, except that residents may allow grass clippings to remain on their lawns rather than adding them to other yard waste which may accumulate on their properties, or grass clippings and garden debris may be composted in a manner specified by the commissioner.

b. Between disposals, yard waste shall be stored in bags, boxes or other containers in a manner preventing creation of a nuisance.

c. Upon disposal at approved sites, residents shall debag or otherwise decontainerize all yard waste before depositing it in the yard waste receptacles provided.

12. **OIL FILTERS AND OIL ABSORBENT MATERIALS.**

a. No person may place a used oil filter in mixed municipal solid waste.

b. No person may place oil absorbent materials in mixed municipal solid waste, except for the disposal of less than one gallon of oil absorbent materials that contain waste oil resulting from a nonroutine spill.

13. **ELECTRONIC DEVICES.**

a. Electronic devices as specified in s. 287.07 (5), Wis. Stats., shall be collected by the department as provided under s. 79-6.5-9.

b. No person may place an electronic device in mixed municipal solid waste or discard or otherwise dispose of an electronic device except by delivery to an electronic device collection or recycling facility.

79-3. Waste Containers Required.

1. **RESIDENTIAL PREMISES.** Containers as specified under s. 79-4 or as otherwise approved by the commissioner shall be provided by the owner for each dwelling unit. Containers shall be kept clean and maintained in good repair and shall be free and fully accessible at all times for handling for collection. Sufficient containers for not less than 2 weeks' accumulation shall be required for each dwelling unit. For purposes of this section, the minimum of containers shall be determined on the basis of one can for each resident person in the dwelling unit.

2. NUISANCE ABATEMENT. Where a nuisance is found to exist due to insufficient containers, an order shall be directed to the property owner, where practical, to furnish sufficient approved containers as required in this section. Except for receptacles required in sub. 4-a-1 where the owner fails to provide such containers or where it is impractical to serve such an order, the city shall furnish the required containers and assess the cost thereof as a lien upon the lot or premises involved in the same manner as any tax on real estate.

3. FOR COMMERCIAL OFF-STREET PARKING AREAS. Owners or operators of commercial or business establishments which have off-street parking areas available for their patrons shall provide approved waste receptacles in such parking areas for the use of patrons of such establishments sufficient to receive and store solid waste discarded by such patrons; such receptacles to be serviced by said owners or operators or their private hauler.

4. FOR COMMERCIAL AREAS.
a-1. Receptacles Required. Containers as specified under s. 79-4 or as otherwise approved by the commissioner shall be provided by the property owner or operator. Containers shall be maintained in good repair. Sufficient containers for not less than 2 weeks' accumulation shall be required for the property or business, and collection shall be made at least weekly unless arrangements are made for more frequent collection as required by the department. The property owner or operator shall ensure the waste is removed by a private entity.

a-2. Receptacles to be Secured. The owners or operators of shopping centers, commercial or business establishments are to secure all of their solid waste receptacles not meant for public or their patrons' use and which are located on their premises but outside of any building. If such solid waste receptacles are not secured, the owners or operators of such shopping centers, commercial or business establishments shall provide enclosures constructed so as to prevent ready access to such receptacles. Such enclosures located on the property shall further be constructed so that they shall provide a compatible and practical arrangement on the premises and surrounding area.

a-3. Receptacle Lids to be Closed. The owners or operators of shopping centers, commercial or business establishments are to ensure that the lids of solid waste containers are kept closed and that garbage remains inside the

containers and does not overflow the containers. A property owner who permits a quantity of garbage on their property that exceeds the space available in their waste container or containers shall acquire additional receptacles or increase the frequency of garbage collection, or shall be subject to the penalties of s. 79-16.

b. Large Appliances to be Enclosed. Owners or operators of business and commercial establishments storing large appliances such as refrigerators, stoves, washing machines and other similar items outside of the building structure, shall provide enclosures of the area wherein such items are stored in the same manner and as provided in par a.

c. Definitions. For the purpose of subs. 3 and 4, the following terms therein are defined as follows:

c-1. "Approved waste receptacles" shall mean those as provided and defined in s. 79-4.

c-2. "Secure" shall mean to be locked or closed in such a manner so as to prevent ready access to contents thereof.

c-3. "Shopping center" shall mean a group of commercial establishments planned and developed generally as a unit with off-street parking facilities provided on the property for patrons of said establishments.

79-4. Waste Container Regulations.

1. PORTABLE CONTAINERS.

a. Requirements. Portable containers for waste, except for containers for use in cart collection, shall be rodent resistant of substantial metal construction equipped with at least 2 handles and a tight fitting cover, shall have a capacity of not less than 20 nor more than 32 gallons and no single container when filled shall weigh more than 100 pounds. Waste not containing garbage may be stored in other approved ways as provided in this chapter, and in the rules of the commissioner.

am. Responsibility for Providing Portable Waste Containers. In areas of the city where the use of carts for the disposal of solid waste has been approved by the common council:

am-1. Owners of single, 2-, 3-, or 4-family dwelling units shall be provided carts by the city.

am-2. Owners of multi-unit dwellings of 5 or more units in the same structure shall provide, at their cost, containers of a type specified by the operations division.

as. Repair, Replacement or Sale. The operations division may:

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as-1. Repair damaged portable containers or replace them if necessary and charge the property owner accordingly in cases where damage or loss can be determined by resident's misuse of the container.

as-2. Sell portable containers, at cost, to those property owners or individuals who require them for the proper disposal of waste.

as-3. Make a special assessment against the property served by the portable container if any charge for repair, replacement or sale of a container is not paid for within 30 days from receipt of billing statement.

b. Plastic Bags, etc. Approved bags and boxes made of plastic or paper shall not be used outside of the portable containers, except for the sole purpose of storing grass clippings, leaves, branches and paper.

c. Posting of Signs. Retail stores selling approved plastic bags intended or generally used for the storage of garbage, rubbish and trash shall have posted, in the vicinity of said bags, in a prominent and conspicuous manner, using bold lettering at least one inch in height, a placard stating as follows: "Garbage stored in plastic bags must be placed in garbage cans." This section of the code shall also be cited on the placard.

1.3. EXTRA GARBAGE CART CHARGE.

a. Purpose. The purpose of this section is to permit the city as authorized under ss. 66.0405 and 66.0627, Wis. Stats., to recover costs relating to providing extra garbage carts for the collection of solid waste from one, 2-, 3- and 4-family dwelling units.

b. Charge. The department may authorize the issuance or retention of extra garbage carts, if necessary, to provide for proper storage and disposal of domestic waste and garbage. Owners of properties that receive or retain extra garbage carts shall pay an extra garbage cart fee as provided for under s. 81-51.5.

c. Overall Responsibility for Administering the Extra Garbage Cart Charge. The commissioner of public works shall administer the extra garbage cart charge. The commissioner may formulate and promulgate rules which shall be applicable with respect to the administration and collection of the extra garbage cart charge, and may make amendments thereto, subject to approval by the public works committee as may be required from time to time for proper application of the extra garbage cart charge.

d. Responsibility of City Officers and Departments Administering the Extra Garbage Cart Charge.

d-1. Superintendent of Water Works. The superintendent of water works shall be responsible, under the commissioner of public works, for the administration of the extra garbage cart charge. The superintendent shall collect the charge and transmit the revenue therefrom to the city treasurer together with solid waste, water, snow and ice removal cost recovery charge and local sewerage revenues as received.

d-2. City Treasurer. The city treasurer shall receive revenues from the extra garbage cart charge and shall also collect delinquent accounts when the delinquent accounts have been placed on the tax roll as provided for in this section.

d-3. City Comptroller. The city comptroller shall certify to the commissioner of assessments delinquent accounts to be placed on the tax roll, which shall be collected in the same manner as special charges under s.66.0627, Wis.Stats. The comptroller shall keep separate accounts of all the funds, receipts and payments on account of the extra garbage cart charge.

e. Billing and Collecting. e-1. The extra garbage cart charge shall be levied against the water account and shall be calculated by the water works. The charge shall be added to the city services user bill and shall be due and payable in the same manner as water bills.

e-2. An interest penalty and late charge of 3% on outstanding balances shall be charged on all past due accounts each quarter. This fee may be waived by the water works where deemed warranted by special circumstances. Charges that remain unpaid for 2 full quarters shall be deemed delinquent. The delinquent user charges and 10% penalty shall be reported to the city comptroller for placement on the tax roll.

e-3. When partial payments of the combined city services user bill are made, the property owner may direct in writing how the partial payment is to be applied to the combined bill. If there is no written direction, the partial payment shall be applied to the water charges first. Any portion of the partial payment remaining after the water charges are paid for shall be applied to the metropolitan sewerage district charges, the local sewerage charges, the storm

water management charges, the solid waste charge, the extra garbage cart charge and the snow and ice removal cost recovery charge, in that order; and then late charges for the solid waste charge, the snow and ice removal cost recovery charge and the extra garbage cart charge. Any overpayment of the combined bill shall be applied to the water charge on the account for the property.

f. **Saving Clause.** It is the intent of the common council that the provisions of this section relating to an extra garbage cart charge, and the application of revenue from this charge are separable. If any provision or part of this section be held unconstitutional or invalid by a court of competent jurisdiction, the decision shall not affect the validity of any other provisions or part of the section which other provisions and parts shall remain in full force and effect.

g. **Appeal Procedure.** g-1. Whenever any extra garbage cart charge is imposed in accordance with this section, and the person required to pay the charge feels aggrieved as a result of the imposition or collection of the charge, the person shall pay the charge when the same shall become due, but shall pay it "under protest." Within 20 days following the payment, the person may file with the commissioner of public works a complaint to the effect that the person is aggrieved by the imposition and collection of the extra garbage cart charge, his or her specific reasons for objection and the amount of the overcharge complained of.

g-2. If, upon review by the commissioner of public works, it is determined that all or any part of any extra garbage cart charge paid under protest is not just or reasonable, the commissioner shall institute necessary procedures for a refund. If any person feels aggrieved by the determination of the commissioner, the person may file a complaint with the administrative review appeals board, pursuant to s. 320-11.

1.5. PORTABLE CONTAINERS; PROHIBITED USES. a. No person shall use a city-owned portable waste container or a city-owned portable recyclable material container for any purpose except the storage of waste or recyclables for curbside or alley collection by the operations division. No person shall use a city-owned portable waste container or a city-owned portable recyclable material container to transport any material for any purpose other than to transport waste or recyclables from the premises to the curb or alley for collection.

b. No person who is the owner, occupant, manager or other responsible agent of any property from which the operations division does not collect waste or recyclables shall permit a city-owned portable waste container or a city-owned portable recyclable material container to be brought onto or remain on the property.

2. NONPORTABLE CONTAINERS. Owners, lessees or managing agents of multi-unit dwellings of 5 or more units in the same structure or condominium design shall provide, at their cost, containers of a type specified by the operations division where the use of portable waste containers is inappropriate. Nonportable containers shall be fully enclosed, rodent resistant and of substantial construction, and have a minimum capacity of one-half cubic yard per dwelling unit or of sufficient capacity to hold 2 weeks of waste accumulation. All owners, lessees or managing agents providing nonportable containers as described in this subsection shall be required as a condition of collection to sign a written declaration, formulated by the city attorney, to the effect that the city shall be held harmless as against any claim, demand or cause of such action which may arise as a result of such collection in favor of any person or entity.

2.5 NONPORTABLE CONTAINERS; CLOSURE OF LIDS. The owner of a multi-family residential property shall ensure that the lids of waste containers are kept closed and that garbage remains inside the receptacle and does not overflow the containers. A property owner who permits a quantity of garbage on their property that exceeds the space available in their waste container or containers shall acquire additional receptacles or increase the frequency of garbage collection, or shall be subject to the penalties of s. 79-16.

3. NONPORTABLE CONTAINERS; CONSTRUCTION. Nonportable, mechanical lift, tapered rear loading containers equipped with casters, wheels, or rollers shall be fully enclosed, rodent resistant, and of substantial construction. Containers shall be secured or modified in such a manner as to prevent accidental tipping or free-rolling.

4. CONDOMINIUMS. Where collection service is provided by the department to a condominium complex, the city shall provide containers of a type and quantity determined at the discretion of the operations division to the owners of such condominium units in the same

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structure or condominium design, regardless of the number of units in the complex.

79-5. Location of Containers. 1. ON PREMISES.

All containers used for solid waste disposal shall be stored on the premises, except dumpsters for which special privileges to allow placement in the public right-of-way have been granted pursuant to s. 245-12. Where containers are kept within any enclosure, the enclosure shall have a door of sufficient size to allow the containers to be removed by sliding or rolling forward without being lifted.

2. NEAR ALLEY. Containers shall be stored immediately adjacent to the alley except where a premises does not have an alley, in which case containers shall be stored in the rear yard. If the rear yard may not be utilized for this purpose, the side yard may be used providing the containers are sited as conveniently as possible for servicing, as specified by the commissioner of public works. If the property owner can prove to the satisfaction of the commissioner that the rear or side yard cannot be used, the commissioner shall approve an alternate location prior to its use.

3. ACCESSIBILITY. It shall be the responsibility of the owners and tenants of every premises where solid waste is collected to provide a clear and unhindered path to all containers. The path shall be a width specified by the commissioner and shall be free of hindrances such as, but not limited to, large debris, vehicles, locked fences, animals, ice or 3 or more inches of snow. The surface of the path must be firm and nonhazardous.

4. COLLECTION CHARGE. If the location of the containers is more than 125 feet from the servicing vehicle or the containers are inconveniently located, the commissioner may charge for collection.

5. RETURN TO STORAGE LOCATION. Owners and tenants of those premises serviced by the cart collection system, where carts are left at the alley line or curb line after servicing, shall return the carts to their proper storage location before 10 p.m. on the day they are serviced.

6. ADDRESSES POSTED. To facilitate collection services, the addresses of all residences and buildings shall be conspicuously posted at the front and rear or side of all properties so as to be easily seen and read, according to s. 113-2-5.

79-5.5. Unauthorized Removal of Contents of Waste Containers. 1. No person shall remove any material from a waste container that has been furnished by the city for the collection of solid waste. This prohibition applies to portable and nonportable containers.

2. This section does not apply to employees and agents of the city in the performance of their duties or to materials that are removed by the person who deposited them.

79-5.7. Unauthorized Addition to Contents of Waste Containers. 1.

No person, except the owners or occupants serviced by a nonportable container, may place any hazardous substance, liquid waste, litter, recyclable material or solid waste into that container, without the owners' or occupants' permission.

2. This section does not apply to employees and agents of the city in performance of their duties.

79-6. Solid Waste Charge. 1. PURPOSE. The purpose of this section is to permit the city as authorized under ss. 66.0405 and 66.0627 Wis. Stats., to recover costs relating to collection of solid waste from one, 2-, 3- and 4- family dwelling units.

2. CHARGE. a. There is imposed a solid waste charge to be collected on a quarterly basis, on all one, 2-, 3- and 4- family dwelling units, including condominium facilities where collection service is provided by the department irrespective of the number of dwelling units, and for other properties for which solid waste service is provided by the city. This does not include service to commercial and manufacturing properties and multiunit dwellings with 5 or more units.

b. The common council shall adopt a resolution on an annual basis establishing the solid waste charge imposed in accordance with this section. The solid waste charge may, subject to common council approval, be adjusted no more than once additionally per year on the basis of cost recovery experience or to ensure total charges are allocated equitably.

3. OVERALL RESPONSIBILITY FOR ADMINISTERING THE SOLID WASTE CHARGE. The commissioner of public works shall administer the solid waste charge. The commissioner may formulate and promulgate rules which shall be applicable with respect to the

administration and collection of the solid waste charge, and may make amendments thereto, subject to approval by the public safety and health committee as may be required from time to time for proper application of the solid waste charge.

4. RESPONSIBILITY OF CITY OFFICERS AND DEPARTMENTS ADMINISTERING THE SOLID WASTE CHARGE.

a. Superintendent of Water Works. The superintendent of water works shall be responsible, under the commissioner of public works, for the administration of the solid waste charge. The superintendent shall collect the charge and transmit the revenue therefrom to the city treasurer together with water and local sewerage revenues as received.

b. City Treasurer. The city treasurer shall receive revenues from the solid waste charge and shall also collect delinquent accounts when such delinquent accounts have been placed on the tax roll as provided for in this section.

c. City Comptroller. The city comptroller shall certify to the commissioner of assessments delinquent accounts to be placed on the tax roll, which shall be collected in the same manner as special charges under s. 66.0627, Wis. Stats. The comptroller shall keep separate accounts of all the funds, receipts and payments on account of said solid waste charge.

5. BILLING AND COLLECTING. The solid waste charge shall be levied against water accounts and all other sewer users who are assessed the charge under sub.2, and shall be calculated by the water works. The charge shall be added to the water/sewer user bill and shall be due and payable in the same manner as water bills.

a. An interest penalty and late charge of 3% on outstanding balances will be charged on all past due accounts each quarter. This fee may be waived by the water works where deemed warranted by special circumstances. Charges that remain unpaid for 2 full quarters on October 1 shall be deemed delinquent. Such delinquent user charges and 10% penalty shall be reported to the city comptroller for placement on the tax roll.

b. When partial payments of the combined city services user bill are made, the property owner may direct in writing how the partial payment is to be applied to the combined bill. If there is no written direction, the partial payment shall be applied to the water charges first. Any portion of the partial payment remaining after the water charges are paid for shall be applied to the

metropolitan sewerage district charges, the local sewerage charges, the storm water management charges, the solid waste charge, the extra garbage cart charge and the snow and ice removal cost recovery charge, in that order; and then late charges for the solid waste charge, the snow and ice removal cost recovery charge and the extra garbage cart charge. Any overpayment of the combined bill shall be applied to the water charge on the account for the property.

6. SAVING CLAUSE. It is the intent of the common council that the provisions of this section relating to a solid waste charge, and the application of revenue from this charge are separable. If any provision or part of this section be held unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of any other provisions or part of the section which other provisions and parts shall remain in full force and effect.

7. APPEAL PROCEDURE.

a. Whenever any solid waste charge is imposed in accordance with this section, and the person required to pay such charge feels aggrieved as a result of the imposition or collection of such charge, such person shall pay such charge when the same shall become due, but shall pay it "under protest." Within 20 days following such payment, such person may file with the commissioner of public works a complaint to the effect that such person is aggrieved by the imposition and collection of such solid waste charge, his or her specific reasons for objection and the amount of the overcharge complained of.

b. If, upon review by the commissioner of public works, it is determined that all or any part of any solid waste charge paid under protest is not just or reasonable, the commissioner shall institute necessary procedures for a refund. If any person feels aggrieved by the determination of the commissioner, the person may file a complaint with the administrative review appeals board, pursuant to s. 320-11.

79-6.5. Special Collection Charges. As provided herein, certain wastes shall be collected by the department without charge, while others may be refused, or may be collected at a charge established by the commissioner, or as specified under sub. 3-c. Such charges shall be reasonable and based upon the disposal charges and cost of labor, equipment and overhead.

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1. DOMESTIC WASTE shall be collected without charge unless otherwise provided in this section.

2. DOMESTIC WASTE, OFFENSIVE OR HARMFUL. Liquid, manure and other offensive or harmful waste as specified in s. 79-2-6. Such waste depending on its nature and quantity may be collected without charge, refused or collected for a charge in accordance with this chapter and the rules of the commissioner.

3. DOMESTIC TREE AND BULKY WASTE. a. Domestic tree waste, limited to quantity and origin as specified in this chapter and the rules of the commissioner, shall be collected without charge.

b-1. Bulky waste, not exceeding one cubic yard and origin as specified in this chapter and the rules of the commissioner, shall be collected without charge.

b-2. Bulky waste, exceeding 6 cubic yards, limited to quantity or origin, as specified in this chapter and the rules of the commissioner, shall not be removed by the department.

c-1. The commissioner may have bulky waste exceeding one cubic yard but not exceeding 6 cubic yards removed. The costs of this action shall be collected from the owner of the property at which the bulky waste is deposited, subject to the bulky collection charge established under s. 81-15.5. Bulky waste exceeding one cubic yard shall be tagged by the commissioner with a notice to the property owner to remove the waste within 3 days or be subject to the charge. The bulky waste collection charge shall be due and payable 30 days after billing. If any owner fails, omits, neglects or refuses to pay any charge imposed under s. 81-15.5 for bulky waste collection, pursuant to s. 66.0627, Wis. Stats., the charge may be assessed against the subject property. The lien shall take effect as of the date of the delinquency. The lien shall automatically be extended upon the current or next tax roll as a delinquent tax against the property and all proceedings in relation to the collection, return and sale of the property for delinquent real estate taxes shall apply to such charge. The charge shall not be payable in installments. If any owner fails to notify the department that the bulky waste exceeding one cubic yard has been removed, resulting in a crew being dispatched to the property, the owner shall be charged a stop fee established under s. 81-15.5.

c-2. Paragraph b-2 and subdivision 1 do not apply to bulky waste collected annually during the clean and green collection period for the property as established by the commissioner.

4. COMMERCIAL WASTE may be collected only after a service charge has been deposited with the department based on charges established by the commissioner.

5. COMMERCIAL WASTE, OFFENSIVE OR HARMFUL. Liquid, manure and other offensive or harmful waste as specified in s. 79-2-5. Such waste depending on its nature and quantity may be collected for a charge or refused in accordance with this chapter and the rules of the commissioner.

6. CONSTRUCTION WASTE shall not be collected until the owner, lessee, or managing agent of the premises shall have complied with the requirements of sub. 7.

7. SPECIAL COLLECTION SERVICE. Any person desiring the removal of waste not collected in the course of regular service, except waste specified in sub. 8, may apply to the department for special service and arrange for removal at the applicant's expense. The department may estimate removal and disposal cost and upon such determination the applicant shall deposit the estimated cost with the department. The department may remove or cause removal of the waste and charge the cost against such deposit. The department may provide assistance to law enforcement agencies at their request and without charge, for special collection services, including the use of vehicles and equipment.

8. DOMESTIC WASTE; MULTIUNIT DWELLINGS. Domestic waste from multiunit dwellings with 5 or more units may be collected by the department at a charge established by the commissioner, pursuant to s. 79-2-1-b. The department shall bill apartment owners in advance of any waste being collected.

9. ELECTRONIC DEVICES may be collected for a charge as established by the commissioner or refused in accordance with this chapter and the rules of the commissioner.

79-7. Advance Deposit. Any person desiring periodic or special collection and disposal of waste not normally collected shall deposit with the department a sum sufficient to cover the estimated cost. The department shall refund any balance after the charges against such deposit have been paid.

79-8. Collection Conditions. Collection of waste by the department is conditioned upon full compliance with all provisions of this chapter and the rules of the commissioner.

79-9. Private Waste Collector Regulations. Transportation and collection of waste shall be in full compliance with all of the provisions of this chapter.

1. NUISANCE PROHIBITED. No person shall transport material of any kind whatsoever in any vehicle unless the vehicle is so operated and of such construction that the contents shall not blow, fall, scatter, leak or spill upon streets or alleys, or otherwise create a nuisance.

2. PRIVATE COLLECTOR'S LICENSE.

a. No person, except employees of the department in the regular performance of duty, shall collect or transport waste materials on any street or alley, except those acting under the authority of a licensed private waste collector. Each vehicle used by a collector shall bear a license sticker. The sticker shall be prominently displayed on each vehicle.

b. See ch. 81 for the required license fee.

3. GRAFFITI CONTROL. a. In this subsection, "graffiti" has the definition provided in s. 275-35-1.

b. Each licensed private waste collector or applicant for a private waste collector's license shall submit a plan for ongoing and scheduled removal of graffiti on waste containers. The plan shall be attached to the application for a new license or license renewal filed with the city clerk's office. The plan shall include a fax number and the name of the administrator responsible for maintenance for the applicant or licensee and the plan shall be forwarded to the department of neighborhood services.

c. Each private waste container shall be clearly marked or have signage noting the name and phone number of the company responsible for maintenance of the waste container.

d. Graffiti on private waste containers shall be removed within 3 working days following notification by the department of neighborhood services or within 3 working days of the last time the container was emptied, irrespective of any plan submitted under par. b.

4. PENALTY. a. Any licensed private waste collector who violates any provision of this section shall forfeit not less than \$250 nor more than \$1,000 for each offense, and the costs and

disbursements of such action, and in default thereof, shall be imprisoned in the county jail or house of correction for not less than 10 days nor more than 40 days, until such forfeiture costs are paid.

b. Each day of violation shall be a separate offense.

c. Every private waste collector's license may be suspended or revoked by the commissioner of the department of neighborhood services for failure to comply with sub. 3.

d. Every private waste collector's license may be suspended or revoked by the commissioner of public works for failure to comply with any of the rules of the commissioner or if the licensee is convicted of illegal dumping of waste within the city or outside the city under any applicable state statute or code provision.

79-10. Littering on Street by Motor Vehicle.

1. AUTHORITY. The commissioner shall make rules to regulate load stability and the cleaning of vehicle tires, bodies and other parts when any vehicle proceeds from a premises onto any street, alley or public place.

2. CONTRACTOR RESPONSIBLE. No person shall allow any vehicle to proceed from any construction site, whether operated by the contractor, his agent, employee or subcontractor, in such manner as to dump, drop, scatter, track or deposit any litter upon any street, alley or public place. The commissioner shall be and is empowered to order any contractor to take such precautions as he deems necessary to prevent littering, and to remove any such litter. In the event any contractor shall fail to comply with an order of the commissioner, said commissioner or any commanding officer of a police district may order such operations stopped.

3. EXCEPTION. This section shall not apply to construction work within a barricaded area permitted in the street right-of-way pursuant to a city excavation permit, a city contract, or work by city employees.

4. LOOSE LOADS. All vehicles carrying loose loads such as sand, gravel, demolition debris, or any other miscellaneous debris are required to cover said loads with a canvas, net-type, or other covering approved by the commissioner of public works.

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79-11. Littering of Public Property. No person shall deposit or cause to be deposited, dropped, dumped, discharged, left, spilled or scattered, any litter, nauseous or offensive substance or material, in or upon any park or parkway, sidewalk, street, alley, gutter, catch basin, storm inlet, or other public facility or place. Nothing contained in this section shall prohibit the placing of temporary patch material, sand, ashes, sawdust or salt upon any sidewalk, street or alley for safety in travel, nor the placing of leaves on the street, in season, from October 1 to November 15 inclusive.

79-12. Littering of Premises. 1. PROHIBITED. No person shall deposit, or permit or cause to be deposited, any litter, solid waste or nauseous or offensive substance or material upon any premises, except for materials placed in a manner approved by state or other local regulations, and not in conflict with this chapter.

2. RESPONSIBLE PERSONS. The premises owner and any person in possession of the premises are responsible for maintaining the premises in a condition that does not violate this section. A tenant who is in possession of a premises may be cited for a violation of this section when there is prima facie evidence of the tenant's culpability.

79-12.5. Regulation of Compost Piles.

1. COMPOST PILES. Compost piles shall consist primarily of yard waste. The following items are specifically prohibited from inclusion in any compost pile:

- a. Oils, grease and lard.
- b. Dairy or meat products.
- c. Feces - human, dog, cat or bird.
- d. Diseased plant waste.
- e. Poisonous substances.
- f. Treated lumber, sawdust from treated lumber.
- g. Materials that have been treated with chemicals.
- h. Inorganic material.

2. COMPOSTING BINS. All compost piles shall be contained in composting bins.

a. Composting bins shall meet the following specifications:

a-1. Each bin shall be no taller than 5 feet and the total volume of all bins on a property shall not exceed 125 cubic feet.

a-2. Each bin shall be constructed of commercial-grade material such as heavy-duty plastic, cinderblock, brick, wood or of such other materials as may be approved by the commissioner.

a-3. Each bin shall be built with a hood that permits the venting of gasses without permitting the entrance of rodents.

a-4. Each bin shall be maintained so as to inhibit the entrance of rodents, flying insects and other pests.

a-5. Each bin shall be maintained using proper composting techniques including, but not limited to, timely aeration, soil addition and the monitoring of moisture content.

b. Composting bins shall not be placed in front yards and shall be placed no less than 20 feet from any habitable structure.

79-13. Sidewalks to be kept Clean. No person being the owner of or in possession of premises shall use and maintain such premises or allow such premises to be used in a manner which will permit dirt, mud, snow, ice or other foreign materials to be deposited or accumulate on the public sidewalk.

79-14. Household or Commercial Waste In Certain Containers. 1. ANTI-LITTER BINS. No person shall deposit household, construction or commercial waste in or about anti-litter bins provided by the city, unless granted temporary permission by the department pursuant to the rules of the commissioner.

2. NEIGHBORHOOD CLEANUP DUMPSTERS. No person shall deposit construction or commercial waste in or about neighborhood cleanup dumpsters or other nonportable containers provided by the city, unless granted temporary permission by the department pursuant to the rules of the commissioner.

79-14.5. Depositing of Materials at Drop-off Centers. 1. MATERIALS ACCEPTED. Solid waste shall be accepted for deposit at a city drop-off center according to the conditions for load acceptance established by the commissioner or his or her designee, subject to the exclusions in sub. 2.

2. EXCLUSION. Manufacturing waste and materials that are hazardous substances, other than domestic waste, shall not be accepted for deposit.

3. FEE. Any person that causes to be deposited, dropped, dumped, discharged or left any solid waste at a city drop-off center shall be assessed a fee according to a fee schedule established by the commissioner of public works or his or her designee.

4. FEE WAIVED FOR CERTAIN TYPES OF SOLID WASTE. The fee for selected types of solid waste may be waived according to the fee schedule established by the commissioner of public works or his or her designee.

79-15. Enforcement. The police department, department of neighborhood services, department of health and the department of public works shall enforce this subchapter.

79-16. Penalty 1. FORFEITURE. a. Any person who violates any provision of this subchapter except ss. 79-5.5, 79-11, 79-12-1 and 79-14-2 shall forfeit \$500 including all forfeitures, penalties, fees and assessments levied by the court for the first offense and for each subsequent offense, and the costs and disbursements of such action, and in default thereof, or failure to discharge the imposed forfeit through community service or other means satisfactory to the court, shall be imprisoned as provided by law.

b. Any person who violates s. 79-5.5 shall forfeit not less than \$25 nor more than \$500 for the first offense and not less than \$50 nor more than \$500 for each subsequent offense.

c. Any person who violates s. 79-14-2 shall forfeit not less than \$350 nor more than \$500 for the first offense and not less than \$400 nor more than \$750 for each subsequent offense.

d. Any person who violates ss. 79-11 or 79-12-1 shall forfeit \$500 including all forfeitures, penalties, fees and assessments levied by the court for the first offense and for each subsequent offense and any offense occurring between the hours of 8:00 p.m. and 5:00 a.m. on a street designated as a cruising area under s. 101-20.5 including the land within the street lines whether or not improved, and the costs and disbursements of such action, and in default thereof, or failure to discharge the imposed forfeit through community service or other means satisfactory to the court, shall be imprisoned as provided by law.

e. Each day of violation shall be a separate offense.

f. Each electronic device improperly disposed under s. 79-2-13-b shall constitute a separate violation.

2. LEIN. a. If any owner or agent fails, omits, neglects or refuses to obey any order from the department of public works or the department of neighborhood services, the appropriate department may take such steps as are necessary to remove the litter, return the garbage or recycling cart to its original storage location and provide accessibility to garbage or recycling carts as defined in s. 79-5-3 and pursuant to s. 66.0627, Wis. Stats., a special charge shall be made against the subject property for litter removal or garbage or recycling cart return.

a-1-a. The amount of the special charge for litter removal shall be determined on or before January 31 of each year by the commissioner of public works, subject to the approval of the common council. The special charge amount shall be based upon the actual average per occurrence cost of litter removal during the prior calendar year.

a-1-b. A person who fails to comply with s.79-5-2 shall receive a written notice to comply with respect to the alleged violation of s 79-5-2. Failure to comply following such notification shall result in a special charge of \$25, and the second and each subsequent failure to comply within a calendar year shall result in a special charge of \$60.

a-1-c. A person who fails to comply with s.79-5-3 shall receive a written notice with respect to the alleged violation of s. 79-5-3. Failure to comply following such notification shall result in a special charge of \$25, and the second and each subsequent failure to comply within a calendar year shall result in a special charge of \$50.

a-1-d. If a person is found to be in violation of the requirements of s. 79-5-5, the person shall be subject to a special charge of \$30. A person who fails to comply with s. 79-5-5 shall receive a written notice with respect to the alleged violation of s. 79-5-5. Failure to comply following such notification shall result in a special charge of \$40, and the second and each subsequent failure to comply within a calendar year shall result in a special charge of \$70.

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a-2. If any owner fails, omits, neglects or refuses to maintain a property which results in 3 or more violations of s. 79-12 in any 12-month period, the commissioner of neighborhood services may issue a repeat litter charge for the 3rd and subsequent violations to compensate for inspectional, administrative and equipment costs. The charge shall be in accordance with s. 200-33-49-2.

a-3. Special charges made under this subsection shall be due and payable 30 days after billing or if not paid within that time become a lien on the subject property as provided in s. 66.0627, Wis. Stats. Such lien shall take effect as of the date of the delinquency and shall include an administrative charge of \$10. Such lien shall automatically be extended upon the current or next tax roll as a delinquent tax against the property and all proceedings in relation to the collection, return and sale of the property for delinquent real estate taxes shall apply to such charge. Such charge shall not be payable in installments.

b. If any owner fails, omits, neglects or refuses to pay any fee assessed under s. 79-2-1-b for solid waste collection, pursuant to s. 66.0627, Wis. Stats., a special charge may be assessed against the subject property for all unpaid fees. The special charge assessed under this subsection shall consist of an interest penalty and late charge of 3% on outstanding balances and shall be charged on all past due accounts each quarter. This special charge may be waived by the department if deemed warranted by special circumstances. Charges that remain unpaid for 2 full quarters shall be deemed delinquent. The delinquent special charges and 10% penalty shall be reported to the city comptroller for placement on the tax roll.

3. CITATION. In addition to other applicable enforcement procedures and pursuant to the authority of s. 66.0113 Wis. Stats., city officers listed in s. 79-15 may issue citations pursuant to the citation procedure as set forth in s. 50-25 to any person violating any provision of ss. 79-2-9 and 10, 79-3, 79-4-1-a and b, 79-4-1.5, 79-5, 79-9-1 and 79-10 to 79-14. Each city-owned portable waste container or city-owned portable recyclable material container whose use or location violates s. 79-4-1.5 is an offense under that section, and each day of violation constitutes a separate offense.

79-17. Appeal of Special Charges. Appeal of the determination of the commissioner imposing special charges against premises may be submitted to the administrative review appeals board as provided by s. 320-11. Appeals filed pursuant to this section shall be filed no later than 30 days after the special charges are imposed.

79-19. Rules. The commissioner is authorized to make reasonable rules for the regulation and administration of this chapter, including charges for extraordinary, unusual or special services as may be necessary and exemptions for hardship cases provided no such rules contravene the specific provisions of this chapter. Such rules shall be available at the office of the city clerk.

**SUBCHAPTER 2
RECYCLING**

79-21. Purpose. The purpose of this subchapter is to promote recycling, composting and resource recovery through the administration of an effective recycling program, as provided in s. 289.11, Wis. Stats., and ch. NR 544, Wis. Adm. Code.

79-23. Definitions. In this subchapter:

1. BI-METAL CONTAINER means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

2. Commissioner shall mean the commissioner of public works and such supervisory employees of the department to whom his or her authority may be delegated.

3. CONTAINER BOARD means corrugated paperboard used in the manufacture of shipping containers and related products.

4. DEPARTMENT means the department of public works.

4.5. ELECTRONIC DEVICE has the meaning given in s. 287.17 (1) (gm), Wis. Stats.

5. FOAM POLYSTYRENE PACKAGING means packaging made primarily from foam polystyrene that satisfies one of the following criteria:

a. Is designed for serving food or beverages.

b. Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.

c. Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.

6. HDPE means high density polyethylene, labeled by the SPI code #2.

7. LDPE means low density polyethylene, labeled by the SPI code #4.

8. LICENSED SOLID WASTE PROCESSING FACILITY means a solid waste processing facility that is licensed by the Wisconsin department of natural resources.

9. MAGAZINES means magazines and other materials printed on similar paper.

10. MAJOR APPLIANCE means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, furnace, boiler, dehumidifier, water heater or stove.

11. MULTIPLE-FAMILY DWELLING means a property containing 5 or more residential units, including those which are occupied seasonally.

12. NEWSPAPERS means newspapers and other materials printed on newsprint.

13. NON-RESIDENTIAL FACILITIES AND PROPERTIES means commercial, retail, industrial, institutional and governmental facilities and properties. The term does not include multiple-family dwellings.

14. OFFICE PAPER means high grade printing and writing papers from offices in non-residential facilities and properties. Printed white ledger paper and computer printout are examples of office paper generally accepted as high grade. The term does not include industrial process waste.

15. OTHER RESINS OR MULTIPLE RESINS means plastic resins labeled by the SPI code #7.

16. Person includes any individual, contractor, firm or corporation, or agent or servant thereof.

17. PETE means polyethylene terephthalate, labeled by the SPI code #1.

18. PLASTIC CONTAINER means an individual, separate, rigid plastic bottle, can, jar or carton, except that the term does not include a blister pack that is originally used to contain a product that is the subject of a retail sale.

19. Postconsumer waste means solid waste other than solid waste generated in the production of goods, hazardous waste as defined in s. 289.01(12), Wis. Stats., a hazardous substance as defined in s. 79-1-5, waste from construction and demolition of structures, scrap automobiles or high-volume industrial waste as defined in s. 289.01(17), Wis. Stats. The term includes domestic waste, garbage, tree waste and yard waste, as those terms are defined in s. 79-1-12.

20. PP means polypropylene, labeled by the SPI code #5.

21. PS means polystyrene, labeled by the SPI code #6.

22. PVC means polyvinyl chloride, labeled by the SPI code #3.

23. RECYCLABLE MATERIAL includes electronic devices, lead acid batteries, major appliances, waste oil, oil filters, yard waste, aluminum containers, bi-metal containers, corrugated paper or other container board, glass containers, magazines, newspapers, office paper, steel containers, waste tires and rigid plastic containers made of PETE and HDPE.

24. SOLID WASTE has the meaning given in s. 289.01(33), Wis. Stats.

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25. SOLID WASTE DISPOSAL FACILITY means a facility that discharges, deposits, injects, dumps or places any solid waste into or on any land or water. The term does not include a facility whose handling of solid waste is limited to the transportation, storage or treatment of solid waste.

26. SOLID WASTE TREATMENT FACILITY means a facility that handles solid waste by any method, technique or process that is designed to change the physical, chemical or biological character or composition of solid waste. The term includes a facility that incinerates solid waste.

27. SPECIAL RECYCLABLE MATERIALS means electronic devices, lead acid batteries, major appliances, waste oil, oil filters and yard waste.

28. STANDARD RECYCLABLE MATERIALS means aluminum containers, bi-metal containers, corrugated paper or other container board, glass containers, magazines, newspapers, office paper, steel containers, waste tires and rigid plastic containers made of PETE and HDPE.

29. WASTE TIRE means a tire that is no longer suitable for its original purpose because of wear, damage or defect. The term includes an unserviceable tire as defined in s. 84-48.

30. Yard waste means leaves, grass clippings, garden debris and brush. Brush includes branches and tree limbs having a diameter of less than 6 inches.

79-25. Separation of Recyclable Materials Required. Except as provided in s. 79-27, occupants of single family residences, 2 to 4 unit residences, condominium complexes, multiple-family dwellings and non-residential facilities and properties shall separate the following materials from postconsumer waste:

1. SPECIAL RECYCLABLE MATERIALS.
 - a. Electronic devices.
 - b. Lead acid batteries.
 - c. Major appliances.
 - d. Waste oil and oil filters.
 - e. Yard waste.
2. STANDARD RECYCLABLE MATERIALS.
 - a. Aluminum containers.
 - b. Bi-metal containers.
 - c. Corrugated paper or other container board.
 - d. Glass containers.
 - e. Magazines.
 - f. Newspapers.
 - g. Office paper.

h. Rigid plastic containers made of PETE and HDPE.

i. Steel containers.

j. Waste tires.

79-27. Exemptions from Separation Requirements. The separation requirements of s. 79-25 do not apply to the following:

1. Occupants of single family residences, 2 to 4 unit residences, condominium complexes, multiple-family dwellings and non-residential facilities and properties that send their postconsumer waste to a licensed solid waste processing facility that recovers the materials specified in s. 79-25 from solid waste in as pure a form as is technically feasible.

2. Solid waste that is burned as a supplemental fuel at a facility if less than 30% of the heat input to the facility is derived from the solid waste burned as supplemental fuel.

3. A standard recyclable material for which a variance has been granted by the Wisconsin department of natural resources under s. 287.11(2m), Wis. Stats., or s. NR 544.14, Wis. Adm. Code.

79-29. Care of Separated Recyclable Materials. To the greatest extent practicable, the recyclable materials separated in accordance with s. 79-25 shall be clean and kept free of contaminants such as food or product residue, oil, grease and other non-recyclable materials, including but not limited to household hazardous waste, medical waste, agricultural chemical containers and hazardous substances as defined in s. 79-1-5. Recyclable materials shall be stored in a manner that protects them from wind, rain and other inclement weather conditions.

79-31. Residences, Except Multiple-Family Dwellings. Occupants of single family residences, 2 to 4 unit residences and condominium complexes where collection service is provided by the department shall provide for the preparation and collection of separated standard recyclable materials in accordance with the rules of the commissioner.

79-32. Return to Storage Location. Owners and tenants of those properties serviced by the recycling collection system, where carts are left at the alley line or curb line after servicing, shall return the carts to their proper storage locations before 10 p.m. on the day they are serviced.

79-33. Multiple-Family Dwellings. 1. Except as provided under sub. 2, owners, lessees or designated agents of multiple-family dwellings, as well as those condominium complexes where collection service is not provided by the department, shall do all of the following to recycle standard recyclable materials:

a. Provide, at their own cost, adequate, separate containers for recyclable materials. Containers shall be stored on the premises in a location that is convenient for deposit and collection of recyclables.

b. Notify in writing, at the time of leasing and at least semi-annually thereafter, all tenants and occupants of the dwellings about the recycling program.

c. Provide for the collection of the materials separated from the solid waste by the users, tenants and occupants and for the delivery of those materials to a recycling facility.

2. The requirements specified in sub. 1 do not apply to the owner, lessee or designated agent of a multiple-family dwelling if the postconsumer waste that is generated within the dwelling is treated at a licensed solid waste processing facility that recovers for recycling standard recyclable materials from solid waste in as pure a form as is technically feasible.

79-35. Non-Residential Facilities and Properties.

1. Except as provided under sub. 2, owners, lessees or designated agents of non-residential facilities and properties shall do all of the following to recycle standard recyclable materials:

a. Provide adequate, separate containers for the recyclable materials.

b. Notify in writing, at the time of leasing and at least semi-annually thereafter, all tenants and occupants of the facilities and properties about the recycling program.

c. Provide for the collection of the materials separated from the solid waste by the users, tenants and occupants and for the delivery of those materials to a recycling facility.

2. The requirements specified in sub. 1 do not apply to the owner, lessee or designated agent of a non-residential facility or property if the postconsumer waste that is generated within the facility or property is treated at a licensed solid waste processing facility that recovers for recycling standard recycling materials from solid waste in as pure a form as is technically feasible.

79-37. Disposal of Separated Standard Recyclable Materials Prohibited. No person shall dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any standard recyclable materials which have been separated for recycling, except that waste tires may be burned with energy recovery in a solid waste treatment facility.

79-39. Management of Special Recyclable Materials. 1. Occupants of single family residences, 2 to 4 unit residences, condominium complexes, multiple-family dwellings and non-residential facilities and properties shall manage lead acid batteries as provided in s. 79-2-9, and shall handle electronic devices, major appliances, waste oil, oil filters and yard waste in accordance with this section and the rules of the commissioner.

2. A microwave oven may be disposed of in a solid waste disposal facility if the capacitor has been removed and disposed of in accordance with s. 299.45(7), Wis. Stats., if applicable.

79-40. Unauthorized Removal of Recyclables or Recycling Containers.

1. No person shall remove any material from a recycling cart, bin or other container that has been furnished by the city or by a private recyclable collector for the purpose of accumulating recyclable materials for collection by the city or the private collector. This prohibition applies to recycling containers located in or by residential and non-residential buildings, at self-help stations and in public places.

2. No person shall remove a recycling cart, bin or other container that has been furnished by the city or by a private recyclable collector.

3. This section does not apply to employees and agents of the city or of a private recyclable collector in the performance of their duties or to materials that are removed by the person who deposited them.

79-41. Administration and Confidentiality of Record.

1. The commissioner, the department and the operations division shall be responsible for administration of the provisions of this subchapter.

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2. The commissioner is authorized to make reasonable rules for the regulation and administration of this subchapter, including charges for extraordinary, unusual or special services as may be necessary and exemptions for hardship cases, provided such rules do not contravene the specific provisions of this subchapter. Such rules shall be available at the office of the city clerk.

3. To the extent permitted by law, records relating to recycling activities shall be kept confidential when necessary to protect proprietary information.

79-43. Enforcement. For the purpose of ascertaining compliance with the provisions of this subchapter, any authorized officer, employee or representative of the commissioner, the department or the department of neighborhood services may use any lawful means to adequately enforce the requirements of this subchapter including, but not limited to, education and information programs and inspections to ascertain proper separation, preparation, collection and disposition of recyclable materials.

79-47. Penalties, Liens and Citations.

1. **PENALTIES.** a. A person who fails to comply with s. 79-29 shall receive a written notice with respect to the alleged violation of s. 79-29. Failure to comply with s. 79-29 following such notification shall result in a special charge of \$25, and the second and each subsequent failure to comply with s. 79-29 within a calendar year shall result in a special charge of \$50.

b. A person who violates s. 79-33 or 79-35 shall forfeit as follows:

b-1. Not less than \$50 nor more than \$200 for a first or 2nd violation within a 12-month period, and the costs and disbursements of such action. Each day of violation shall be a separate offense.

b-2. Not less than \$100 nor more than \$500 for a 3rd or subsequent violation within a 12-month period, and the costs and disbursements of such action. Each day of violation shall be a separate offense.

c. A person who violates s. 79-37 shall forfeit as follows:

c-1. Not less than \$500 nor more than \$1,000 for a first violation within a 12-month period, and the costs and disbursements of such action. Each day of violation shall be a separate offense.

c-2. Not less than \$1,000 nor more than \$5,000 for a 2nd or subsequent violation within a 12-month period, and the costs and disbursements of such action. Each day of violation shall be a separate offense.

d. A person who violates s. 79-40 shall forfeit not less than \$25 nor more than \$500 for each violation, and the costs and disbursements of such action.

e. Any person who fails to comply with s. 79-32 shall be subject to a special charge of \$30 and shall receive a written notice with respect to the alleged violation of s. 79-32. Failure to comply following such notification shall result in a special charge of \$40, and each subsequent failure to comply within a calendar year shall result in a special charge of \$70.

2. **LIENS.** a. Whenever a person fails, omits, neglects or refuses to obey an order of a department or city officer that is made on account of noncompliance with any provision of this subchapter, pursuant to s. 66.0627, Wis. Stats., a special charge shall be made against the subject property.

b. A person who fails to comply with s. 79-25 shall receive a written notice with respect to the alleged violation of s. 79-25. Failure to comply with s. 79-25 following such notification shall result in a special charge of \$10, and the second and each subsequent violation within a calendar year shall result in a special charge of \$25.

c. Special charges made under this subsection shall be due and payable 30 days after billing or if not paid within that time become a lien on the subject property as provided in s. 66.0627, Wis. Stats. The lien shall take effect on the date of the delinquency and shall include an administrative charge of \$10. The lien shall automatically be extended upon the current or next tax roll as a delinquent tax against the property and all proceedings in relation to the collection, return and sale of the property for delinquent real estate taxes shall apply to the special charge. The special charge shall not be payable in installments.

d. Whenever a special charge is made against property that is either a single family residence or a 2-family residence, the department assessing the special charge may bill both the occupant of the residence and the owner of the residence, if the department knows that the occupant and the owner are not the same and if the identity of the occupant is known to the department. If the department bills the occupant

the occupant of the residence shall be solely responsible for payment of the special charge within 30 days after billing. If the special charge is not paid within that time, the owner shall become responsible for payment of the special charge on the date of the delinquency. Whenever an occupant is billed for a special charge and the payment is not made within 30 days after billing, the department shall promptly give written notice of such nonpayment to the owner of the residence. Whenever an owner becomes responsible for payment of a special charge because of the delinquency of an occupant under this paragraph, the owner may recover the amount of that special charge under sub. e and s. 200-20.5.

e. Whenever a special charge is assessed under this subsection, a landlord may require a responsible tenant to pay the amount of the special charge under s. 200-20.5.

3. CITATIONS. In addition to other applicable enforcement procedures and pursuant to the authority of s. 66.0113, Wis. Stats., the commissioners of public works and neighborhood services or their designees may issue citations pursuant to the citation procedure as set forth in s.50-25 to any person who violates any provision of this subchapter.

For the legislative history of chapter 79, contact the Municipal Research Library.

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CHAPTER 80 NUISANCES

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80-19	Nuisance Light on Residential Properties			
80-22	Sale of Unwashed Rags			80-1. Definitions. In this chapter:
80-27	Emission of Dense Smoke from Engine, Boiler, etc.			1. COMMISSIONER means the commissioner of health, the commissioner of neighborhood services or any other city official to whom nuisance abatement functions have been delegated pursuant to a memorandum of understanding.
80-28	Chimney Soot Nuisances			2. DEPARTMENT means the health department, the department of neighborhood services or any other department to which nuisance abatement functions have been delegated pursuant to a memorandum of understanding.
80-29	Masonry Building Cleaning: Sandblasting			3. PERSON means any individual, owner, operator, corporation, partnership, association, municipality or interstate, state or federal agency.
80-31	Breeding Place for Flies			4. PUBLIC NUISANCE includes but is not limited to those nuisances which are referred to in this chapter, in addition to all other nuisances which threaten, impair or affect the public health or which are known to the common law of the land or the state statutes as nuisances and which may be treated and prosecuted as such.
80-42	Stench Bombs			
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80-2 Nuisances

80-2. Authority to Abate Nuisances.

1. COMMISSIONER AUTHORIZED TO ABATE. The commissioner shall have the authority to cause the summary abatement of any nuisance found on any premises in accordance with the procedure prescribed in s. 80-8.

2. ENFORCEMENT BY INJUNCTION. The regulations of this chapter may be enforced by means of injunction.

80-3. Private Visual Presentations in Commercial Establishments. Commercial establishments which offer private viewing of movies, tapes, slides, pictures or live performance of any kind shall comply with the following:

1. BOOTH ACCESS. Each booth shall be totally accessible to and from aisles and public areas of the establishment. Access to a booth shall be unrestricted by doors, locks or other control-type devices.

2. BOOTH CONSTRUCTION. a. Any booth used to view a movie, tape, slide, picture or live performance of any kind must be so constructed as to discourage sexual activity and the spread of communicable disease by including, but not being limited to the following requirements:

a-1. Every booth shall be separated from adjacent booths and any nonpublic areas by a wall.

a-2. Every booth shall have at least one side totally open to a public, lighted aisle so that there is an unobstructed view at all times of anyone occupying the booth.

a-3. All walls shall:

a-3-a. Be solid, without any openings.

a-3-b. Extend from the floor to a height of not less than 6 feet.

a-3-c. Be light-colored, nonabsorbent, smooth-textured and easily cleanable.

b. The floor must be light-colored, nonabsorbent, smooth-textured and easily cleanable.

c. The lighting level of each booth when not in use shall be a minimum of 10 foot candles at all times.

3. BOOTH OCCUPANTS. a. Only one individual shall occupy a booth at any time.

b. No individual occupying a booth shall, at any time, engage in any type of sexual activity or cause any bodily discharge or litter associated with sexual activity while in the booth.

c. No individual shall damage or deface any portion of the booth.

4. OPERATOR RESPONSIBILITY. It shall be the responsibility of the owner, operator, licensee and employees of the establishment to

a. Maintain the premises in a clean and sanitary manner at all times.

b. Maintain at least 10 foot candles of light in the public portion of the establishment, including aisles, at all times.

c. Insure compliance of the establishment and its patrons with the provisions of this section.

d. Post the regulations concerning booth occupancy on signs, with lettering at least one inch high, that are placed in conspicuous areas of the establishment and in each of the viewing booths.

5. ENFORCEMENT. a. Both the department and the police department shall have the authority to inspect the premises during operating hours and to enforce the provisions of this section.

b. Failure to comply with the requirements of this section may constitute grounds for the suspension, revocation or nonrenewal of licenses issued by the city to operate such an establishment.

c. Violation of any provision of this section constitutes a public nuisance.

80-6. Offensive Odors from Factories or Shops.

1. FINDING. Any gas plant, factory, yard, store house, building or structure of any kind, tallow, chandler's shop, soap factory, tannery, distillery, livery stable, cattle yard, shed, barn, packing house, slaughter house, rendering establishment, coal pile, rubbish accumulation, stagnant pool, sink hole or other thing which shall become noxious, foul or offensive, or which shall emit foul or offensive odors, gases, effluvia or stench, or which shall be dangerous or prejudicial to the public health, is declared to be a public nuisance.

2. ENFORCEMENT PROCEDURE.

a. The commissioner of health or commissioner of neighborhood services may commence prosecution for an odor nuisance violation upon verification by a health department or department of neighborhood services inspector of the existence of a nuisance described in sub. 1.

b. As an alternative to commencement of prosecution based upon direct verification by a health department or department of neighborhood services inspector, the commissioner of health or commissioner of neighborhood services may commence prosecution upon receipt of a written complaint submitted by a member of the public that complies with the requirements of par. c and which alleges the existence of a nuisance described in sub. 1.

c. A complaint by a member of the public, sufficient to authorize the commencement of an odor nuisance prosecution in the absence of direct verification of the odor by a health department or department of neighborhood services inspector shall include relevant information relating to the date, time and place of the alleged odor nuisance, the nature of the odor nuisance, and shall identify the person or persons responsible for or allowing the odor, or alternatively, shall include information leading to the identification of the person or persons by the health department or department of neighborhood services. Information included in the complaint shall also identify one or more persons who experienced or were affected by the odor, at least one of whom is an adult available to testify in court.

d. Testimony required. No person shall be convicted under this procedure except upon testimony of at least one affected adult person.

80-6.1. Discharge of Offensive or Hazardous Substances. Any industry, factory, shop, yard or premises which discharges, as defined in s. 236-41-1-a, any dust, lint, fumes, particles, vapors, mist, waste or hazardous substance, as defined in s. 236-41-1-b, or any other matter which is dangerous, or which threatens, impairs or effects the public health, is declared a public nuisance.

80-6.2. Excessive Discharge of Air-polluting Materials Prohibited. Any person or persons, firm, corporation or organization which in the conduct of any activity or business carries on any operation or activity which allow or cause to be emitted into the open air any dust, lint, fumes, particles, vapors, mist, gases, offensive odors, waste or any other matter in such a manner as to cause injury, detriment, nuisance or annoyance to any person, or to threaten to or does impair or affect the health of any person or to endanger the health or safety of any person, or to cause or have a natural tendency to cause injury or damage to business or property, shall take the most effective practical measures to reduce such discharge to a minimum. The commissioner is empowered to determine what measures are practical in any given instance and shall be guided by the generally accepted modern standards of control measures for the given operation, activity or industry in making such determination. The commissioner may order such changes or improvements necessary to meet the requirements of this section. The person, firm, corporation or organization shall comply with such an order within the period of time deemed reasonable by the commissioner.

80-7. Garage, Service Station, or Parking Lot Nuisances. Any public garage, used car lot, automobile service station, parking lot or space which shall become noxious, foul, offensive or dangerous and prejudicial to public health or which shall seriously or permanently interfere with life or safety by the testing or running of gasoline engines at various speeds, backfire or the emitting of smoke and gases, odors of gasoline or oils, or the stirring up of dusts and dirt, is declared a public nuisance.

80-8 Nuisances

80-8. Notice to Abate Nuisance. It shall be the duty of the commissioner to give notice in writing to the person, firm or corporation owning, occupying, in charge or control of any premises or vehicle wherein a public nuisance shall be, to forthwith abate and remove the same; and any premises or conditions so described in ss. 80-6 to 80-7 which shall be so maintained or permitted to exist for a period of 2 hours after reasonable notice in writing, signed by the commissioner, shall have been given to the person, firm or corporation owning, occupying, in charge or control of the same, are declared to be public nuisances which shall be forthwith abated.

80-10. Chronic Nuisance Premises.

1. FINDINGS. The common council finds that any premises, including a manufactured home community, that has generated 3 or more responses from the police department for nuisance activities has received more than the level of general and adequate police service and has placed an undue and inappropriate burden on the taxpayers of the city. The common council further finds that premises owners, and other parties conducting business activities upon the premises, that chronically fail to control the use of their property substantially interfere with the comfortable enjoyment of life, health and safety of the community. The common council therefore directs the chief of police, the commissioner of neighborhood services and the city attorney, as provided in this section, to charge the owners of such premises the costs associated with abating the violations at premises at which nuisance activities chronically occur.

2. DEFINITIONS. For the purposes of this section: a. "Chief of police" means the chief of the police department or the chief's designee. The chief's designee includes, but is not limited to, a commanding officer signing a notice under sub. 3-a-1 or 2 or any other specifically named designee in any notice under this section.

b. "Manufactured home community" means any plot or plots of ground upon which 3 or more manufactured homes that are occupied for dwelling or sleeping purposes are located.

c. c-1. "Nuisance activity" means any of the following activities, behaviors or conduct whenever engaged in by persons associated with a premises:

c-1-a. An act of harassment as defined in s. 947.013, Wis. Stats.

c-1-b. Disorderly conduct as defined in s. 106-1 of the code or s. 947.01, Wis. Stats.

c-1-c. Cruelty to animals or any other violation of s. 78-31.

c-1-d. Indecent exposure as defined in s. 106-5 of the code or s. 944.20(1)(b), Wis. Stats.

c-1-e. Keeping a place of prostitution as defined in s. 106-3 of the code or s. 944.34, Wis. Stats., or leasing a building for the purposes of prostitution as defined in s. 106-4 of the code.

c-1-f. Littering of premises as defined in s. 79-12.

c-1-g. Theft as defined in s. 110-16 of the code or s. 943.20, Wis. Stats.

c-1-h. Arson as defined in s. 943.02, Wis. Stats.

c-1-i. Possession, manufacture or delivery of a controlled substance or related offenses as defined in ch. 961, Wis. Stats.

c-1-j. Gambling as defined in ss. 107-1 and 2 of the code or s. 945.02, Wis. Stats.

c-1-k. Crimes against life and bodily security as enumerated in ss. 940.01 to 940.32, Wis. Stats., except as provided in subd. 2.

c-1-L. Crimes involving illegal possession or use of firearms as defined in ch. 941 and s. 948.60, Wis. Stats.

c-1-m. Keeping a prohibited dangerous animal as defined in s. 78-25.

c-1-n. Trespass to land as defined in s. 943.13, Wis. Stats., or criminal trespass to dwelling as defined in s. 943.14, Wis. Stats.

c-1-o. Any act of aiding and abetting, as defined in s. 50-18 or s. 939.05, Wis. Stats., of any of the activities, behaviors or conduct enumerated in subpars. a to L.

c-1-p. Any conspiracy to commit, as defined in s. 939.31, Wis. Stats., or attempt to commit, as defined in s. 939.32, Wis. Stats., any of the activities, behaviors or conduct enumerated in subpars. a to n.

c-1-q. Discharge of a firearm as defined in s. 105-35.

c-1-r. The production or creation of excessive noise as defined in s. 80-63.

c-1-s. Loitering as defined in s. 106-31.

c-1-t. Public drinking as defined in s. 106-1.8.

c-1-u. The sale, offering for sale, bartering or giving away of any intoxicating liquors or fermented malt beverages without a license as provided in s. 90-3-1 of the code or s. 125.04(1), Wis. Stats.

c-1-v. The operation of a convenience store in violation of any provision of s. 68-55.

c-1-w. The possession of counterfeit items as defined by s. 132.02, Wis. Stats.

c-1-x. Selling or giving away tobacco products to persons under the age of 18 as defined in s. 106-30-2.

c-1-y. The possession, possession with intent to sell or deliver, or delivery of drug paraphernalia as defined in s. 106-36.

c-1-z. Owning, keeping, having or harboring any bird or animal that causes a disturbance of the peace as defined in s. 78-29.

c-1-aa. Misuse of emergency telephone numbers as defined in s. 105-77.

c-1-bb. Illegal sale, discharge and use of fireworks as defined in s. 105-47-1.

c-1-cc. Loitering-illegal drug activity as defined in s. 106-35.6.

c-1-dd. Truancy and contributing to truancy as defined in ss. 106-23.1 and 106-23.3.

c-1-ee. Underage alcohol activities, as defined in s. 90-18.

c-1-ff. Adult contributing, allowing, providing alcohol to underage persons activities, as defined in s. 90-18.

c-1-gg. Robbery as enumerated in s. 943.32, Wis. Stats.

c-1-hh. Receiving or concealing stolen property as enumerated in s. 943.34, Wis. Stats.

c-1-ii. The sale of cigarettes in a form other than as a package or container on which a stamp is affixed under s. 139.32(1), Wis. Stats., as provided in s. 106-30-3-c.

c-1-jj. The possession, sale or use of synthetic marijuana, as provided in s. 105-50.

c-1-kk. Operating or carrying on the business of being a secondhand dealer without having first obtained a secondhand dealer's license, as provided in s. 92-2-2.

c-1-LL. Motor vehicle repair, service or maintenance on any lot used wholly or in part for residential purposes as defined in s. 295-503-3-b.

c-1-mm. On-street motor vehicle repair as defined in s. 105-66.

c-1-nn. Excessive false alarms, as defined in s. 105-75-15-a.

c-2. "Nuisance activity" does not include activities, behaviors or conduct that results in a call for assistance made by the owner or occupant requesting law enforcement services related to any of the following:

c-2-a. "Domestic abuse," as defined in s. 813.12(1)(am), Wis. Stats.

c-2-b. "Sexual assault," as described in ss. 940.225, 948.02, and 948.025, Wis. Stats.

c-2-c. "Stalking," as described in s. 940.32, Wis. Stats.

d. "Other responsible party" means any individual or entity other than the owner of the premises that is licensed or subject to license in the operation of a business upon the premises.

e. "Person associated with a premises" means the premises owner, operator, manager, resident, occupant, guest, visitor, patron or employee or agent of any of these persons.

3. PROCEDURE. a. Notices. a-1. Whenever the chief of police determines that the police department has responded to 3 or more nuisance activities that have occurred at a premises during a 30-day period or that the police department has responded to 2 or more nuisances of the types defined in sub. 2-c-1-e, i to L that have occurred at a premises within one year, the chief of police may notify the premises owner or other responsible party in writing that the premises is a nuisance. For purposes of this section, each separate and distinct incident shall constitute a nuisance activity, and 2 or more separate and distinct incidents occurring on the same day shall be counted separately. This notice shall contain:

a-1-a. The street address or legal description sufficient for identification of the premises.

a-1-b. A description of the nuisance activities that have occurred at the premises.

a-1-c. A statement indicating that the cost of future enforcement may be assessed as a special charge against the premises, or referred or collection, and that the owner or other responsible party may be cited under sub. 6.

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a-1-d. Examples of nuisance abatement measures.

a-1-e. A statement that the premises owner or other responsible party shall within 10 days either respond to the chief of police with an acceptable, written course of action to abate the nuisance activities at the premises or file an appeal pursuant to sub. 5-a.

a-2. Whenever the chief of police determines that modification of an accepted written course of action is necessary to abate nuisance activities at the premises, the chief of police shall notify the premises owner or other responsible party in writing that the written course of action must be modified. This notice shall contain:

a-2-a. The street address or legal description sufficient for identification of the premises.

a-2-b. A description of the nuisance activities that have occurred at the premises that require modification of the accepted written course of action.

a-2-c. A copy of the previously-accepted written course of action.

a-2-d. A statement indicating that the cost of future enforcement may be assessed as a special charge against the premises, or referred for collection, and that the owner or other responsible party may be cited under sub. 6.

a-2-e. A statement that the premises owner or other responsible party shall within 10 days, respond to the chief of police with an acceptable, modified written course of action to abate the nuisance activities at the premises.

b. A notice under par. a shall be deemed to be properly delivered if sent either by first class mail to the premises owner's or other responsible party's last known address or if delivered in person to the premises owner or other responsible party. If the premises owner or other responsible party cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the premises owner's or other responsible party's usual place of abode or regular business in the presence of some competent member of the family at least 14 years of age or a competent adult currently residing or conducting business there and who shall be informed of the contents of the notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the notice is sent by first class mail to the last known address of the owner or other responsible party as identified by the records of the commissioner of assessments, to the appropriate licensing authority or the commissioner of neighborhood services.

c. Upon receipt of the nuisance premises notice or a demand for modification notice, the premises owner or other responsible party shall respond within 10 days to the chief of police with a written course of action or modified written course of action outlining the abatement actions the premises owner or other responsible party will take in response to the notice. Upon review of the written course of action or modified written course of action, the chief shall accept or reject the proposed course of action.

c-1. If the proposed course of action is accepted, the chief shall inform the owner or other responsible party of same and permit the owner or other responsible party 45 days to implement the accepted course of action. If the premises owner or other responsible party has implemented the accepted written course of action within 45 days, no further action by the department may be taken except that if nuisance activity continues, the chief may request the premises owner or other responsible party to modify the accepted written course of action.

c-2. If the premises owner or other responsible party fails to respond, proposes a course of action that is rejected by the chief of police, or fails to implement an accepted written course of action, the chief shall notify the premises owner or other responsible party that the cost of future enforcement may be assessed as a special charge against the premises, or referred for collection, and that the owner or other responsible party may be cited under sub. 6.

d. The chief of police may calculate the cost of police services and refer the cost to the commissioner of neighborhood services or the city attorney for subsequent nuisance activities occurring at the premises within one year of the date of a notice under par. a provided such nuisance activity occurs under one of the following circumstances:

d-1. 13 days after notice was given pursuant to sub. 3-a if the premises owner or other responsible party fails to respond, or proposes a course of action that is rejected by the chief of police.

d-2. 45 days after a proposed course of action was accepted by the chief of police and the premises owner or other responsible party failed to properly implement the accepted course of action.

d-3. After the administrative review board of appeals affirms the nuisance premises determination as provided in s. 320-11 if an appeal is timely filed pursuant to sub. 5-a.

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e. The chief of police shall notify the premises owner or other responsible party of the decision to refer the cost of police services by copy of the chief's cost referral letter to the commissioner of neighborhood services or, alternatively, the chief of police shall notify the responsible party of the decision to refer the cost of police services by copy of the chief's referral letter to the city attorney for collection and to the appropriate licensing authority. Delivery of this notice shall be made as set forth in sub. 3-b. The cost referral letter shall contain:

e-1. The street address or legal description sufficient for identification of the premises.

e-2. A statement that the chief of police has referred the cost of enforcement to the commissioner or to the city attorney and to the appropriate licensing authority, with a concise description of the nuisance activities and the relevant sections of the code.

e-3. A notice of the premises owner's or other responsible party's right to appeal pursuant to sub. 5-b.

e-4. A statement that each subsequent incident of nuisance activity may be deemed a separate violation.

e-5. A statement that whenever a premises owner or other responsible party has been billed, on 3 or more separate dates, for the costs of enforcement within one year, he or she may be issued a citation of not less than \$1,000 nor more than \$5,000 after notification by the chief of police that the premises is a chronic nuisance due to the premises owner's or other responsible party's failure to abate the nuisance activities.

4. **COST RECOVERY.** a. Upon receipt of a cost referral letter from the chief of police pursuant to sub. 3-d, the commissioner of neighborhood services shall charge any premises owner found to be in violation of this section the costs of enforcement, including administrative costs, in full or in part. All costs so charged are a lien upon such premises and may be assessed and collected as a special charge. The commissioner shall establish a reasonable charge for the costs of administration and enforcement of this section.

b. Upon receipt of a cost referral letter from the chief of police pursuant to sub. 3-d, the city attorney shall initiate a collections action against any other responsible party found to be in violation of this section for the costs of enforcement, including administrative costs, in full or in part. The city attorney shall establish a reasonable charge for the costs of administration and enforcement of this section.

5. **APPEAL.** a. Appeal of a determination that a premises is a nuisance under sub. 3-a-1 shall be submitted to the administrative review board of appeals as provided in s. 320-11 within 10 days from the date of the notice.

b. Appeal of the subsequent cost referral by the chief of police pursuant to sub. 3-d shall be submitted to the administrative review board of appeals as provided in s. 320-11 within 30 days from the date of the cost referral letter.

6. CHRONIC NUISANCE PREMISES.

a. Whenever a premises owner or other responsible party has been notified that a nuisance exists at his or her premises and has been billed for 3 or more separate nuisance activities within a one-year time period for the costs of enforcement, the chief of police may designate the premises as a chronic nuisance premises. Delivery of this notice shall be made as set forth in sub. 3-b. The chronic nuisance premises letter shall contain:

a-1. The street address or legal description sufficient for identification of the premises.

a-2. A statement that the premises owner or other responsible party has been billed, for 3 or more separate nuisance activities, for the costs of enforcement within a one-year time period, along with a concise description of the nuisance activities, bills and relevant sections of the code.

a-3. A statement that any subsequent incident of nuisance activity shall be subject to a forfeiture of not less than \$1,000 nor more than \$5,000 for failure to abate the nuisance activity.

a-4. A statement that each subsequent incident of nuisance activity may be deemed a separate violation.

b. Any person failing to abate nuisance activities after receiving notice under par. a shall be subject to a forfeiture of not less than \$1,000 nor more than \$5,000 for failure to abate the nuisance activity. Upon default of payment, the premises owner shall be imprisoned in the county jail or house of correction for a period of not less than 40 days nor more than 90 days.

7. EVICTION OR RETALIATION PROHIBITED.

a. It shall be unlawful for a landlord to terminate the lease agreement or periodic tenancy of any tenant or otherwise retaliate against any tenant because that tenant complained to the chief of police about nuisance activities on the landlord's premises. It shall be presumed that any attempt to increase charges, reduce services, or to otherwise harass or retaliate against the tenant during the 12-month period following receipt of the complaint by the chief of police constitutes unlawful retaliation.

under this subsection. This presumption shall be rebutted by the preponderance of evidence that the actions taken by the landlord were based upon good cause. "Good cause" as used in this subsection means that a landlord must show good cause for his or her actions, other than one related to or caused by the operation of this section. Notwithstanding the foregoing, a tenant's lease agreement or periodic tenancy may be terminated for a failure to pay rent; committing nuisance activity as defined in sub. 2-c-1-a to hh; for the commission of waste upon the premises; violating the terms and conditions of the lease agreement or periodic tenancy or as otherwise provided in ch. 709, Wis. Stats., and ch. ATCP 134, Wis. Adm. Code. A landlord's failure to renew a lease agreement or periodic tenancy upon expiration of such lease agreement or periodic tenancy shall not be deemed a violation of this subsection.

b. Any person violating par. a shall be subject to a forfeiture of not less than \$100 nor more than \$2000 for each violation and in default of payment thereof, be imprisoned in the county jail or house of correction for a period of not less than 4 days nor more than 80 days.

8. SUBSEQUENT NOTICE OF NUISANCE ACTIVITY. Nothing in this section shall prevent or prohibit the chief of police from issuing or reissuing a notice under sub. 3-a-1 regarding subsequent nuisance activity at a premises.

80-11. After Sets. 1. FINDINGS. The common council finds that the unlicensed sale or distribution of alcohol beverages and the operation of public entertainment by individuals or entities that have not applied for and received, or are not eligible for, the appropriate licenses or permits as required by this code, particularly when these activities take place on premises not zoned for commercial activities, constitute a public nuisance. The common council further finds that premises owners, and other parties conducting business activities upon the premises, who chronically fail to control the use of their property substantially interfere with the comfortable enjoyment of life, health and safety of the community. The common council therefore directs the chief of police, the commissioner of neighborhood services and the city attorney, as provided in this section, to charge the owners of these premises the costs associated with abating the violations on premises at which after set activities chronically occur.

2. DEFINITIONS. In this section:

a. "After set activity" means any of the following activities, behaviors or conduct whenever engaged in by persons associated with a premises:

a-1. The sale, offering for sale, bartering or giving away of any intoxicating liquors or fermented malt beverages without a license as provided in s. 90-3 of the code or s. 125.04(1), Wis. Stats.

a-2. Conducting or operating public entertainment without a license or permit as provided in s. 108-5.

b. "Occupant" means any person over one year of age, including an owner or operator, living, sleeping, cooking in, or having actual possession of a dwelling, dwelling unit, rooming unit or hotel unit.

c. "Other responsible party" means any individual or entity other than the owner of the premises that is licensed or required to be licensed for the operation of a business upon the premises.

d. "Person associated with a premises" means the premises owner, operator, manager, resident, occupant, guest, visitor, patron or employee or agent of any of these persons.

e. "Premises" means any building or structure, except an establishment with a valid Class "B" tavern license or a valid public entertainment premises license or permit.

3. LIABILITY. The premises owner or other responsible party of any premises shall be liable for all the costs of administration and enforcement of this section whenever the following occur:

a. The police department has responded to after set activity engaged in by a person associated with the premises.

b. The police department has delivered a written notice of the after set activity addressed to the last known address of the premises owner or other responsible party. The notice shall be deemed to be properly delivered if sent either by first-class mail to the premises owner's or other responsible party's last known address or if delivered in person to the premises owner or other responsible party. The notice shall include a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises or referred for collection. The notice shall also include a statement that whenever a premises owner or other responsible party has been billed for the costs of enforcement relating to 3 or more

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separate occurrences of after set activities within one year, he or she may be issued a citation of not less than \$1,000 nor more than \$5,000 after notification by the chief of police that the premises is a chronic after set premises due to the premises owner's or other responsible party's failure to abate the after set activities.

c. A person associated with a premises has engaged in subsequent after set activity and the subsequent after set activity occurred at least 14 days after the mailing of notice under par. b. If at a residential premises, the after set activity shall be at the same address, be in the same unit, and have at least one of the same occupants, but it need not involve the same persons associated with a premises for whom notice of violation was sent under par. b. If at a non-residential premises, the after set activity shall occur while the premises has the same premises owner or other responsible party for whom notice of violation was sent under par. b.

d. The chief of police has notified the premises owner or other responsible party of the decision to refer the cost of police services by copy of the chief's cost referral letter to the commissioner of neighborhood services or, alternatively, the chief of police has notified the responsible party of the decision to refer the cost of police services by copy of the chief's referral letter to the city attorney for collection and to the appropriate licensing authority.

4. **COST RECOVERY.** a. Upon receipt of a cost referral letter from the chief of police pursuant to sub. 3-d, the commissioner of neighborhood services shall charge any premises owner found to be in violation of this section the costs of enforcement, including administrative costs, in full or in part. All costs so charged are a lien upon the premises and may be assessed and collected as a special charge. The commissioner shall establish a reasonable charge for the costs of administration and enforcement of this section.

b. Upon receipt of a cost referral letter from the chief of police, the city attorney shall initiate a collection action against any other responsible party found to be in violation of this section for the costs of enforcement, including administrative costs, in full or in part. The city attorney shall establish a reasonable charge for the costs of administration and enforcement of this section.

5. CHRONIC AFTER SET PREMISES.

a. **Designation.** Whenever a premises owner or other responsible party has been notified that after set activity exists at his or her premises, and has been billed for the costs of enforcement associated with 3 or more separate occurrences of after set activities within a one-year time period, the chief of police may designate the premises as a chronic after set premises.

b. **Notice.** The police department shall deliver a written notice of the chronic after set activity addressed to the last known address of the premises owner or other responsible party. Notice of designation of a premises as a chronic after set premises shall be deemed properly delivered if sent either by first-class mail to the premises owner's or other responsible party's last known address or if delivered in person to the premises owner or other responsible party. The notice shall include each of the following:

b-1. A statement that the premises owner or other responsible party has been billed for the costs of enforcement associated with 3 or more separate occurrences of after set activities within a one-year time period.

b-2. A concise description of the after set activities, bills and relevant sections of the code.

b-3. A statement that any subsequent occurrence of after set activity shall be subject to a forfeiture of not less than \$1,000 nor more than \$5,000 for failure to abate the after set activity.

b-4. A statement that each subsequent occurrence of after set activity may be deemed a separate violation.

c. **Penalty.** Any person failing to abate after set activities after receiving the notice provided in this subsection shall be subject to a forfeiture of not less than \$1,000 nor more than \$5,000 for failure to abate the after set activity. Upon default of payment, the premises owner or other responsible party shall be imprisoned as provided by law.

6. **APPEAL.** Appeal of the cost referral by the chief of police pursuant to sub. 3 shall be submitted to the administrative review board of appeals as provided in s. 320-11 within 30 days from the date of the cost referral letter.

80-13. Odors from Privy Vaults, Drains, Sewers. Any cellar, vault, drain, privy, pool, sewer, sink, catch basin or premises which shall become noxious, foul or offensive, or which shall emit foul or offensive odors, gases, effluvia or stench is declared to be a public nuisance.

80-15. Spitting in Public Places. No person shall spit, expectorate or deposit any sputum, spittle, saliva, phlegm, mucus, tobacco juice or wads of tobacco upon the floor or stairways or of any part of any theater, public hall or building, or upon the floor or any part of any public conveyance in the city, or upon any sidewalk abutting on any public street, alley or lane of said city.

80-17. Hay Fever Weeds, etc. 1. DEFINITION. In this section, "Turf grass" means annual bluegrass, annual ryegrass, bahiagrass, bermudagrass, buffalograss, carpetgrass, centipedegrass, colonial bentgrass, creeping bentgrass, fine fescue, hybrid bermudagrass, kentucky bluegrass, kikuyugrass, orchardgrass, perennial ryegrass, quackgrass, rough bluegrass, seashore paspalum, St. Augustinegrass, tall fescue and zoysiagrass.

2. TO BE CUT. It shall be unlawful to permit within the city the pollenization of any turf grasses or weeds which cause or produce hay fever in human beings. In order to prevent such pollenization, no turf grass or weeds of any kind shall be permitted to grow or stand more than 7 inches on any property in the city.

2.5. EXEMPTION. The provisions of sub. 2 shall not apply during the month of May during that calendar year for any property owner who has obtained an annual "no mow May" permit from the commissioner. A property owner shall reapply annually to participate in the "no mow May" program. The department shall provide signage to each homeowner who has received a "no mow May" permit. The sign shall be displayed on the homeowner's lawn. The department shall report the results of the "no mow May" program to the common council during the first quarter of each year.

3. BY OWNER OR OCCUPANT. It shall be the duty of the owner and the tenant, or occupant of any leased or occupied premises, and the duty of the owner of any vacant or unoccupied premises within the city to comply with this section both as to the premises owned or occupied and as to public sidewalks on which such premises abut.

4. BY FRANCHISE HOLDER. It shall be the duty of every holder or owner of a public franchise to comply with this section as to portion of highways in the city which such holder or owner is required to keep in repair.

5. BY AGENT OR EMPLOYEE. It shall be the duty of every agent or employee in charge of any premises in the city to comply with the provisions of this section as to premises in his charge.

6. CHARGES AND COSTS. a. Any person who fails to cut turf grasses or weeds as required in sub. 2 shall be subject to a special charge of \$50 for a first violation in a calendar year, if the violation is not abated within 72 hours of initial inspection and photographic verification by the department.

b. The amount of the special charge for any second and each subsequent violation in the same calendar year shall increase by \$50 from the amount of the special charge imposed for the previous violation, not to exceed \$300 for 6 or more violations in the same calendar year, and shall be assessed upon initial inspection and photographic verification by the department.

c. There shall be an additional special charge of \$100 for failure to mow or otherwise abate any condition that remains in violation of this section. Upon a subsequent failure to comply with this section in the same calendar year, the person shall be subject to a special charge of \$150.

d. Any costs incurred by the city in abatement or remediation shall constitute additional special charges.

e. Special charges made under this subsection shall be due and payable 30 days after billing or, if not paid within that time, become a lien on the subject property as provided in s. 66.0627, Wis. Stats. The lien shall take effect as of the date of delinquency and shall include an administrative charge of \$25. The lien shall automatically be extended upon the current or next tax roll as a delinquent tax against the property, and all proceedings in relation to the collection, return and sale of the property for delinquent real estate taxes shall apply to such charge.

80-19. Nuisance Light on Residential Properties.

1. DEFINITIONS. In this section:

a. "Glare" means an excessive brightness contrast producing a sensation of visual discomfort resulting from viewing a strong, intense light source.

b. "Intermittent light" means any artificial light which flashes, revolves or fluctuates in such a manner that the variance is easily distinguished by personal observation.

c. "Light source" means a device (such as a lamp) which provides visible energy.

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d. "Person" means any individual, firm, partnership, trustee, agent, association, corporation, company, governmental agency, club or organization of any kind.

e. "Spill light" means any artificial light flowing onto an adjacent property.

2. GLARE AND SPILL LIGHT DECLARED A NUISANCE. Glare, spill and intermittent artificial light impacting on residential properties between the hours of 6 p.m. and 7 a.m. which causes loss of enjoyment, comfort or repose, and use of such properties is declared a nuisance.

3. NUISANCE DETERMINED. a. Spill light shall be considered a nuisance when measurement in the nearest habitable area of the residential property at the location where the alleged nuisance occurs reveals that such light produces 0.2 horizontal foot candles or more at approximately 4 feet from the ground or floor surface at which the measurement is taken. Such measurements shall be taken by department personnel utilizing appropriate equipment and techniques.

b. Glare light shall be considered a nuisance when an artificial light source has not been properly located, shielded, directed or controlled, and as a result there is a direct line of sight between the light source or its reflection and a point 5 feet above the ground or higher in the nearest habitable area on the complainant's property and of such intensity as to cause discomfort or annoyance.

c. Intermittent light shall be considered a nuisance when it impacts upon a habitable area of a complainant's property with such intensity and variance as to cause discomfort or annoyance.

4. PRODUCTION OF LIGHT NUISANCE PROHIBITED. No artificial light source shall be installed, allowed to be installed or permitted on any property which light source flashes or revolves, or due to its intensity or physical characteristics, causes glare or spills onto a residential property in such a manner as to cause a nuisance during the hours of 6 p.m. through 7 a.m.

5. RESPONSIBILITY. It shall be the responsibility of every installer of artificial lights and every owner or occupant of property on which artificial lights are installed to comply with sub. 4.

6. EXEMPTIONS. The provisions of subs. 4 and 5 shall not apply where:

a. Such lights are caused to be installed by city, county or state governments to light public ways or areas for public benefit; or

b. There is no written complaint filed with the department by a person directly affected by such light; or

c. Such lights are required by law for safety reasons and there is no practical way to control them to eliminate the nuisance.

7. MAKING A COMPLAINT.

a. Any adult resident of the city may seek relief from nuisance light on a residential property by filing a written complaint with the department.

b. The written complaint shall contain the complainant's name and address, the address of the property where the alleged nuisance light is installed, a brief description of the light source, and the complainant's signature.

c. Upon receipt of a complaint, the department shall investigate whether the regulations set forth in subs. 3 or 4 could or are being violated.

d. The department shall notify the affected parties as to its findings.

e. The complainant must be willing to testify in court if required as to the nature of the nuisance of the light about which they are complaining.

8. RETROACTIVITY. It is the intent of the city that the provisions of this section shall apply to all existing installations, and the owners or occupants of properties on which nuisance lights exist shall be responsible for eliminating any nuisance caused by their lights to comply with this section.

80-22. Sale of Unwashed Rags.

1. PROHIBITED. No dealer in rags or in any used fabric shall sell or offer for sale any such rags or fabric except in a thoroughly clean condition; and all rags or used fabric shall be thoroughly washed or laundered by a method approved by the commissioner before being sold or offered for sale by any dealer.

2. USE OF UNWASHED RAGS. No manufacturer shall use or permit the use of any unwashed rags or used fabric in any factory, workshop or other place of employment owned or controlled by him; provided, however, that this section shall not apply to rags or fabrics that become soiled in consequence of actual commercial usage in such factory, workshop or place of employment.

3. DEFINITIONS. In this section:

a. The word "dealer" shall apply to any person, firm or corporation engaged in the business of buying or selling rags or used fabric.

b. The word "manufacturer" shall apply to any person, firm or corporation owning or controlling any factory, workshop or other places of employment.

80-27. Emission of Dense Smoke From Engine, Boiler, etc. It shall be unlawful for the owner of any boat, stationary or locomotive engine, engine used in dredging or driving piles, portable boiler or furnace, or tar kettle; or any officer, manager or agent of any corporation owning any boat, stationary or locomotive engine, engine used in dredging or driving piles, portable boiler or furnace or tar kettle; or the owner, lessee or occupant in the building, or any officer, manager or agent of any corporation owning, leasing or occupying any building; to permit or allow to be emitted dense smoke within the corporate limits of the city or within one mile therefrom.

80-28. Chimney Soot Nuisances. The emission of soot, coal dust or cinders from any chimney, stack or furnace within the corporate limits of the city is declared to be a public nuisance and the same is prohibited.

80-29. Masonry Building Cleaning: Sandblasting. 1. PERMIT REQUIRED. No person, firm or corporation shall undertake to clean the exterior of an existing masonry building without first obtaining a permit from the department of neighborhood services. When chemical or abrasive cleaning or sandblasting methods are to be used, the applicant must file a notarized statement stating familiarity with and intent to comply with the environmental regulations of the Wisconsin department of natural resources. When the public way is occupied by any materials, equipment, scaffolding and/or structures, a separate permit shall also be obtained from the commissioner of public works as provided in ss. 115-10 and 115-32.

2. TERMS OF THE PERMIT. a. A building cleaning permit shall be valid only for the number of days stated and for such hours as specified therein. Said permit shall be posted prominently on the site.

b. Precautionary measures such as drop curtains, canvas drops, coverings, and/or mixed sand and water methods which would effectively confine the disposal of particulate matter, fugitive dust, or other material must be

utilized and specified in the permit so as not to create a public nuisance or to exceed air quality standards in accordance with the Wisconsin Statutes and ch. NR 400, Wis. Adm. Code.

c. If such cleaning is to be done with steam, the steam boiler and all of its accessories including piping hose and nozzle must be properly licensed as provided in ch. 223.

d. The chemical names or trade names of all detergents, chemicals, acids, and cleaning materials to be used in the cleaning of the building must be stated in the terms of the permit. All detergents, chemicals, and acids used in cleaning must be biodegradable, as well as nontoxic and noninjurious to life or property.

e. Paint strippers or paint removers required to remove lead-based paint from masonry shall be biodegradable, nontoxic, and noninjurious to life or property. The use of abrasives and caustic or lye-based paint removers is expressly prohibited.

f. The commissioner of neighborhood services shall not issue a permit for masonry building cleaning of an historic property unless a certificate of appropriateness has been issued by the historic preservation commission as provided in s. 320-21-11.

3. PERMIT FEE. See s. 60-57 for the required permit fee.

4. REVOCATION OF PERMIT. The commissioner of neighborhood services or the commissioner's authorized representative shall have the authority to summarily halt the abrasive cleaning operation by suspension or revocation of the masonry building cleaning permit if the commissioner or the commissioner's authorized representative finds the permit holder to be in violation of the terms of the permit as specified in sub. 2.

80-31. Breeding Place for Flies. It shall be unlawful for any person to maintain or permit on any premises occupied by the person any accumulation of rubbish, filth or material of any kind that is or is likely to become a breeding place for flies or a medium for the development of fly larvae.

80-42. Stench Bombs. 1. UNLAWFUL TO USE. It is unlawful to throw or deposit, or attempt to throw or deposit, or aid or abet in the throwing or depositing upon the property of another any vile, noxious or offensive smelling or injurious liquid, gas or solid, commonly known or termed as a

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stinking bean or a stench bomb in any form or device, from which such liquid, gas or solid may be easily liberated and which upon being liberated, would molest, discomfort or discommodate any person or damage any property.

2. UNLAWFUL TO POSSESS. It is unlawful for any person to have in his possession or under his control any stinking bean, stench bomb or other device as set forth in sub. 1 with the intent to use the same in violation of sub. 1 or with the intention that the same shall be used in violation of sub. 1.

80-43. Nauseous Material on Public Streets. It is the duty of the commissioner to cause such necessary examinations to be made from time to time as may be required to keep the streets, alleys, sidewalks and public grounds free from the nauseous substances mentioned in this chapter, and to institute prosecutions against all persons who may violate the same.

80-44. Dumping. 1. DEFINITION. In this section, "dumping" means either of the following:

a. Depositing solid waste on public or private property, as defined in s. 79-1-12 in an amount greater than the capacity of a standard 20-gallon container without the consent of the property owner.

b. Depositing liquid waste on public or private property, as defined in s. 79-1-6 in any amount by a food peddler or by the operator of a food peddler vehicle without the consent of the property owner.

2. PROHIBITED. No person may engage in dumping on public or private property other than a permitted facility under ss. 80-45 and 46.

3. RESPONSIBILITY. It shall be the responsibility of the property owner to remove solid waste resulting from dumping activities.

80-45. Public Dump Regulations. 1. PERMIT REQUIRED FOR DUMPING. a. No person, firm or corporation shall dump or deposit or permit any other person, firm or corporation to dump or deposit any refuse of any kind, whether it be organic or inorganic in character, upon any lot or premises in his or its possession or control in the city other than the lot or premises wherein such refuse is produced, unless he or it holds a valid dumping permit issued by the city clerk in the name of the operator of the dump and for the specific site on which the dumping or refuse is to take place.

b. In addition to any materials which are listed as prohibited from being placed upon dumps in the rules and regulations of the commissioner adopted pursuant to s. 80-46, paper, septic tank residue, waste from slaughter house settling basins, animal matter, fruits, vegetables or food products, garbage, garden waste or any matter which will provide food for rats or other vermin shall not be dumped.

c. Any material which, because of its nature may create a public nuisance or become dangerous, such as fine sand, foundry sand, chemicals, explosives, drugs, surgical dressings or any medical or hospital waste, any offensive fluids, or any solid or liquid matter which may emit dangerous or offensive fumes, vapors or odors shall not be dumped.

2. TYPES OF DUMPING. Dumps and permits therefor shall be classified as follows:

a. Those upon which the dumping of refuse which includes used and discarded uncleansed noncombustible food containers or incinerator refuse, is permitted.

b. Those upon which the dumping of refuse which includes used and discarded uncleansed noncombustible food containers or incinerator refuse, is not permitted.

3. APPLICATION. The operator of a dump site shall file in triplicate an application for a dumping permit in the office of the city clerk on application forms prepared by said clerk.

4. BOND. There shall be submitted with the application a cash bond or surety bond executed by a surety company licensed to do business in the state of Wisconsin in the sum of not less than \$5,000 to secure the city against inspection costs, damages and expenses which it may incur in the regulations of said dump or in the corrections therein.

5. APPROVAL. No permit shall be issued until such application shall have been submitted to and approved by the common council. The common council shall not approve such a permit unless it has found as a fact, after consideration of the location and the physical layout of the premises where such dumping is to take place, the land use characteristics and nature of development of the premises where such dump is to be operated, the land use characteristics and nature of development of the immediate neighborhood, the classification of the material to be dumped, such classification being referred to in sub. 2, and the health, safety, and general welfare of the public, that the operation of

the particular class of dump for which a permit is requested at the particular premises involved will not, when in operation, have a substantially adverse effect upon the public health of the persons living in the immediate neighborhood of such premises and will not have a substantially adverse effect upon the public safety of the persons living in the immediate neighborhood of such premises, and will not cause a substantial depreciation in the property value in the immediate neighborhood, and will not have a substantially adverse effect upon the public welfare, public convenience, or the public prosperity of the immediate neighborhood, and will not constitute a public or private nuisance. Before making a determination as provided for this section, the common council shall submit the application to the commissioner, the commissioner of neighborhood services, the commissioner of public works and the city plan commission for recommendation and report.

6. PERMIT FEE. See s. 60-19 for the required permit fee.

7. COMPLIANCE. Any person, firm or corporation applying for a permit shall agree to maintain a grade as established by the common council, such grade level to include not only refuse but the required earth used to cover the crown of the dump, and shall also agree to and bind himself or itself to the payment of an amount sufficient per month to cover the expense of the city in maintaining inspection and enforcement of the provisions of this section and likewise shall obligate himself or itself to pay all damages or expenses which the city may incur in the regulation of such dump.

8. NOT TRANSFERABLE. No permit issued under the provisions of this section shall be transferable and the operator shall notify the city clerk and the commissioner in writing within 24 hours after having relinquished proprietorship of, having sold, transferred, given away, or otherwise disposed of such interest or control of any dump site and shall file in writing with the city clerk the name and address of the person to whom proprietorship has been relinquished by sale, gift or other method of transferral or disposition.

9. EXEMPTION. The permit requirements of this section do not apply to any clean fill dump that is operated by the department of public works.

80-46. Supervision of Dumps. 1. AUTHORITY. The supervision and control of all dumps is placed in the department, and the commissioner is authorized to adopt rules and regulations governing the supervision and control of all such dumps located in the city. These rules and regulations may include the cleansing and care of all automobiles, wagons and other vehicles and receptacles used in conveying of material, and placarding of dumps and anything else which, in the judgment of the commissioner, is necessary to the maintenance of good order and sanitation in connection with any such dumps and their use.

2. INSPECTION. The commissioner or any agent authorized by him to do so may inspect any dump site in the city at any time, and no operator or agent of any operator of a dump shall attempt to stop or in any way hinder any such inspection made by the commissioner or his duly authorized agent.

3. VIOLATIONS. Whenever upon inspection of any dump, the commissioner finds that conditions or practices exist which are in violation of this section, or of any rule or regulation adopted pursuant thereto, the commissioner shall give notice, in writing, by personal service or by certified mail or by registered mail, to the operator of such dump, that unless such conditions or practices are corrected within a reasonable period to be determined by the commissioner, the operator's dump permit will be suspended. At the end of such period, the commissioner shall reinspect the dump, and if he finds that such conditions or practices have not been corrected, he shall suspend the license and give notice in writing to the operator that the latter's permit has been suspended. Upon receipt of notice of permit suspension, the operator shall cease operation of such dump.

4. SUSPENSION. Any person, firm or corporation whose permit to operate a dump has been suspended, or who has received notice from the commissioner that his permit is to be suspended unless existing conditions or practices are corrected at the dump which he operates, may request and shall be granted a hearing on the matter before the commissioner if he files a written petition for such hearing in the office of the commissioner within 10 days following the day on which such permit was suspended, and if no petition for such hearing is filed in the matter and the existing conditions and practices are not corrected within the time allotted, the dump permit shall be deemed to have been automatically revoked. Upon receipt of notice of permit revocation, the operator shall cease operation of such dump.

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80-48. Rat Control Regulations.

1. DEFINITIONS. a. "Hardware cloth" shall mean wire screening of such thickness and spacing as to afford reasonable protection against the entrance of rats and mice.

b. "Owner or manager." Whenever any person or persons shall be in actual possession of or have charge, care or control of any property within the city, as executor, administrator, trustee, guardian or agent, such person or persons shall be deemed and taken to be the owner or owners of such property within the true intent and meaning of this section and shall be bound to comply with this section to the same extent as the owner, and notice to any such person of any order or decision of the commissioner shall be deemed and taken to be a good and sufficient notice, as if such person or persons were actually the owner or owners of such property, except that whenever an entire premises or building is occupied as a place of business such as a store, factory, or warehouse, rooming house, junk yard, lumber yard or any other business under a single management, the person, firm or corporation in charge of such business shall be considered the owner or manager.

c. "Rat harborage" shall mean any place where rats can live and nest without fear of frequent molestation or disturbance.

d. A "rat-proof container" shall be a container constructed of concrete or metal, or the container shall be lined with metal or other material that is impervious to rats and openings into the container such as doors shall be tightfitting to prevent the entrance of rats.

e. "Ratproofing" shall consist of closing openings in building foundations and openings under and around doors, windows, vents and other places which could provide means of entry for rats with concrete, sheet iron, hardware cloth or other types of ratproofing material approved by the commissioner.

2. ELIMINATION OF RAT HARBORAGES. Whenever accumulations of rubbish, boxes, lumber, scrap metal, car bodies or any other materials provide rat harborage, the person, firm or corporation owning or in control of such materials shall cause the materials to be removed or the materials shall be stored so as to eliminate the rat harborage. Lumber boxes and similar materials shall be neatly piled. These piles shall be raised at least a foot above the ground. When the owner of the materials cannot be found, after reasonable search, the owner or manager of the premises on which the materials are stored shall be responsible for disposal, or proper piling, of the materials.

3. ELIMINATION OF RAT FEEDING PLACES. No person, firm or corporation shall place, or allow to accumulate, any materials that may serve as a food for rats in a site accessible to rats. Any waste material that may serve as food for rats shall be stored in ratproof containers. Feed for birds shall be placed in compliance with s. 78-35.

4. EXTERMINATION. Whenever rat holes, burrows or other evidence of rat infestation are found on any premises or in any building within the city, it shall be the duty of the owner or manager of such property to exterminate the rats or cause the rats to be exterminated. Within 10 days after extermination, the owner or manager shall cause all of the rat holes or burrows in the ground to be filled with earth, ashes or other suitable material.

5. RATPROOFING. It shall be the duty of the owner or manager of any building in the city to make such building reasonably ratproof, to replace broken basement windows, and when necessary to cover the basement window openings with hardware cloth or other suitable material for preventing rats from entering the building through such window openings. The owner or manager of any premises upon which sheds, barns, coops or similar buildings are located shall eliminate the rat harborages from within and under such buildings by ratproofing, raising the buildings above the ground or by some other suitable methods; or such sheds, barns, coops or other buildings shall be razed.

6. ELIMINATION OF RAT INFESTATIONS. Not less than 24 hours after the mailing or service and posting of an order and notice to eliminate a rat infestation, if the rat infestation has not been eliminated, the commissioner may have the rats exterminated at the city's expense. The costs of such action may be collected from the owner of the premises on which the rat infestation had existed or may be charged against the premises and assessed and collected as a special charge, upon notification by the commissioner to the city treasurer.

80-49. Nuisance Vehicles. 1. PURPOSE. Damaged, partially dismantled or junk motor vehicles upon private premises, except where permitted by a valid occupancy permit, constitute an eyesore and tend to depreciate property values contrary to the public welfare. Whenever such vehicles are junk motor vehicles or are partially dismantled, are unsafely elevated, are parked on unapproved surfaces or are rendered favorable to the harborage of rodents and insects, they may create a health or safety hazard or create a threat to the public welfare and as such constitute a public nuisance.

2. DEFINITIONS. In this section:

a. "Inoperable" means a motor vehicle that is incapable of being propelled under its own power including, but not limited to, a motor vehicle meeting any of the following criteria:

- a-1. Is missing an engine.
- a-2. Is missing a battery.
- a-3. Is missing a transmission.
- a-4. Is missing a wheel.

a-5. Is elevated on blocks or other objects.

a-6. Is missing a tire or has a deflated tire.

b. "Junk motor vehicle" means a motor vehicle meeting any 3 of the following criteria:

b-1. Has not been moved for 30 consecutive days.

b-2. Is partially dismantled.

b-3. Is inoperable.

b-4. Is parked on a surface that is not an approved surface under s. 252-74-1 and 2.

b-5. Is unlicensed or improperly licensed.

c. "Partially dismantled" means, but is not limited to, a motor vehicle meeting any of the following criteria:

c-1. Is missing a door, fender or hood.

c-2. Is missing a windshield or window or has a broken windshield or window.

d. "Premises" means all or part of a platted lot, an unplatted lot or parcel of land or a plot of land either occupied or unoccupied by any building or structure, equipment or property of any kind.

e. "Premises owner" means any person who alone or jointly with others has legal title to any facility or premises with or without having actual occupancy; or who has charge, care or control of the facility or premises as owner or agent of the owner or as executor, administrator, trustee or guardian of the estate of the owner..

f. "Public view" means storing outside of a fully enclosed code compliant building.

g. "Vehicle" means a motor vehicle as defined in s. 340.01(35), Wis. Stats.

3. CERTAIN VEHICLES PROHIBITED.

Except where permitted by a valid occupancy permit, no premises owner or vehicle owner may allow any of the following in public view on a premise owner's private premises:

a. A vehicle that is, damaged, in a manner that would adversely affect its operation or partially dismantled.

b. A vehicle in a sufficiently deteriorated condition to constitute a public nuisance.

c. A vehicle that is unsecured or unsafely elevated on blocks or other objects.

d. A vehicle whose condition renders it favorable to the harborage of rodents and insects.

e. A vehicle that constitutes an eyesore and tends to depreciate property values contrary to the public welfare so as to constitute a public nuisance.

f. A vehicle that is in such condition or parked in such a way to render such vehicle a health and safety hazard.

3.5. JUNK MOTOR VEHICLE AS THREAT TO PUBLIC WELFARE. A junk motor vehicle, as defined in sub. 2-b, constitutes a threat to the public welfare.

4. CONDEMNATION OF VEHICLES.

Whenever the commissioner believes or has reasonable grounds to believe any vehicle on private premises is a junk motor vehicle or to be in such condition or parked in such a way so as to render such vehicle a health or safety hazard or a threat to the public welfare, the commissioner may condemn the vehicle in accordance with the following procedures:

a. Order. The commissioner shall, through personal delivery or the regular mail, serve a written order of condemnation on the owner of the premises at the owner's last known address, if ascertainable.

b. Format. The order shall:

b-1. Include a description of the premises and vehicle.

b-2. Include an explanation for the issuance.

b-3. Include a statement concerning the time period by which the vehicle must be removed or its condition corrected.

b-4. Include a statement of the consequences if the city removes the vehicle.

b-5. Include an explanation of the right to petition the commissioner for a hearing within 72 hours and a statement that any vehicle owner or premises 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.

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c. Notice and Placard. Whenever the commissioner issues such an order:

c-1. The commissioner shall through personal delivery or regular mail, serve a notice of condemnation on the last registered owner of the vehicle at the owner's last known address if ascertainable.

c-2. The commissioner shall provide notice of condemnation on a placard that bears the word "Condemned" and post a copy of the placard in a conspicuous place on the vehicle. The placard may be posted at any time after the commissioner determines that the vehicle constitutes a nuisance.

d. Hearing. A request for a hearing before the commissioner of the department issuing the notice must be filed within 72 hours from the time the vehicle has been condemned and be in writing, explaining why the vehicle should not be removed from the premises.

d-1. Upon receipt of the request for a hearing, the commissioner shall halt the condemnation of the vehicle, pending the decision of the commissioner.

d-2. If the commissioner upholds the condemnation of the vehicle, the premises owner or the vehicle owner may appeal the decision to the administrative review board of appeals pursuant to s. 320-11.

e. Waiver. Whenever a vehicle owner or premises owner does not file a request for a hearing under par. d, 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.

5. REMOVAL OF CONDEMNED VEHICLES. Not less than 72 hours after the mailing or service and posting of an order and notice, if no petition for a hearing has been filed and if the vehicle has not been removed or its condition corrected, the commissioner may have the vehicle removed and destroyed at the city's expense. The costs of such action may be collected from the owner of the premises at which the vehicle had been stored, from the owner of the vehicle or may be charged against the premises and assessed as other special charges are, upon notification by the commissioner to the city treasurer.

6. EXCEPTIONS. This section shall not apply to a vehicle in an enclosed building or on the premises of an auto repair business, a service station, a junk yard or other such business, as long as the business is operated according to the law, or a vehicle which is in an appropriate storage place maintained by the city.

7. ENFORCEMENT. a. The department shall enforce this section.

b. In addition to other applicable enforcement procedures and pursuant to s. 66.0113, Wis. Stats., department personnel may issue citations pursuant to the citation procedure in s. 50-25 to any person violating this section.

8. PENALTIES. a. Violations. Any person convicted of violating this section shall forfeit not less than \$150 nor more than \$1,000 for each violation together with the costs of such action. Upon failure to pay the forfeiture, the person shall be imprisoned in the county jail or house of correction for not more than 60 days for each offense. Each day of violation shall be a separate offense.

b. Citations. In addition to other applicable enforcement procedures and pursuant to s. 66.0113, Wis. Stats., department personnel may issue citations pursuant to the citation procedure in s. 50-25 to any person violating this section.

80-50. Disposition of Aborted Human Fetuses.

1. DISPOSITION. Every hospital and clinic in which abortions are performed or occur spontaneously, and any laboratory to which the aborted fetuses are delivered, shall provide for the disposal of the aborted fetuses by cremation, or other manner approved of by the commissioner. The hospital, clinic or laboratory may complete any laboratory tests necessary for the health of the woman or her future offspring prior to disposing of the aborted fetus.

2. REPORTING. Each hospital, clinic and laboratory shall report on a form provided by the commissioner the manner in which it disposes of the aborted fetus. Such reports shall be made annually by December 31 and whenever the method of disposal changes. The commissioner shall provide forms of reporting under this section.

SUBCHAPTER 2
NOISE CONTROL

80-60. Definitions. The following definitions shall apply in the interpretation and enforcement of this subchapter:

1. **AMBIENT NOISE** shall mean all the encompassing noise associated with a given environment, being usually a composite of sounds from many sources near and far.
2. **AMPLITUDE** shall mean the absolute value of the maximum displacement from zero value during one period of oscillation.
3. **CHIEF OF POLICE** means the legally designated chief of police or an authorized representative designated by the chief of police.
4. **DAY** shall mean the hours between 7 a.m. and 9 p.m.
5. **Db** shall mean a standard unit of acoustic pressure measurement having a zero reference of 0.0002 microbar.
6. **DISPLACEMENT** shall mean a simple harmonic motion in any plane.
7. **IMPULSIVE NOISE** shall mean a noise of short duration.
8. **NIGHT** shall mean the hours between 9 p.m. and 7 a.m.
9. **NOISE** shall mean unwanted or annoying sound.
10. **NOISE RATING NUMBER** shall mean the criteria established in the noise rating curves of the International Standards Organization as published in ISO/TC 43, Secretariat - 139, August 1961, Table I; noise rating numbers copy attached to common council file number 72-1446.
11. **NUISANCE** means the making, creating, or causing to be made or continued of any boisterous or unreasonably loud noise which causes, constitutes or tends to provoke a disturbance and which is detrimental to the public health, safety, welfare or peace, or noise which exceeds the limitations set forth in s. 80-64 or 80-65.
12. **PERSON** means an owner as that term is defined in s. 200-08-66, an operator as that term is defined in s. 200-08-64 and occupant as that term is defined in s. 200-08-61. For purposes of enforcing the provisions of s. 80-63, "person" shall also mean the owner

or operator, as defined in s. 340.01(41), Wis. Stats., of a vehicle or other machinery on the public highways.

13. **PREMISES** means one or more lots or portions of lots, including any structures, which are contiguous and under common ownership or control.

14. **PURE TONE** shall mean a sound having a single pitch.

15. **VEHICLE** shall mean any passenger vehicle, truck, truck trailer, trailer, semitrailer, boat or vessel, or similar device intended to convey people or commodities, which is propelled or drawn by mechanical power, but shall not include airplanes and toys.

80-61. Enforcement. It shall be the duty of the commissioner to enforce ss. 80-60 to 80-73, except that s. 80-65-4 may be jointly enforced by the commissioner and the chief of police, and s. 80-69 shall be enforced by the chief of police.

80-62. Excessive Noise and Vibration Declared a Nuisance. Excessive noise and vibration, as defined in this subchapter, is deemed and is declared to be a public nuisance and may be subject to summary abatement procedures as described in s. 17-12 of the city charter. Such abatement may be in addition to administrative proceedings, fines and penalties as provided in this subchapter. It shall be the duty of the commissioner, upon complaint of a nuisance, to determine if excessive noise and vibration exist as defined in this subchapter and to take the appropriate action as specified therein. Conditions of excessive noise and/or vibrations which are specifically exempted or for which a variance permit has been issued in conformity with provisions of this subchapter shall be exempt from the application of this subchapter.

80-63. Excessive Noise Prohibited.

1. No person shall produce, assist in producing or cause to be produced noise which exceeds the limitations set forth in s. 80-64 or 80-65. It shall be unlawful for any person occupying or having charge or control of any building or premises, or any part thereof, to cause, suffer or allow any loud, excessive or unusual noise in the operation of any radio, stereo or other mechanical or electrical device,

80-63-2 Nuisances

instrument or machine, which loud, excessive or unusual noise tends to unreasonably disturb the comfort, quiet or repose of persons therein or in the vicinity. It shall be unlawful for any person having charge or control of any vehicle or machinery, or owning a vehicle or machinery, to cause, suffer or allow any loud, excessive or unusual noise in the operation of any radio, stereo or other mechanical or electrical device, instrument or machine upon any highway or waterway, which loud, excessive or unusual noise tends to unreasonably disturb the comfort, quiet or repose of persons therein or in the vicinity.

2. It shall be unlawful for any person to make, create or cause to be made or continue noise which constitutes a nuisance.

3. a. An owner, operator or owner's registered agent of a premises shall be liable for all of the costs of administration and enforcement of this subsection whenever all of the following occur:

a-1. A person on the premises has been charged with violating the noise limitations set forth in s. 80-64 or 80-65.

a-2. The department has sent by first class mail a written notice of the violation described in subd. 1, addressed to the last known address of the owner, operator or owner's registered agent.

a-3. A person on the premises is found to have been charged with violating the noise limitations set forth in s. 80-64 or 80-65 and that violation occurred not less than 8 business days after mailing of notice under subd. 2. The violation shall be at the same address and in the same unit and involve the same occupancy, but need not involve the same person for whom notice of violation was sent under subd. 2.

b. The chief of police shall provide a record of each charged violation of s. 80-64 or 80-65 and the costs of enforcement to the commissioner. Upon the issuance of a citation, the commissioner may provide written notice under par. a-2 to the owner, operator or owner's registered agent of the premises in which the charged violation occurred.

c. In the event of the occurrence of all the provisions set forth in par. a., the costs of

the enforcement of the second and all subsequent charged violations referred to in par. a-3, including administrative costs, may be charged in full or in part against the real estate on which the noise which constituted the nuisance occurred. If those costs are so charged, they are a lien upon such real estate and may be assessed and collected as a special charge. The city shall establish a reasonable charge for the costs of administration and enforcement of this subsection.

d. Appeal of the determination of the commissioner imposing such special charges against the property may be submitted to the administrative review board of appeals as provided by s. 320-11.

4. a. A person who owns or operates a vehicle or machinery upon the highways shall be liable for all of the costs of administration and enforcement of this subsection whenever all of the following occur:

a-1. A person operating or occupying the vehicle or machinery has been charged with violating the noise limitations set forth in s. 80-64 or 80-65.

a-2. The police department has sent by first class mail a written notice of the violation described in subd. 1, addressed to the last known address of the owner or operator. Written notice shall state that the operator or owner may be subject to the costs of investigation, administration and enforcement associated with subsequent charges of noise violations involving the same vehicle or machinery.

a-3. A person operating or occupying the vehicle or machinery is found to have been charged with violating the noise limitations set forth in s. 80-64 or 80-65 upon a credible complaint, and that violation occurred not less than 8 business days after mailing of notice under subd. 2. The violation shall involve the same vehicle or machinery, but need not involve the same operator or occupant for whom notice of violation was sent under subd. 2.

b. The chief of police shall provide a record of each charged violation of s. 80-64 or 80-65 and the costs of investigation, administration and enforcement to the city attorney.

c. In the event of the occurrence of all the provisions set forth in par. a., the costs of the investigation, administration and enforcement of the second and all subsequent charged violations referred to in par. a-3, may be charged to the owner or operator and in whole or in part and collected as a city receivable. The city shall establish a reasonable charge for the costs of administration and enforcement of this subsection.

d. Appeal of the determination of the chief of police imposing costs against the owner or operator may be submitted to the administrative review board of appeals as provided by s. 320-11.

80-64. Criteria to Determine Excessive Noise.

1. NOISE LIMITATIONS. The following noise limitations are established for any premises in the following zoning districts, as measured at the lot line:

<u>DISTRICT</u>	<u>NOISE RATING NUMBER</u>	
	<u>DAY</u>	<u>NIGHT</u>
Residential Districts	55	45
Neighborhood Shopping	55	45
Other Commercial Districts	60	50
Downtown Districts	60	60
Industrial Districts	65	55
Parks	55	45
Institutional	55	45
Planned Development	65	55
adjacent to an IH or IM district		
Other Planned Development	55	45

2. PURE TONE AND IMPULSIVE NOISES ARE FACTORS. Five noise rating numbers shall be subtracted from the table in sub. 1 if the subject noise consists primarily of a pure tone or if it is impulsive in character.

3. AMBIENT NOISE IS A FACTOR. The subject noise must exceed the ambient noise by five Db or more, in any octave band, to be declared excessive.

80-65. Method of Measuring Noise.

1. EQUIPMENT. Noise measurements shall be made with a sound level meter and compatible octave band analyzer manufactured

according to the specifications of the American National Standards Institute, USA Standard Specification for General Purpose Sound Level Meters (S1.4-1971) and Preferred Center Frequencies for Acoustical Measurements (S1.6-1960) or any other subsequent nationally adopted standard superseding the above standards.

2. LOCATION AND INTERPRETATION. Noise measurements shall be made at the nearest lot line of premises from which noise complaints are received and shall be made at a height of at least 3 feet above the ground and at least 3 feet away from walls, barriers, obstructions or sound reflective surfaces. Where the nature of the noise permits, the slow response setting shall be used to obtain the noise level on the sound level meter. The sound analysis curve shall be plotted in dB upon the noise rating numbers chart (chart 1), and the highest portion of the curve in any octave band above a noise rating curve shall be the noise rating number for the measurement. The average curve of several noise measurements may be used to plot the sound analysis curve.

3. ALTERNATIVE METHOD. When detailed sound analysis measurements cannot be made, a measurement of the noise using the A scale of a standard sound level meter may be made and the noise rating number shall be determined by this measurement minus 8 dB.

4. NOISE NUISANCES (AMPLIFIERS, AIR CONDITIONERS, OTHER INTERMITTENT, RANDOM AND DISRUPTIVE NOISE, etc.).

a. Purpose. Certain noises are impractical to measure to determine compliance with the community noise standards as described in s. 80-64 and this section. These noises may occur randomly or at unpredictable times or be of short duration. Whenever such noises occur and constitute a nuisance as defined in s. 80-60-11, alternate methods of processing and relief shall be applied as follows:

a-1. The chief of police or commissioner may commence prosecution for a noise nuisance violation upon the observation by a police officer or department inspector of noise or upon direct evidence of activities constituting a noise nuisance as defined in s. 80-60-11 or prohibited noise violation as set forth in s. 80-63-1.

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a-2. Complaint by member of the public. As an alternative to commencement of prosecution based upon the direct observation of a police officer or department inspector, the chief of police or commissioner may commence prosecution upon receipt of a complaint submitted by a member of the public that complies with the requirements of subd. 3 and which alleges conduct that is boisterous and unreasonably loud as described in par. b.

a-3. Information contained in a complaint. A complaint by a member of the public, sufficient to authorize the commencement of a noise nuisance prosecution in the absence of direct observation of the noise by a police officer or department inspector shall include relevant information relating to the date, time and place of the alleged noise nuisance, the nature of the noise nuisance, and shall identify the person or persons responsible for or allowing the human or mechanically created noise, or alternatively, shall include information leading to the identification of the person or persons by police or a department inspector. Information included in the complaint shall also identify one or more persons who witnessed or were affected by the noise, at least one of whom is an adult available to testify in court.

a-4. Testimony required. No person shall be convicted under this procedure except upon testimony of at least one affected adult person.

b. Boisterous and Unreasonably Loud Noise. The following are examples, without limitation due to enumeration, of human and mechanically-created noises which are impractical to measure and which may be deemed nuisances in violation of this subsection.

b-1. Air compressors, etc. The operation, while parked upon the public streets, alleys or thoroughfares in the city for more than 5 minutes in any one location, of any compressor, air conditioner or other noise-making device which is attached to any truck or other vehicle when the noise of such equipment is of such intensity to cause a nuisance, as defined herein, to occupants of nearby residential dwellings.

b-2. Sound-producing devices. The operation of any radio, television, musical instrument, compact disc or tape player, phonograph or other machine or device for producing or reproducing sound in such manner as to disturb the peace, quiet and comfort of the neighboring occupants, or at any time with louder volume than is necessary for convenient hearing for voluntary listeners without hearing impairment who are in the room, vehicle or area in which the machine or device is operated.

b-3. Distance of greater than 50 feet. The operation of any radio, television, musical instrument, compact disc or tape player, phonograph or other machine or device in a manner that tends to disturb the peace, quiet and comfort of the neighboring occupants at a distance of greater than 50 feet from the site, building, structure or vehicle where the machine or device is located.

b-4. Disorderly conduct. Noises created by human behavior which may also constitute disorderly conduct.

80-66. Variance Permit. Variance permits may be issued by the commissioner to exceed the noise standards set forth in this subchapter as follows:

1. TEMPORARY VARIANCE PERMITS.

a. General. A temporary variance permit may be issued upon request provided that the work producing such noise is necessary to promote the public health and/or welfare and reasonable steps are taken to keep such noise at the lowest possible practical level.

b. Special Community Events. A temporary variance permit may be issued for special events, such as circuses, 4th of July celebrations and similar community events, which are limited in duration, provided that precautions are taken to maintain the noises produced at the lowest practical level.

c. Procedure to Obtain a Variance Permit. Applications for temporary variance permits must be made in writing to the

commissioner and shall contain all of the following pertinent information:

- c-1. Dates requested.
- c-2. Time and place of operation.
- c-3. Equipment and operation involved.
- c-4. Necessity for such permit.
- c-5. Steps to be taken to minimize noise.
- c-6. Name, address and telephone number of responsible persons who will be present at the operation site while the noise is produced.

c-7. Purpose of the activity or event.

2. VARIANCE PERMITS OF INDEFINITE DURATION. a. It is recognized that it is not technically or economically feasible for certain business operations and equipment to comply with the standards set forth herein as of the date of this subchapter. The commissioner shall therefore issue a variance permit on existing business operations and equipment which produces excessive noise if it is found that it is not technically or economically feasible to alter such operation to reduce noise to within the prescribed standards set forth in this section. Applications for such variances must be made to the commissioner by an affected party in a letter setting forth the reasons that such variance should be granted. The commissioner, after review of all circumstances and the degree of nuisance, shall reply in writing giving the variance, denying the variance or setting forth the conditions or limitations under which the variance will be granted.

b. In the event the commissioner issues an order citing a violation of this section on an existing business operation and equipment and the party cited applies for a variance within 10 days of such citation, then all penalties provided shall be tolled from the date the application is filed until a final order or decision has been issued on the merits of the application.

3. REVIEW. Upon denial of a request for variance hereunder, or upon the grant of a variance containing conditions or limitations, the applicant for such variance may request a review of the decision of the commissioner pursuant to s. 320-11.

4. FEE. No application for a variance permit under this section shall be considered by the commissioner unless the applicant has paid to the commissioner the permit fee required in s. 60-66.

80-67. Exemption. 1. CONSTRUCTION SITES, PUBLIC UTILITIES, PUBLIC WORKS. The daytime criteria, as set forth in s. 80-64-1, shall not apply to construction sites, public utilities and public works projects and operations during the daytime hours from Monday through Saturday, inclusive; provided, however, that noise production shall be minimized through proper equipment operation and maintenance. Stationary equipment construction projects lasting more than 10 days within residential districts shall be shielded or located so as not to cause unnecessary noise.

2. EMERGENCY OPERATIONS. Emergency short-term operations which are necessary to protect the health and welfare of the citizens - such as emergency utility and street repair, fallen tree removal or emergency fuel oil delivery - shall be exempt from the criteria as set forth in s. 80-64-1, provided that reasonable steps shall be taken by those in charge of such operation to minimize noise emanating from the same.

3. NOISES REQUIRED BY LAW. The provisions of s. 80-64-1 shall not apply to any noise required specifically by law for the protection or safety of people or property.

4. LAWN MOWERS, GARDEN TOOLS, ETC. Powered equipment such as lawn mowers, small lawn and garden tools, riding tractors and snow removal equipment which is necessary for the maintenance of property, is kept in good repair and maintenance, and which equipment, when new, would not comply with the standards set forth in this subchapter, shall be exempted from the provisions of s. 80-64-1. No person shall operate such equipment, with the exception of snow removal equipment, during the hours of 9 p.m. through 8 a.m., inclusive.

5. RESIDENTIAL AIR CONDITIONERS. Noise emitted by residential air conditioners shall be judged by the criteria set forth in s. 80-68.

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7. AIRPLANES. Aircraft operations which are controlled specifically by federal law and enforcement shall be exempted from the provisions of this subchapter.

8. BELLS, CHIMES. Bells, chimes and similar devices which signal the time of day and operate during the daytime hours for a duration of no longer than 5 minutes in any given one hour period shall be exempt from the daytime noise limitations of s. 80-64-1.

9. TRASH COMPACTING AND COLLECTION. Trash compacting and collection is exempt from the provisions of s. 80-64-1. However, no person shall operate any trash compacting mechanism on any motor vehicle or on any premises, nor shall any person engage in any trash, rubbish or garbage collection activity between the hours of 10:00 p.m. and 7:00 a.m., when such compacting or collection activity takes place on or in connection with any premises that is within 200 feet of a residential premises. City sanitation operations involving solid waste and recycling material are exempt from this provision.

80-68. Residential Air Conditioners.

1. EXCESSIVE NOISE PROHIBITED. No person shall install, operate or use any residential air conditioner, or combination of residential air conditioners, which creates a noise level in a sleeping room in any dwelling unit located on any adjacent premises in excess of the sound pressure levels listed in sub. 3.

2. PROCEDURE OF INVESTIGATION. Upon receiving a complaint, the commissioner shall conduct a noise survey through use of a sound level meter and associate octave band analyzer. The sound pressure levels shall be measured within a sleeping room in the complainant's premises with the sound level measuring microphone placed 3 feet from an open window nearest to the source of the noise and not less than 3 feet above the floor of the room in which the measurement is made. Results of this survey shall be compared to the maximum permissible levels as set forth in sub. 3. If the levels found in the survey exceed the level in the table in any octave band, the noise shall be deemed as excessive and in violation of this section.

3. CRITERIA TO DETERMINE EXCESSIVE NOISE EMANATING FROM RESIDENTIAL AIR CONDITIONERS.

a. Maximum Permissible Noise.

**Preferred Sound Pressure
Frequencies Level Decibels
of Octave Bands Re: 0.0002
(cycles per second) Microbars**

	Nighttime Levels	Daytime Levels
63	66	76
125	59	69
250	52	62
500	46	56
1,000	42	52
2,000	40	50
4,000	38	48
8,000	37	47

b. Ambient Noise a Factor. Where the average normal background or ambient sounds approach the levels listed in par. a, a residential air conditioner, or combination of residential air conditioners, shall not be considered in violation of this subchapter unless a sound analysis reveals the creation of noise in excess of 5 decibels, in any octave band, above the average ambient sound level in that band.

80-69. Engine Compression Braking Prohibited.

1. PROHIBITION. No driver of any vehicle within the city shall use or operate or cause to be used or operated any mechanical device designed to aid in braking or deceleration of his or her vehicle which results in the creation of a loud, explosive noise, known as an engine compression brake and commonly referred to as a "jake brake".

2. EXCEPTIONS. The provisions of sub. 1 shall not apply to the application of un-muffled or effectively muffled engine compression brakes where necessary for the protection of persons and property, which cannot be avoided by the application of an alternative braking system. Noise caused by the application of engine compression brakes created by emergency vehicles for emergency purposes shall also be exempt.

80-70. Noisy Equipment. 1. SALE OR RENTAL OF EQUIPMENT. No person shall sell, offer, distribute, lease or rent any new or used vehicle, device or equipment intended for use within the limits of the city which does not comply with this subchapter or with rules and regulations adopted by the commissioner pursuant to this subchapter, or with any federal or state standards which apply to such equipment and are intended to reduce or minimize the noise emission from such equipment or device.

2. RULES AND REGULATIONS. The commissioner is empowered to adopt rules and regulations relative to the sale, distribution, rental or lease of new and used vehicles, devices and equipment which emit noise for the purpose of limiting such noise emission to the lowest practical level. Such rules shall be reasonably consistent with federal and state standards which regulate the noise emission of such equipment and devices. These rules shall have the same force and effect as law and shall be enforced in accordance with this subchapter. The commissioner shall submit a copy of the rules and regulations to the common council for approval prior to his adoption of the same. He shall file a copy of the adopted rules and regulations in the office of the city's legislative reference bureau.

80-71. City of Milwaukee Contracts and Purchases. 1. COMPLIANCE OF CITY CONTRACTORS AND SUBCONTRACTORS. It is the policy of the city to comply with the noise emission standards, as set forth in this subchapter, in its own operations and the operations of its contractors and subcontractors. All contractors and subcontractors shall be notified of and required to comply with the provisions of this section.

2. CITY PURCHASES. It is the policy of the city to purchase only equipment which complies to the standards established for the same by this subchapter.

80-72. Issuance of Building and Occupancy Permits. The procedures set forth in s. 200-26 shall be followed before any permit is granted for any nonresidential building or structure or a change in occupancy thereof, the ultimate use of which may result in the creation of noises which could be in violation of this subchapter.

80-73. Excessive Vibration Prohibited.

1. STATIONARY SOURCES. No person in the operation of a business in a fixed location shall produce earthborn vibration which, when measured at the foundation or basement floor of any dwelling structure, exceeds the following criteria:

Frequency (Hertz)	Displacement	
	Amplitude (In Inches)	
1	.05	
2	.01	
5	.001	
10	.0005	
20	.00025	
30	.00015	
40	.00012	
50	.00010	

2. TEMPORARY AND MOBILE SOURCES. No person shall produce vibration of a temporary nature such as, but not limited to, blasting, demolition, pavement breaking and pile driving which, when measured at the foundation or basement floor of any dwelling structure, exceeds the following limitations:

Frequency (Hertz)	Displacement	
	Amplitude (In inches)	
2	.1	
5	.01	
10	.005	
20	.0018	
30	.001	
40	.0008	
50	.0006	
60	.0005	

3. VARIANCE PERMIT MAY BE GRANTED. Variance permits may be issued by the commissioner to exceed the vibration standards set forth in this section as follows:

a. Temporary Variance Permits.

a-1. General. A temporary variance permit may be issued upon request provided that the work producing such vibration is necessary to promote the public health and/or welfare and reasonable steps are taken to keep such vibrations at the lowest possible practical level.

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a-2. Special Community Events. A temporary variance permit may be issued for special events, such as 4th of July celebrations, which are limited in duration; provided that precautions are taken to restrict the vibrations produced to the lowest practical level.

a-3. Procedure to Obtain a Variance Permit. Applications for temporary variance permits must be made in writing to the commissioner and shall contain all of the following pertinent information:

- a-3-a. Date requested.
- a-3-b. Time and place of operation.
- a-3-c. Equipment and operation involved.
- a-3-d. Necessity for such permit.
- a-3-e. Steps to be taken to minimize vibrations, and
- a-3-f. Name of responsible person who will be present at the operation site while the vibrations are produced.

b. Variance Permits of Indefinite Duration. b-1. It is recognized that it is not technically or economically feasible for certain business operations and equipment to comply with the standards set forth herein as of the date of this section. The commissioner shall therefore issue a variance permit on existing business operations and equipment which produces excessive vibrations if it is found that it is not technically or economically feasible to alter such operations to reduce vibrations to within the prescribed standards set forth in this section. Applications for such variances must be made to the commissioner by an affected party in a letter setting forth the reasons that such variance should be granted. The commissioner, after review of all circumstances and the degree of nuisance, shall reply in writing giving the variance, denying the variance or setting forth conditions or limitations under which the variance will be granted.

b-2. In the event the commissioner cites an existing business operation and equipment and the party cited applies for a variance within 10 days of such citation, then all penalties provided shall be tolled from the date the application is filed until a final order or decision has been issued on the merits of the application.

80-75. Sound-Producing Devices: Impoundment, Seizure and Forfeiture.

1. IMPOUNDMENT. a. A police officer shall, at the time of issuing a citation for a violation of s. 346.94(16), Wis. Stats., or ss. 80-63, 80-64 or 80-65, impound any radio, electric sound amplification device or other sound-producing device used in the commission of the violation if the person charged with the violation is the owner of the radio, electric sound amplification device or other sound-producing device and has 2 or more prior convictions within a 3-year period of s. 346.94(16), Wis. Stats., or ss. 80-63, 80-64 or 80-65.

b. The police department may impound a vehicle for not more than 5 working days to permit the police department or its agent to remove a radio, electric sound amplification device or other sound-producing device if the vehicle is owned by the person charged with the violation and the sound-producing device may not be easily removed from the vehicle. Upon removal of the sound-producing device, an impounded vehicle shall be returned to its owner.

c. Upon disposition of the forfeiture action for the violation of this section, the radio, electric sound amplification device or other sound-producing device shall be returned to its owner upon payment of the reasonable costs of impounding the vehicle and removing the sound-producing device.

d. The police department may dispose of any impounded sound-producing device or, following the procedure for an abandoned vehicle under s. 342.40, Wis. Stats., any impounded vehicle which has remained unclaimed for a period of 90 days after disposition of the forfeiture action.

2. SEIZURE. a. A police officer shall, at the time of issuing a citation for a violation of s. 346.94(16), Wis. Stats., or ss. 80-63, 80-64 or 80-65, seize any radio, electric sound amplification device or other sound-producing device used in the commission of the violation if the person charged with the violation is the owner of the radio, electric sound amplification device or other sound-producing device and has 3 or more prior convictions within a 3-year period of s. 346.94(16), Wis. Stats., or ss. 80-63, 80-64 or 80-65.

b. The police department may impound a vehicle for not more than 5 working days to permit the police department or its agent to remove a radio, electric sound amplification device or other sound-producing device if the vehicle is owned by the person charged with the violation and the sound-producing device may not be easily removed from the vehicle. Upon removal of the sound-producing device, an impounded vehicle shall be returned to its owner upon payment of the reasonable costs of impounding the vehicle and removing the sound-producing device.

c. The seized sound-producing device shall remain in the custody of the police and the city attorney shall institute forfeiture proceedings. If the sound-producing device is sold by the police department, all proceeds of the sale shall be retained by the city. In all other respects, the seized sound-producing device shall be treated in substantially the manner provided in ss. 973.075(3), 973.076 and 973.077, Wis. Stats., for property realized through the commission of any crime.

d. The police department may, following the procedure for an abandoned vehicle under s. 342.40, Wis. Stats., dispose of any impounded vehicle which has remained unclaimed for a period of 90 days after disposition of the forfeiture action.

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SUBCHAPTER 3
PENALTIES

80-90. Penalties. 1. Any person violating any of the following provisions of the chapter listed in column A shall be liable on conviction to the penalties listed in column B and described in ch. 61:

A	B
80-3	Class E
80-6 to 7	Class E
80-13	Class E
80-15	Class D
80-19	Class E
80-22	Class F
80-27	Class E
80-28	Class E
80-29	Class E
80-31	Class E
80-42	Class F
80-44	Class P
80-45 and 80-46	Class E
80-48	Class E
80-49	Class K
80-60 to 80-65-3	Class E
80-65-4	Class K
80-66 to 80-68	Class E
80-69	Class C
80-70 to 80-73	Class E

2. Any person violating a provision of ss. 80-60 to 80-65 and who has been convicted of a second or subsequent violation within 3 years of conviction for the same offense, shall be liable to Class O penalties as provided in s. 61-21.

80-91. Penalties For Violations in Cruising Areas. Any person violating the provisions of ss. 80-63 and 80-65 between the hours of 8:00 p.m. and 5:00 a.m. on a street designated as a cruising area under s. 101-20.5 including the land within the street lines whether or not improved, shall be liable upon conviction to a forfeiture of not less than \$250 nor more than \$1,000 and, upon default, shall be imprisoned in the county jail or house of correction not less than 10 days nor more than 40 days.

For legislative history of chapter 80, contact the Municipal Research Library.

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**CHAPTER 81
LICENSE AND PERMIT FEES**

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81-01. Definition. In this chapter "calendar year" means January 1 to December 31.

81-1. General Provisions.

1. FEE. Upon issuance of a license or permit, the applicant shall pay to the city of Milwaukee a fee as listed in this chapter.

2. LICENSE PERIOD. A license fee shall be paid for the entire license period or for any fraction thereof except where otherwise provided. In the absence of provisions to the contrary, no license or permit fee shall be transferable.

2.5. ALIGNMENT OF EXPIRATION DATES; 2 OR MORE LICENSES OR PERMITS. Except where a set license or permit expiration date is provided in this code, a licensee or permit holder may request a change to the expiration date of a new or existing license or permit processed by the city clerk's office for the purpose of aligning the license or permit period with the license or permit period of any other license or permit held by or issued to the licensee or permit holder. The request shall be accompanied by a prorated fee in an amount determined by dividing the fee imposed by this chapter by 12 or 24, depending on the license or permit period of the license or permit type, and multiplying the quotient by the number of months by which the license or permit period is being changed. A request to align license or permit expiration dates shall apply to all licenses and permits held by the requester and administered by the city clerk's office for which adjustment of expiration dates is allowed.

3. REFUND OF FEES BY CITY CLERK'S OFFICE.

a. Except where otherwise provided, if a permit or license application for a permit or license issued through the city clerk's office is withdrawn, or if such a permit or license is denied or not issued, the following amounts shall be retained by the city treasurer to defray the city's cost of application processing pursuant to this chapter:

a-1. \$25, if the permit or license fee is less than \$100.

a-2. \$50, if the permit or license fee is \$100 to \$174.

a-3. \$75, if the permit or license fee is \$175 or more.

b. The refundable portion of the fee shall be refunded by the city treasurer upon surrender by the applicant of the deposit receipt or affidavit certified by the city clerk, provided that the receipt or affidavit is presented no later than one year after the date of withdrawal or denial of the application, or in the event of nonissuance, no later than one year after the date of application for the license or permit, unless the license or permit has been granted, in which case no later than one year after the date of granting of the license or permit. No refund shall be made after one year from the date of withdrawal or denial of the application, or in the event of nonissuance, one year from the date of application or granting, whichever is applicable. No refund shall be made after the date of issuance for any license or permit which has been issued by the city clerk.

c. No refund shall be made for any license or permit that has been surrendered by the holder or revoked by the common council.

4. DUPLICATE LICENSE OR PERMIT FEE. Except where otherwise provided, the fee for a duplicate copy of any license or permit issued through the city clerk's office shall be \$11.

4.5. FILING OF RENEWAL APPLICATION. An application for renewal of a permit or license issued by the city clerk shall be filed on or before a date to be established by the city clerk. Any person who fails to meet an application filing deadline established by the city clerk shall pay the late filing fee provided in sub. 5.

5. LATE FILING FEE. Except where otherwise provided:

a. Any person who does not meet any application filing deadline as established by the city clerk for any license or permit issued by the city clerk's office shall pay a late application fee of \$25.

b. Any person filing more than one late application at the same time for licenses or permits with concurrent expiration dates for the same person or premises shall pay a single late filing fee in the highest applicable amount.

6. REINSTATEMENT FEE. If a permit or license issued through the city clerk's office is suspended due to the cancellation, expiration or nonrenewal of any required surety or performance bond, direct obligations or insurance policy, the fee for the reinstatement of the license or permit shall be \$25.

81-1.5 License and Permit Fees

7. TRANSFER FEE. Except where otherwise provided, any person filing an application for the transfer of any license or permit issued through the city clerk's office shall pay a transfer application fee of \$25.

8. INSUFFICIENCY OF FUNDS; NONPAYMENT OF FEES.

a. Except where otherwise provided, if payment for a license or permit fee issued through the city clerk's office is made by check or other draft drawn upon an account containing insufficient funds, the applicant shall, within 15 days from the date of the letter from the city clerk of the insufficiency, pay by cashier's check or other certified draft, money order or cash, the fees, late fees and processing charges as specified by city code. Nonpayment of all applicable fees, late fees and processing charges within 15 days from the date of the letter from the city clerk shall deem the license or permit suspended. The establishment shall not perform any activities authorized under the license until the license is reinstated or issued.

b. Any individual or corporation that owes the city for unpaid fines, late fees, or license or permit fees relating to a current or previous food operation shall pay all such outstanding fees before any license or permit will be issued.

9. WAIVER FEE. The fee to apply for a waiver under s. 85-18 shall be \$55.

81-1.5. Administrative Review Board of Appeals. A fee of \$25 is required to file an appeal with the administrative review board of appeals. Fees shall not be refunded once an appeal is filed unless it has been determined by a city department that the appeal is not necessary based upon the action, for which the appeal was filed, was undertaken by that department in error.
(See s. 320-11).

81-2. Alarm Licenses.

1. Each license shall be valid for 2 years from the date of issuance.

2. a. The fee for each alarm business or private first responder service license shall be \$300.

b. The fee for an alarm sales license shall be \$450.

3. a. If an applicant for an alarm business license or a private first responder service license is not granted the license, a portion of the license fee shall, upon written request, be returned to the applicant in the amount of \$125.

b. If an applicant for an alarm sales license is not granted a license, a portion of the license fee shall, upon written request, be returned to the applicant in the amount of \$225.

4. The fee to file an application for change of officers, directors or agents for a corporation shall be \$25.

(See s. 105-75.)

81-2.5. Alarm Service.

1. Each alarm service license shall be issued for a license year commencing on August 2 and expiring on the following August 1.

2. The subscriber's fee for the city's hold up alarm system shall be:

a. For each primary alarm movement connection: \$850.

b. For each secondary alarm movement connection: \$225.

(See s. 105-73.)

81-4. Amusement Machine Distributor License.

1. Each license shall be valid for 2 years from the date of issuance.

2. The fee for a new or renewal amusement machine distributor license shall be \$850.

(See s. 107-13).

81-6. Service Charges for Appraisal and Inspection. Service charges for inspection and appraisal of new construction, remodeling and additions by the commissioner of assessments shall be as follows:

1. NEW CONSTRUCTION.

a. One-family: \$264.

b. Two-family: \$391.

c. Multi-family: \$463 plus \$115 per unit over 2 units.

d. Commercial, industrial or public: \$0.05 per square foot, with a minimum charge of \$572.

2. ALTERATIONS AND ADDITIONS.

- a. Residential: 0.37% of construction cost, with a minimum charge of \$13.
- b. Commercial: 0.37% of construction cost, with a minimum charge of \$23.
- c. Siding, deck, garage, air conditioning, fireplace or razing: \$18.

(See s. 307-6.)

3. PLUMBING.

- a. Residential: 28% of the plumbing permit cost imposed under s. 200-33-43.
- b. Commercial: 28% of the plumbing permit cost imposed under s. 200-33-43.

81-9.5 Bed and Breakfast Establishment Permit.

1. A non-refundable fee of \$200 shall be charged at the time of application to anyone intending to operate a bed and breakfast establishment.

2. The fee for renewal shall be \$100.

a. A portion of the fee shall be used to pay the state of Wisconsin administrative fee, the amount of which is on file with the health department.

b. Each bed and breakfast permit shall be valid for one year from the date of issuance. (See s. 75-5).

81-10. Bicycle License.

1. Each license shall be valid for the life of the bicycle for which the license is issued or for the time the owner owns the bicycle.

2. There shall be no fee charged for a bicycle license. (See s. 102-5.)

81-10.5. Bicycle Locker Fees.

1. The permit fee for the use of a city-installed bicycle locker for the period April 1 through October 31 shall be \$25.

2. The permit fee for the use of a city-installed bicycle locker for the calendar year shall be \$40.

3. A key deposit of \$25 shall be paid prior to issuance of a key for a bicycle locker. This deposit shall be returned to the locker user upon receipt of the key by the city before the end of the permit period. (See s. 101-33.5.)

81-11. Bicycle Parking Facility Permit.

1. Each bicycle parking facility permit shall be issued for a license year commencing on July 1 and expiring on the following June 30.

2. The fee for each permit shall be \$16. (See s. 115-32.5.)

81-11.5 Bicycle Redemption Fee. The fee for redemption of a bicycle that has been impounded by the police department is \$25. (See s. 102-11-5-a)

81-12. Bill Posting License.

1. Each license shall be valid for 2 years from the date of issuance.

2. The fee for each license shall be \$400. (See s. 84-10.)

81-12.5. Boating Permits.

1. For exhibition speedboat trials the fee shall be \$80 per day.

2. For motorboat races the fee shall be \$70 per day.

3. For scuba diving the fee shall be \$30 per day. Seasonal permits for underwater work may be obtained from the harbor master at no charge.

4. For water ski or aquaplane exhibits or aquatic events the fee shall be \$70 per day. (See s. 118-80.)

81-14. Building Mover License.

1. Each building mover license shall be issued for the calendar year.

2. The fee for each license shall be \$84. (See s. 116-19.)

81-15. Building Mover Permits.

1. ON ROLLERS. For the moving of buildings or structures on rollers, the fee charged per building or structure shall be determined at the following rate:

a. For the first 2 city blocks or part thereof: \$262.

b. For each additional city block or part thereof: \$76.

2. ON PNEUMATIC TIRE TRAILERS.

a. Except as provided in par. b, for the moving of buildings or structures on pneumatic tire trailers the total fee per structure shall be \$240.

81-15.5 License and Permit Fees

b. For any subsequent moving by the same owner of a building or structure that is similar to the original building or structure for which a moving permit was obtained, and is moved over the same route for the same location to the same site as the original building or structure, the fee shall be assessed at the following rate:

b-1. For the first 5 miles in the city of Milwaukee or fraction thereof: \$94.

b-2. For each additional 5 miles in the city of Milwaukee or fraction thereof: \$76.

3. **INSPECTION.** An additional fee shall be charged for each building mover permit processed to cover costs of inspection in the amount of \$55.

4. **PROCESSING FEE.** There shall be a processing fee of \$10 for each permit issued. (See s. 116-19.)

81-15.5. Bulky Waste Collection Charge.

The bulky waste collection charge authorized under s. 79-6.5-3-c shall be as follows:

1. \$75 for bulky waste in excess of one cubic yard, but not in excess of 4 cubic yards.

2. \$225 for bulky waste in excess of 4 cubic yards, but not in excess of 6 cubic yards.

3. \$35 stop fee for failure to notify the department as provided in s. 79-6.5-3-c-1.

81-16. Campground and Camping Resort Fees.

1. A non-refundable of \$368 shall be charged at the time of new application.

2. The renewal fee for a campground or camping resort shall be as follows:

a. 1-25 sites: \$200.

b. 26-50 sites: \$275.

c. 51-100 sites: \$325.

d. Over 100 sites: \$400.

3. 20% of the fee will shall be used to pay the state of Wisconsin administrative fee under sub. 2.

4. Each campground and camping resort permit shall be valid for a one-year period following the date of issuance. (See s. 64-01.)

81-17.5. Catch Basin/Storm Inlet Equity Fee. The fee for recovery of the city's equity in any catch basin/storm inlet in a vacated street or alley shall be \$400.

81-17.7. Center for the Visual and Performing Arts.

1. Each center for the visual and performing arts license shall be issued and shall expire on the same date as the public entertainment premises license held by the same premises.

2. The fee for each license shall be based on the maximum capacity of the premises established by the common council under s. 108-7-3:

a. 25 or fewer persons, or a premises without a specified capacity: \$150.

b. 26-79 persons: \$250.

c. 80-99 persons: \$375.

d. 100-149 persons: \$500.

e. 150-179 persons: \$700.

f. 180-299 persons: \$1,000.

g. 300-499 persons: \$1,500.

h. 500 or more persons: \$2,000.

(See s. 90-37.)

81-19. Certified Survey Map Filing Fee.

1. The fee for each certified survey map shall be \$260.

2. In addition, a fee of \$380 shall be paid for each certified survey map. This fee is intended to cover the cost of map review by the department of public works.

3. All fees under this section are nonrefundable.

(See s. 119-4.)

81-19.2. Change of Circumstances. The fee to file for a hearing related to changed circumstances under s. 85-15 shall be \$75. Fees shall not be refunded once a written statement of changed circumstances is filed.

81-19.5. Charges for Payments Returned Unpaid. The processing charge for a payment returned unpaid to the city of Milwaukee shall be \$35.

(See s. 304-37.)

81-21. Cigarette and Tobacco License.

1. Each cigarette and tobacco license shall be issued for a period of one year from the date of issuance.

2. The fee for each license shall be \$100. (See s. 84-43.)

81-21.5. "Class A" Cider License.

1. There shall be no fee for a "Class A" cider license. However, the applicant shall pay all publication fees associated with the license.

2. A "Class A" cider license shall be valid for the same period as the Class "A" fermented malt beverage retailer license issued for the same premises.

(See s. 90-5.5.)

81-22. Class "A" Fermented Malt Beverage Retailer's License (Package Store).

1. The fee for each Class "A" fermented malt beverage retailer's license shall be \$350.

2. Each license shall be valid for one year effective from the date the license is issued.

(See s. 90-4.)

81-23. "Class A" Retailer's Intoxicating Liquor License.

1. The fee for each "Class A" retailer's intoxicating liquor license shall be \$500.

2. Each license shall be valid for one year effective from the date the license is issued.

(See s. 90-4.)

81-24. Class "B" Fermented Malt Beverage Retailer's License.

1. The fee for each Class "B" fermented malt beverage retailer's license shall be \$100.

2. Each license shall be valid for one year effective from the date the license is issued.

(See s. 90-4.)

81-25. Class "B" Manager's License.

1. The fee for each Class "B" manager's license shall be \$25.

2. Each license shall be issued for a one-year period beginning on July 1 and ending on the following June 30.

(See s. 90-4.)

81-26. Class "B" Retailer's Intoxicating Liquor License.

1. The fee for each Class "B" retailer's Intoxicating liquor license shall be \$500.

2. Each license shall be valid for one year effective from the date the license is issued.

(See s. 90-4.)

81-27. Class "B" Retailer's Service Bar License.

1. The fee for a service bar license shall be \$600.

2. Each license shall be valid for one year effective from the date the license is issued.

(See s. 90-4.)

81-28. Special Class "B" License.

1. The fee for each special "Class B" license shall be \$10.

(See s. 90-4.)

81-30.5. "Class C" Wine Retailer's License.

1. The fee for each "Class C" wine retailer's license shall be \$100.

2. Each license shall be valid for one year effective from the date the license is issued.

(See s. 90-4.)

81-31. Class "D" Operator's License.

1.a. The fee for each original Class "D" operator's license shall be \$75.

b. The fee for renewal of each license shall be \$50.

2. A new class "D" operator's license granted during an even-numbered year shall expire on December 31 of the following odd-numbered year. A new Class "D" operator's license granted during an odd-numbered year shall expire on December 31 of the following even-numbered year.

3. The fee for each certified copy of a Class "D" operator's license shall be \$5.

4. A renewal Class "D" operator's license shall expire 2 years from the expiration date of the license being renewed.

(See s. 90-4.)

81-31.3. Class "D" Provisional Operator's License.

The fee for each Class "D" provisional operator's license shall be \$15.

(See s. 90-4.)

81-31.5. Class "D" Special Temporary Operator's License.

The fee for each Class "D" special temporary operator's license shall be \$15.

(See s. 90-4.)

81-35.5 License and Permit Fees

81-35.5. Code and Charter. The fees charged for the sale of the city charter and code shall be:

1. Amendment service:
 - a. Charter: \$20 per year.
 - b. Code, Volume 1: \$60 per year.
 - c. Code, Volume 2: \$40 per year.
 - d. Code, Volume 3: \$40 per year.

(See s. 50-20.)

81-35.7. Commercial Driver License Testing Fees.

1. The department of public works operations division, as a third-party tester authorized by the Wisconsin department of transportation in accordance with s. 343.16, Wis. Stats., and ch. Trans 115, Wis. Adm. Code, to conduct a commercial driver license skill testing program, shall collect fees for classroom training sessions, pre-trip inspections and road skills tests, as well as for any incidental rental of vehicles used in conjunction with the testing program.

2. The fees for classroom training sessions and for the rental of "class A," "class B" and "class C" vehicles shall be as determined by the operations division.

3. In accordance with s. Trans 115.04, Wis. Adm. Code, the fee for a pre-trip inspection and a road skills test shall not exceed the maximum fee specified by the Wisconsin department of transportation.

4. All fees relating to commercial driver license testing, including vehicle rental fees, shall be paid by the commercial license applicant prior to administration of a test.

5. Payment of fees relating to commercial driver license testing shall be made by check or money order. Cash or credit card payments shall not be accepted.

81-38. Concrete Contractor.

1. Each concrete contractor license for work in a public way shall be issued for the calendar year.

2. The fee for each license shall be \$89.

3. There shall be a processing fee of \$10 for each license issued.

(See s. 115-26.)

81-38.5. Copies of Records and Record Searches.

1. Each department shall impose a fee upon the requestor of a copy of a record which may not exceed the actual, necessary and direct cost of reproduction and transcription of the record, unless a fee is otherwise specifically established or authorized to be established by law.

2. The fee imposed by all departments for black and white photocopies of paper records not exceeding 8.5 inches by 14 inches in size shall be 15 cents per page or 30 cents per double-sided copy.

3. Each department shall impose a fee upon the requestor of a copy of a photographic record for the actual, necessary and direct cost of photographing and photographic processing.

4. Except as otherwise provided by law, each department shall impose a fee upon a requestor for locating a record, not exceeding the actual, necessary and direct cost of location, if the cost is \$50 or more.

5. Each department shall impose a fee upon a requestor for the actual, necessary and direct cost of mailing or shipping of any copy or photograph of a record.

6. Additional charges shall be added as required to cover the costs of complying with the request.

7. A department may waive or reduce fees under this section when in the public interest.

8. A list of the fees charged under this section shall be posted within each department.

81-40.5. Demolition Permit Application Processing Exemption.

The fee for application for exemption from demolition permit application processing requirements shall be \$55.

(See s. 200-26-5.)

81-42. Dock Alteration or Repair Permit.

The fee for every permit for the alteration or repair of a dock shall be \$310.

(See s. 118-7.)

81-43. Dock Construction Permit. The fee for each permit for the building, construction, erection or rebuilding of a dock shall be \$615. (See s. 118-7.)

81-43.5. Dock Engineering Survey Fee.

1. The basic fee for the survey of dock engineering shall be \$155.

2. In addition to the basic fee, a charge sufficient to cover costs incurred and overhead shall be made for each dock survey.

3. The dock engineering survey fee shall be imposed in addition to the fee for a dock alteration or repair permit or that of a dock construction permit whenever such a survey is made.

(See s. 118-7.)

81-43.7 Dockless Mobility Device Redemption Fee. The fee for redemption of a dockless mobility device that has been impounded shall be \$100. (See s. 101-53)

81-44. Drainage Ditch Obstruction Permit. The fee for each drainage ditch obstruction permit shall be \$135. (See s. 115-9.)

81-44.5. Driver Training Course.

1. The registration fee for a defensive driving course sponsored by the police department shall be \$30.

2. Any city of Milwaukee employee who enrolls in the defensive driving course on a voluntary basis for attendance on the employee's own time shall be exempt from the payment of the registration fee.

3. Any city of Milwaukee employee who has been convicted of traffic violations and has been directed by the courts to attend the defensive driving course shall be required to pay the registration fee and attend the course on his or her own time.

(See ss. 312-23 and 340-23.)

81-44.7. Driver's License, Public Passenger Vehicle.

1. Each license shall be valid for 2 years from the date of issuance.

2. The fee for each original license shall be \$75.

3. The fee for each provisional license shall be \$15.

4. The fee for renewal of each license shall be \$50.

5. The fee for processing each request for change of license classification during the license period shall be \$25.

6. The registration fee for any public passenger vehicle driver examination administered by the police department regarding knowledge of city streets, places, regulations and sufficient command of the English language shall be \$10.

(See s. 100-54.)

81-45. Driveway Permit.

1. The application fee for a permit to install a driveway shall be \$155.

2. An additional fee shall be charged for each driveway permit processed to cover the costs of plan review and inspection in the amount of \$72.

3. There shall be a processing fee of \$10 for each permit issued.

(See s. 115-23.)

81-48. Election Commission Service Fees: Registered Voters Report.

1. There shall be a fee of \$10.96 for each report of registered voters.

2. There shall be an additional charge for a report based on the type of media by which such report is provided:

a. \$0.62 per floppy disk.

b. \$0.70 per compact disk.

c. \$0.10 per hard copy page.

(See s. 302-3.)

81-48.5. Emerging Business Enterprise Certification and Recertification. The fee for certification or recertification of a city emerging business enterprise shall be \$50.

(See s. 360-07.)

81-49.5. Engineer Service Fees. Fees shall be charged for the following department of public works infrastructure services division services:

1. Preparation of an agreement to allow construction over sewer easements: \$900.

2. Answer of an inquiry with respect to a deferred sewer, water or special assessment charge: \$22.

3. Preparation of a preliminary sewer design and furnishing information with respect to sewers for proposed development: \$44 per hour or fraction thereof.

81-49.8 License and Permit Fees

4. Review of a certified survey or subdivision plat: \$39 per hour or fraction thereof.

5. Special investigation fee for excessive size, weight and load permits: \$39 per hour or fraction thereof.

81-49.8. Escort License.

1. Each license shall be valid for one year from the date of issuance.

2. The fee for each license shall be \$75.
(See s. 89-8.)

81-49.9. Escort Service License.

1. Each license shall be valid for one year from the date of issuance.

2. The fee for each license shall be \$130.
(See s. 89-5.)

81-50. Excavation Permit and Inspection Fees for Work in the Public Right of Way.

1. GENERAL. For the excavation required for the construction or repair of an individual storm building sewer, sanitary building sewer, combined building sewer, water service, or any combination thereof laid simultaneously in a single excavation or in more than one excavation connected by tunneling or boring, the fee shall be \$125.

2. MAIN OR CONDUIT. For the excavation required for the laying or repair of a main or conduit in each block, the fee shall be \$89.

3. REPAIR. For the excavation required for the laying or repair of utility building services in each block, the fee shall be \$86.

4. OTHER. For any other excavation or any installation the fee shall be \$86.

5. INSPECTION.

a. The fee for inspection services for each permit, except permits issued to city forces, public utilities, or to persons engaged in work under a city contract for which inspectional services have been otherwise provided shall be \$64.

b. An additional fee shall be charged for permits for public utilities in accordance with a schedule of the actual costs of inspection services prepared by the commissioner of public works.

c. The fee for permits that need to be resubmitted, except permits issued to city forces, public utilities, or to persons engaged in

work under a city contract for which inspectional services have been otherwise provided, shall be \$100 for each resubmission.

6. PUBLIC UTILITIES. The fee for the inspection services for permits issued to public utilities in accordance with a schedule of the actual cost of inspection services prepared by the commissioner of public works shall be a sum equivalent to the actual cost of such inspection services.

7. PROCESSING FEE. There shall be a processing fee of \$10 for each permit issued.
(See s. 115-7.)

81-50.5. Excessive Size, Weight and Load Vehicle Permit.

1. The fee for each oversize or overweight single trip permit without police department escort shall be \$123.

2. The fee for each oversize or overweight single trip permit with police department escort shall be \$272.

3. The fee for each oversize or overweight multiple trip permit for one month shall be \$180.

4. The fee for each oversize or overweight multiple trip permit for 12 months shall be \$300.

5. The fee for each oversize or overweight multiple trip permit for 6 months that is transferred to another vehicle shall be \$30.

6.a. The fee for a multiple trip permit requiring a traffic officer escort shall be:

a-1. For a one-month permit: \$366.

a-2. For a 2-month permit: \$426.

b. There shall be an additional traffic officer vehicle escort fee of \$144 per vehicle, per trip.

(See s. 101-5.5.)

81-51. Extended Hours Establishments.

1. Each license shall be valid for one year from the date of issuance.

2. The fee for each new license shall be \$250.

3. The fee for each renewal license shall be \$225.

4. The fee to file an application for change of officers, directors or agents for a corporation or limited liability company shall be \$25.

(See s. 84-7.)

81-51.5 Extra Garbage Cart Charge. The extra garbage cart charge shall be \$19.14 per quarter for each extra garbage cart provided under s. 79-4-1.3.

81-51.6. Filling Station License.

1. a. The fee for each new license shall be \$275.
- b. The fee for each renewal license shall be \$250.
2. Each filling station license shall be valid for a one year period following the date of issuance.
(See s. 84-45.)

81-51.7. Fingerprinting by Police Department.

1. The fee for fingerprinting by the police department, when requested by any resident of the city, shall be \$10 per card.
2. The fee for fingerprinting by the police department, when requested by any person who is not a city resident, shall be \$15 per card.

81-52. Fire Department Instruction and Training. The fee for out-of-city personnel to attend training courses sponsored by the fire department shall be computed at the rate of \$100 per day, per person.
(See s. 313-13.)

81-52.5. Fire Service. The fee for every unit of fire department equipment requested in excess of reciprocal fire service agreements entered into with other municipalities shall be \$5,000 per hour or fraction thereof. The charges shall be computed from the time the equipment leaves its assigned quarters until the time such equipment returns to service in its assigned quarters.
(See s. 104-3.)

81-52.7. Flower Pot Holders. The permit fee for each flower pot holder applicant shall be \$40 and shall be in effect from April 1 of each year to the following March 31.
(See s. 115-33.6.)

81-55. Food Dealer's License.

1. Each individual food operation, site, location or stand where food is prepared, processed, served, stored or sold shall be issued a food dealer's license and be assessed fees in accordance with this section.
2. A fee of \$300 shall be charged at the time of new application. This fee shall be non-refundable if an inspection is performed prior to withdrawal or denial of the application.
3. The annual food dealer's license fee shall be as follows:
 - a. Prepack restaurants: For each license renewal year: \$250.
 - b. All other restaurants:

Anticipated Gross Annual Sales for All Food Operations

Less than \$20,000	\$ 525
\$20,001 - \$200,000	800
\$200,001 - \$2,000,00	1,250
Over \$2,000,000	1,725

- c. Food Stores - Processing:

Anticipated Gross Annual Sales for All Food Operations

Less than \$20,000	\$ 350
\$20,001 - \$200,000	575
\$200,001 - \$2,000,000	1,325
Over \$2,000,000	2,050

- d. Food Stores - No Processing:

Anticipated Gross Annual Sales for All Food Operations

Less than \$20,000	\$200
\$20,001 - \$200,000	300
\$200,001 - \$2,000,000	575
Over \$2,000,000	875

- e. Mobile peddler food base: \$150 new; \$125 renewal.
- f. Micro markets:
 - f-1. For one micro market located in a building: \$40.
 - f-2. For 2 or more micro markets located in the same building: \$60.

81-55.3 License and Permit Fees

4. If multiple independent restaurant locations are operated at the same address and by the same person, a separate fee shall be charged for each additional location. An additional restaurant location shall be considered independent if it is physically separated from any other food preparation areas. The annual fee for each additional location shall be \$100.

5. Each license shall be valid for one year from the date of issuance.

6. A renewal shall be filed by the deadline established by the city clerk as provided in s. 85-26. There shall be an additional fee for the filing of a late renewal application in the amount of \$75.

7. The fee for a duplicate license shall be \$11.

8. A portion of the fee will shall be used to pay the state of Wisconsin administrative fees, the amount of which is on file with the Wisconsin department of health and family services or department of agriculture, trade and consumer protection.

9.a. The fee for a licensed food establishment that extends its operation to the outside on a permanent basis shall be \$50.

b. Locations filing for alcohol beverage extensions under s. 81-90 at the same time shall be charged a total fee of \$75.

81-55.3. Food Operation – Public Health Plan Review and Site Evaluation.

1. The fee for a food establishment making operational or food processing equipment changes without any remodeling shall be:

a. \$75, when a variance or HACCP plan is not required.

b. \$150, if a variance or HACCP plan are required.

2. The fee for a food establishment undergoing remodeling or renovation with or without operational changes shall be \$250. The fee for submitting operational changes shall be waived if submitted at the same time.

3. The fee for the request for renewal of a variance shall be \$75. Failure to file the request for renewal prior to expiration shall result in the application being considered new.

4.a. The fee for a risk control or compliance plan when ordered by the department as part of progressive enforcement shall be \$150.

b. The fee shall be waived for an operator who voluntarily submits a risk control plan or compliance plan for review by the department.

5. The public health plan review fee shall double for any food establishment that initiates operational changes or infrastructure changes requiring plan review as specified in s. 68-11 prior to obtaining health department approval.

6. Public health plan review fees shall include the cost of all inspections required for plan validation, approval or verification.

7. The public health plan review fee for a new establishment shall be included in the initial application fee.

8. The fee for a food operation site evaluation shall be \$100.

9. Fees under this section shall be nonrefundable unless the plan is withdrawn prior to plan review being performed. (See s. 68-7.)

81-55.5. Food Operation – Exempt Establishments Requiring Registration.

1. COMMUNITY FOOD PROGRAM.

a. The registration fee for a community food program shall be \$35.

b. Registration shall be valid for 24 months.

c. A single inspection within the registration period may be provided. Inspections or investigations where significant noncompliance is found shall be subject to additional fees as specified in s. 60-70.

d. Payment shall be due at the time of registration.

e. A fee of \$75 shall be assessed if a community food program is found to be operating prior to its registration with the department.

f. A late fee of \$75 shall be assessed if a community food program is found to be operating its after registration has expired.

2. SCHOOL MEAL PROGRAM.

a. The annual registration and inspection fees for a primary or secondary school meal program operated by the school exempt from licensure shall be:

a-1. \$75 for a satellite kitchen.

a-2. \$125 for a production kitchen.

b. The initial application fee for a school meal program that is exempt from licensure shall be \$50.

c. Two routine inspections within the registration period shall be provided. Inspections or investigations where significant noncompliance is found shall be subject to additional fees as specified in s. 60-70.

d. Payment shall be due at the time of registration.

e. A fee of \$75 shall be assessed if a school meal program is found to be operating prior to its registration with the department.

f. A late fee of \$75 shall be assessed if a school meal program is found to be operating after its registration has expired.

(See s. 68-23.)

81-56. Food Dealer's License, Temporary and Seasonal.

1. FEES.

a. Restaurants. The fee for a temporary food establishment shall be \$100.

b. Retail.

b-1. The fee for temporary food operations that process food at the point of sale shall be \$100.

b-2. The fee for temporary food operations that do not process food at the point of sale shall be \$75.

2. DUPLICATE LICENSE. The fee for a duplicate license shall be \$11.

3. STATE FEES. A portion of the fee shall be used to pay the state of Wisconsin administrative fee, the amount of which is on file with the Wisconsin department of health and family services or department of agriculture, trade and consumer protection.

(See s. 68-4.)

81-56.3. Food Peddler Licenses.

1. The fee for each food peddler license shall be as follows:

a. For each motorized vehicle: \$305.

b. For each pushed, pedaled or pulled vehicle: \$275.

c. For each person carrying containers: \$185.

2. The surcharge for a food peddler license to allow night operation by a food peddler shall be \$45.

3. Each food peddler license shall be valid for one year from the date of issuance.

4. A veteran, as defined in s. 45.01(12), Wis. Stats., shall be granted a food peddler license without payment of any fee. The veteran shall be the operator of the food peddler vehicle or carried container for which the fee has been waived.

5. The fee for a duplicate license or identifying device shall be \$11.

6. A portion of the fee shall be used to pay the state of Wisconsin administrative fee, the amount of which is on file with the Wisconsin department of health and family services or department of agriculture, trade and consumer protection.

(See s. 68-41.)

81-57. Franchise. The fee for the introduction of each ordinance or resolution granting a franchise shall be \$525.

81-59. Harbor Island Fee.

1. The permit fee for use of Harbor Island shall be \$300, plus \$60 per day, per acre used for an event.

2. There shall be a participation fee of \$0.29 per participant for groups with over 500 persons.

(See s. 118-70.)

81-59.5. Historic Preservation Nomination Fee. The fee for nomination for historic designation of a structure, site or district is \$25.
(See s. 320-21-9-a-4.)

81-60. Home Improvement Contractors and Salespersons License.

1. Each license shall be valid for 2 years from the date of issuance.

2.a. The fee for each new home improvement contractor's license shall be \$250.

b. The fee for each renewal home improvement contractor's license shall be \$225.

c. The fee for each new salesperson's license shall be \$75.

81-60.7 License and Permit Fees

d. The fee for the renewal of each salesperson's license shall be \$50.
(See s. 95-14.)

81-60.7. Ice Cream Peddler License.

1. The fee for each ice cream peddler license shall be \$75.

2. Each license shall be issued for one year from the date of issuance.

3. The fee for a duplicate license shall be \$11.
(See s. 68-43.)

81-61. Industrial Development Revenue Bond Fees.

1. APPLICATION FEE. The fee for any application filed with the department of city development to finance a project through tax-exempt industrial development revenue bonds shall be \$1,000. This fee shall be non-refundable.

2. ISSUANCE FEE. A fee of 0.5% of the initial principal amount of the bond issue shall be paid to the city upon issuance of the bonds.

81-67. Laundry, Self-Service Registration Certificate.

1. Each self-service laundry registration certificate shall be issued for a specific location for a one-year period beginning from the date of issuance.

2. The fee for each new certificate shall be \$125.

3. The fee for each renewal certificate shall be \$100.
(See s. 75-1.)

81-70. Loading Zone Permit.

1. Each permit shall be valid for 2 years from the date of issuance.

2.a. The fee for each original loading zone permit, except a permit issued to a disabled person as defined in s. 101-23.7-1-b, shall be computed at the rate of \$275 for every 30 feet of curb space or fraction thereof.

b. The fee for each original loading zone permit issued to a disabled person shall be \$50, with all such permits being for 30-foot loading zones.

2.5 A pro rata portion of the permit fee shall be refunded for any period, to be determined solely by the commissioner of public works, of 6 or more consecutive months when

access to the loading and unloading zone is prevented by road construction or any other city-directed activity.

3. The fee for each renewal loading zone permit shall be computed at the rate of \$150 for every 30 feet of curb space or fraction thereof.

4.a. No fee for the renewal of a loading zone permit shall be charged to any nonprofit organization or any disabled person, as these terms are defined in s. 101-23.7.

b. The common council may grant a late renewal of a loading zone permit to a disabled person as defined in s. 101-23.7-1-b, at no charge, if evidence is submitted that the medical condition that qualifies the person as disabled under that section still exists.

81-73. Lobbying License.

1. Each license for a lobbyist or principal to engage in lobbying shall be issued for the calendar year and shall expire on December 31 of each year, irrespective of the date of issuance.

2. The fee for each license shall be \$125 per lobbyist per principal, payable at the time of registration.
(See subch. 3 of ch. 305.)

81-74. Massage Establishment License.

1. Each massage establishment license shall be valid for one year from the date of issuance.

2. The fee for each new license shall be \$350.

3. The fee for each renewal license shall be \$325.
(See s. 75-21.)

81.74.5 Mobile Seller's License.

1. Each license shall be valid for one year from the date of issuance.

2.a. The fee for each license shall be \$130, except as provided in par. b.

b. The fee for each license for a nonprofit organization shall be \$15.

3.a. The fee for the renewal of a license shall be \$50, except as provided in par. b.

b. There shall be no fee for the renewal of a license for a nonprofit organization.

4. Any disabled veteran, as defined in s. 230.03(9m), Wis. Stats., upon presenting proof to the city clerk that he or she satisfies

these conditions, shall be exempted from payment of any fee under this section.
(See subch. 1 of ch. 92.)

81-75. Mooring Permits.

1. The fee for a mooring permit shall be \$35.
2. Each permit shall be applicable for one boat and one mooring and shall be issued for a one-year period which begins July 1 and ends the following June 30.
3. Each permit may be renewed annually upon payment of a \$20 fee.
4. A permit may be transferred for use by a boat other than one originally listed on the application, by completion of a transfer form provided by the harbor commission and payment of a \$25 fee.
(See s. 118-80-9.)

81-76. Municipal Identification Card.

1. The fee for each municipal identification card shall be \$10.
2. The replacement fee for each municipal identification card shall be \$5.

81-78. Newspaper Vending Box Retrieval Fee. The fee for retrieving a newspaper vending box from the designated holding place shall be \$35 per box.
(See s. 115-33.5.)

81-81. Parking Lot or Place License.

1. Each license shall be valid for one year from the date of issuance.
2. The fee for each license shall be \$50.
(See s. 84-20.)

81-82. Parking Meter or Parking Space Marker Permanent Removal.

1. REMOVAL FOR LOADING ZONES.
The fee for the removal of each parking meter or space marker needed to accommodate loading zones shall be sufficient to cover the costs of labor, materials and overhead and if necessary the costs of relocating a multi-space meter.
2. REMOVAL FOR FACILITIES OTHER THAN LOADING ZONES.
 - a. The fee for the removal of each single-space parking meter or space marker needed to accommodate facilities other than loading zones shall be \$60.

- b. The fee for the removal of each multi-space parking meter shall be sufficient to cover the costs of labor, materials and overhead, and if necessary the costs of relocating a multi-space meter.
(See s. 101-50.)

81-83. Parking Meter or Parking Space Marker Temporary Removal or Hooding.

1. The fee for the temporary hooding of each parking meter space per day shall be \$9.
2. The fee for the temporary removal of single-space parking meters or space markers shall be \$60 per metered space.
3. The fee for the temporary removal of each multi-space parking meter shall be sufficient to cover the costs of labor, materials and overhead and reinstallation of the meter.
4. The fee for the temporary and seasonal hooding or removal of a parking meter for purpose of installation of a parklet shall be \$250 per metered space.

81-85. Parking Permit: On-Street All Night; Off-Street Municipal Parking Lot.

1. The fee for an annual permit including sales tax shall be \$55.
2. The fee for a 4-month permit including sales tax shall be \$20.
3. The fee for a monthly permit including sales tax shall be \$10.
4. The fee for a weekly permit including sales tax shall be \$5.
5. The fee for a daily permit including sales tax shall be \$1.
6. Except for the daily permit, there shall be a \$1 fee for each permit purchased online or using mobile apps.
(See ss. 101-27 and 101-33.)

81-86. Parking Permit: On-Street Daytime Residential.

1. The fee for each annual on-street, daytime, residential parking permit shall be \$15.
(See s. 101-27.5.)

81-87. Parking Permit: On-Street Commuter Parking, Impacted Areas. There shall be no fees charged for on-street commuter parking permits for impacted areas issued on an annual basis.
(See s. 101-27.7.)

81-90 License and Permit Fees

81-90. Permanent Extension of Alcohol Beverage Licensed Premises. The fee for a permanent extension of alcohol beverage licensed premises shall be \$50. Locations filing for the extension of operations to the outside on a permanent basis under s. 81-55-9-b shall be charged a total fee of \$75.

(See s. 90-4.)

81-96. Plat Filing Fee. The nonrefundable filing fee for submission of any preliminary or final subdivision plat shall be \$405.

(See s. 119-4.)

81-97. Plat or Map Correction Instrument. The nonrefundable fee for filing each plat or map correction instrument shall be \$50.

(See s. 119-4.)

81-100. Provisional Renewal License.

The fee for each provisional renewal license shall be \$15.

(See s. 85-20)

81-101.2. Public Entertainment Premises License.

1. REGULAR LICENSE.

a. Each public entertainment premises license shall be valid for a one-year period commencing on the date of the issuance of the license. If a premises is also licensed as a retail alcohol beverage establishment, the public entertainment premises license shall be valid for one year or part thereof, effective from the date the license is issued, and shall expire on the same date as the retail alcohol beverage license.

b. The fee for each license shall be based on the maximum capacity of the premises established by the common council under s. 108-7-4:

b-1. 25 or fewer persons, or a premises without a specified capacity: \$150.

b-2. 26-79 persons: \$250.

b-3. 80-99 persons: \$375.

b-4. 100-149 persons: \$500.

b-5. 150-179 persons: \$700.

b-6. 180-299 persons: \$1,000.

b-7. 300-499 persons: \$1,500.

b-8. 500 or more persons: \$2,000.

2. TEMPORARY PERMIT. The fee for each temporary permit shall be \$50.

(See 108-5.)

81-101.5. Public Passenger Vehicle Permit.

1. Each permit shall be valid for 2 years from the date of issuance.

2. The fee for each new permit, except a taxicab permit, shall be \$284.

2.5. The fee for each new taxicab permit shall be \$400.

3. The fee for renewal of each permit, except a taxicab permit, shall be \$209.

3.5. The fee for renewal of each taxicab permit shall be \$325.

4. The fee for each provisional permit shall be \$15.

5. The fee for filing a notice of change of taxicab affiliation shall be \$25.

6. The fee for changing the agent or officers of a corporation holding a public passenger vehicle permit shall be \$25.

7. The fee for any special inspection of a public passenger vehicle, as provided in s. 100-51, shall be \$125.

(See s. 100-50.)

81-102. Public Ways: Permits for Temporary Occupancy or Use as Public Ways.

1. DEFINITIONS. In this section:

a. "Parking lane" means that portion of the roadway along the curb, generally 8 feet in width, for which the primary purpose is parking. Should this area function for vehicular travel, it shall be identified as a traffic lane.

b. "Roadway area" means that portion of highway between the regularly established curb lines.

c. "Sidewalk area" means that portion of a highway between the curb lines or the lateral lines of a roadway and the adjacent property lines.

d. "Traffic lane" means that portion of the roadway area used for the movement of vehicular traffic.

2. CALCULATION OF FEES. The fees charged in subs. 3 to 5 are charged for each area that is occupied. The fees shall be charged for every 30 feet of street front or fractional part thereof that is to be temporarily occupied or used. Fees for seasonal parklet occupancy of the parking lane shall be charged per 20 feet of street front or marked parking space, or fractional part thereof that is to be occupied. Fees for occupancy of parking lanes and traffic

lanes are based on the classification of the street, as indicated on the street classification map maintained by the city engineer.

3. SIDEWALKS.

a. For the temporary occupancy of all of a sidewalk area or occupancy that results in a sidewalk that is less than 4 feet wide at any point, where no temporary walkway is provided on the same side of the street:

a-1. The fee for a period of 7 days or less shall be \$157.

a-2. The fee for a period of 8 to 30 days shall be \$244.

a-3. The fee for each succeeding month or portion thereof beyond 30 days shall be \$244.

b. For the temporary occupancy of a portion of a sidewalk area, where the portion remaining open to pedestrian traffic is at least 4 feet wide at all points or where a temporary walkway is provided on the same side of the street.

b-1. The fee for a period of 7 days or less shall be \$79.

b-2. The fee for a period of 8 to 30 days shall be \$123.

b-3. The fee for each succeeding month or portion thereof beyond 30 days shall be \$123.

4. PARKING LANES. For the temporary occupancy of all or a portion of a parking lane, where the parking lane is not available for public use:

a. Arterial Street.

a-1. The fee for a period of 7 days or less shall be \$202.

a-2. The fee for a period of 8 to 30 days shall be \$296.

a-3. The fee for each succeeding month or portion thereof beyond 30 days shall be \$296.

b. Collector Street.

b-1. The fee for a period of 7 days or less shall be \$123.

b-2. The fee for a period of 8 to 30 days shall be \$200.

b-3. The fee for each succeeding month or portion thereof beyond 30 days shall be \$200.

c. Local Street.

c-1. The fee for a period of 7 days or less shall be \$61.

c-2. The fee for a period of 8 to 30 days shall be \$103.

c-3. The fee for each succeeding month or portion thereof beyond 30 days shall be \$103.

4.5. PARKLETS. For the seasonal installation of a parklet in the public right-of-way parking lane, the fee shall be \$250 per 20 linear feet or per parking space.

5. TRAFFIC LANES AND ALLEYS. For the temporary occupancy of all or a portion of a traffic lane or alley, where the traffic lane or alley is not available for public use:

a. Arterial Street.

a-1. The fee for a period of 7 days or less shall be \$229.

a-2. The fee for a period of 8 to 30 days shall be \$383.

a-3. The fee for each succeeding month or portion thereof beyond 30 days shall be \$383.

b. Collector Street.

b-1. The fee for a period of 7 days or less shall be \$139.

b-2. The fee for a period of 8 to 30 days shall be \$262.

b-3. The fee for each succeeding month or portion thereof beyond 30 days shall be \$262.

c. Local Street or Alley.

c-1. The fee for a period of 7 days or less shall be \$69.

c-2. The fee for a period of 8 to 30 days shall be \$130.

c-3. The fee for each succeeding month or portion thereof beyond 30 days shall be \$130.

6. BIKE LANES. For the temporary occupancy of all or a portion of bike lane, where the bike lane is not available for public use:

a. Arterial Street.

a-1. The fee for a period of 7 days or less shall be \$104.

a-2. The fee for a period of 8 to 30 days shall be \$174.

a-3. The fee for each succeeding month or portion thereof beyond 30 days shall be \$174.

b. Collector Street.

b-1. The fee for a period of 7 days or less shall be \$63.

b-2. The fee for a period of 8 to 30 days shall be \$119.

b-3. The fee for each succeeding month or portion thereof beyond 30 days shall be \$119.

7. INSPECTION. An additional fee shall be charged per month or portion thereof for each permit processed to cover costs of inspection in the following amounts:

a. Sidewalks: \$75.

b. Parking lanes: \$75.

c. Traffic lanes and alleys: \$125.

d. Bike lanes: \$125.

(See s. 115-11.)

81-102.1 License and Permit Fees

81-102.1. Public Ways: Special Permits.

1. CURB AND GUTTER. The fee for restoration of curb and gutter with respect to the removal of a driveway shall be \$167.

2. DRIVEWAYS-TEMPORARY. The fee for installation of a temporary driveway (driveover curb) shall be \$143.

3. FENCES. The fee for installation of a fence encroaching on the public right of way shall be \$143.

4. HOLLOW WALKS. The fee for performance of any work on a sidewalk situated over a hollow walk shall be \$149.

5. POLES. The fee for installing, replacing and removing utility poles shall be computed at \$149 per block face. A block face shall consist of both sides of the street and not exceed 100 house numbers. In instances when a block face of 100 house numbers is divided by one or more intersecting public ways, each subdivision shall constitute a block face.

6. SIDEWALKS.

a. The fee for replacing sidewalks shall be computed at \$139 for regular walks per block face and \$244 for full walks per block face. A block face shall consist of both sides of the street and not exceed 100 house numbers. If a block face of 100 house numbers is divided by one or more intersecting public ways, each subdivision shall constitute a block face.

b. The fee for replacing a sidewalk adjacent to a single parcel, up to 150 feet in frontage, shall be \$32.

7. STREET CUTS. The fee for replacing and filling street cuts shall be \$244.

8. INSPECTION COSTS.

a. An additional fee shall be charged for each permit under subs. 1 to 4, 6-a and 7 to cover costs of inspection in the amount of \$134.

b. An additional fee shall be charged for each permit under sub. 6-b to cover costs of inspection in the amount of \$32.

c. An additional fee shall be charged for permits for public utilities under sub. 5 in accordance with a schedule of the actual costs of inspection services prepared by the commissioner of public works in an amount equivalent to the actual cost of the inspection services.

81-102.3. Purchasing Appeals. The fee required for a vendor to appeal bid specifications and recommendations for awards pursuant to

s. 16-05 of the charter and s. 310-19 of the code shall be 1.25% of the amount of the bid being appealed.

81-102.4. Purchasing-Restoration to Bidders

Lists. The fee required for a vendor to be restored to bidders lists maintained by the purchasing division - department of administration, subsequent to the division's removal of a vendor's name if the vendor does not respond on 3 consecutive bids, shall be \$100.

81-102.6. Recycling, Salvaging or Towing Premises License.

1. Each license shall be valid for 2 years from the date of issuance.

2. The fee for each license shall be \$344.

3. The fee for each additional building or other fixed place for storage, as provided in s. 93-5-3, shall be \$63.
(See ch. 93.)

81-102.8. Recycling, Salvaging or Towing Vehicle License.

1. Each license shall be valid for 2 years from the date of issuance.

2. The fee for each license shall be \$188.

3. For a business with 2 or more vehicles, as provided in s. 93-5-2-a-2, the fee shall be \$344.

4. The fee to change the motor vehicle used in the conduct of a recycling, salvaging or towing business shall be \$15.
(See ch. 93.)

81-103.2. Salary Advances.

1. Upon the approval of department heads, city employees may receive advances on salaries in order to address unforeseen emergencies. The first such advance in a calendar year shall be provided without charge.

2. The processing charge for all subsequent advances in the calendar year shall be \$25.

81-103.5. Statement of Income Duplicates.

1. Upon written request, one copy or duplicate set of statements of income (form 1099) shall be provided to city vendors without charge through April 15 for the preceding calendar year.

2. The processing charge for requests beyond April 15, or for additional copies or duplicates shall be \$15 and \$25 respectively for each item requested.

81-104. Secondhand Dealer's License.

1. Each license shall be valid for 2 years from the date of issuance.

2.a. The fee for each license shall be \$275, except as provided in par. b.

b. The fee for each license for businesses dealing exclusively in secondhand bicycles shall be \$75.

(See subch. 2 of ch. 92.)

81-104.6. Secondhand Motor Vehicle Dealer's License.

1. Each license shall be valid for 2 years from the date of issuance.

2. The fee for each license shall be \$290.

(See subch. 3 of ch. 92.)

81-104.7. Sewer Connection.

1. The fee for connecting a private drain to a public sewer shall be \$60.

2. There shall be a processing fee of \$10 for each permit issued.

(See s. 12-20, charter.)

81-105. Shooting Gallery License.

1. Each shooting gallery license shall be issued for a period not to exceed 14 days.

2. The fee for each license shall be \$100.

(See s. 105-39.)

81-106.7. Sidewalk Area Dining Permit.

1. The fee for a sidewalk area dining permit shall be based on the total area, in square feet, of the dining area:

- a. 0-100 square feet: \$25
- b. 101-200 square feet: \$50
- c. 201-300 square feet: \$75
- d. 301-400 square feet: \$100
- e. 401-500 square feet: \$150
- f. 501-1,000 square feet: \$225
- g. 1,001-1,500 square feet: \$300
- h. 1,501 or greater square feet: \$500

2. In addition to the fee specified in sub. 1, an initial application fee of \$100 shall be required for each new application.

(See s. 115-32.6.)

81-107. Signs or Decorations Attached to City-owned Poles. The fee for the attachment of each sign or decoration as provided for in s. 101-50-6 shall be \$15 per attachment. (See s. 101-50.)

81-108. Sign; Directional For Churches. The fee for the installation of church directional signs shall be \$50 per sign.

(See s. 101-50.)

81-108.2. Signs; Historic District Identification.

1. The application fee for historic district identification signs shall be \$100.

2. The fee for installation of each historic district identification sign shall be \$100.

(See s. 116-5.)

81-108.5 Signs; Honorary Street Name. The fee for installation of each honorary street name sign shall be \$50.

(See s. 113-3.)

81-109. Signs; "No Parking to Driveway". When the installation of a "no parking to driveway" sign is requested by the owner, lessee, manager or tenant of the property involved, the fee chargeable to the requester shall be \$125 per sign installation. (See s. 101-50.)

81-110. Signs; Official Street Renaming. The fee for fabrication and installation of each sign required in conjunction with an official street renaming shall be \$100.

(See s. 113-3.)

81-114. Snow Plowing Motorized Equipment License.

1. Each license shall be valid for one year from the date of issuance.

2. The fee for each license shall be \$10.

(See s. 116-12.)

81-114.6. Special Events - City Services. The fee for each permit for provision of city services for special events shall be:

1. Class AA Event: The actual hourly cost for police and public works services, as documented by the chief of police and commissioner of public works.

2. Class A Event: \$3,700.

3. Class B Event: \$ 400.

4. Class C Event: \$ 110.

81-115 License and Permit Fees

5. Class D Event: No fee for issuance of a permit; however a fee shall be charged for services provided under sub. 5.

6. Provision of additional services:

a. Dumpster.

a-1. 1 to 3 dumpsters: \$180.

a-2. 4 to 6 dumpsters: \$360.

a-3. 7 to 9 dumpsters: \$540.

b. Barricade.

b-1. 1 to 4 barricades: \$20.

b-2. 5 to 20 barricades: \$31.

b-3. Over 20 barricades: \$38 plus \$5 for each barricade over 20.

c. Stage platform. \$ 38.

c-1. Portable stage: \$123.

c-2. Fixed stage: \$428.

d. Snow fence: \$14 per square yard roll.

e. Temporary traffic signs: \$16 each.

f. Traffic Control Plans.

f-1. Plans requiring 12 or more hours of preparation: \$900.

f-2. Plans requiring 5 to 11 hours of preparation: \$600.

f-3. Plans requiring 1 to 4 hours of preparation or revision of existing plans not exceeding 4 hours: \$240.

(See s. 105-55.5.)

81-115. Special Privileges; Granting of Encroachments.

1. The fee for the introduction of each ordinance or resolution granting a special privilege shall be \$300.

2. The fee for the introduction of each ordinance or resolution amending a special privilege for the purpose of adding items shall be \$150.

3. There shall be no fee charged for the introduction of an ordinance or resolution amending a special privilege for:

a. Removal of items.

b. Sale, transfer or conveyance of ownership.

81-116. Street and Alley Vacation Fees.

1. REQUIRED FEES. Street and alley vacations shall be subject to the following fees:

a. The fee for filing a preliminary application for vacation of a street shall be \$1,375 plus \$140 for each 100 feet of street length or fraction thereof above 300 feet. Of this fee, \$375 is intended to cover the department of

city development's costs for administering the vacation procedure, while the remainder is intended to cover the costs incurred by the department of public works in preparing a map, legal description and coordinated report for the proposed vacation pursuant to s. 308-28-4.

b. The fee for filing a preliminary application for vacation of an alley shall be \$1,375 plus \$95 for each 100 feet of alley length or fraction thereof above 300 feet. Of this fee, \$375 is intended to cover the department of city development's costs for administering the vacation procedure, while the remainder is intended to cover the costs incurred by the department of public works in preparing a map, legal description and coordinated report for the proposed vacation pursuant to s. 308-28-4.

c. The benefit assessment and vacation-related costs for vacation of a street or alley shall be as identified by the department of public works pursuant to s. 308-28-4-d.

d. All fees under pars. a and b are nonrefundable.

2. COUNCIL-INITIATED VACATIONS.

The fees specified in sub. 1-a and b shall not be required for any vacation of a street or alley that is initiated by resolution of the common council pursuant to s. 308-28-1. The charges identified in sub. 1-c may be waived by the common council only if the council identifies a specific alternative funding source, including budgetary account number, to cover the costs associated with the vacation.

(See s. 308-28.)

81-116.5. Street Naming, Honorary. The application fee for an honorary street naming shall be \$100.

(See s. 113-3.)

81-117. Street Renaming.

1. The application fee for an official street renaming shall be \$100.

2. The applicant shall pay all postage costs relating to the postcard survey of residents, businesses and property owners that is required in conjunction with an application for an official street naming.

(See s. 113-3.)

81-119. Swimming and Other Water Use Facility Operating Licenses.

1. Each swimming or other water use facility operating license shall be issued for the license year beginning July 1 and ending the following June 30.

2. The fee for each swimming or other water use facility operating license shall be \$250.

3. In addition to the fees under sub. 2, an applicant shall pay the state of Wisconsin administrative fee, the amount of which is on file with the department.

5. License renewals shall be filed by July 1. There shall be an additional fee for the filing of a late renewal application in the amount of \$50. If renewal applications are not sent out by June 15, the late penalty will be assessed 16 days after the applications have been sent.

7. The fee to transfer a license shall be \$50.

(See s. 75-20.2.)

81-121. Tattooing and Body-Piercing Establishments.

1. TATTOO ESTABLISHMENT LICENSE.

a. The fee for a new tattoo establishment license shall be \$413.

b. The fee for each renewal license shall be \$200.

c. The fee for a temporary tattoo establishment license shall be \$175.

2. BODY-PIERCING ESTABLISHMENT LICENSE.

a. The fee for a body-piercing establishment license shall be \$375.

b. The fee for each renewal license shall be \$200.

c. The fee for a temporary body-piercing establishment license shall be \$175.

3. COMBINED TATTOO/BODY-PIERCING LICENSE.

a. The fee for a new combined tattoo/body-piercing establishment license shall be \$550.

b. The fee for each combined tattoo/body-piercing renewal license shall be \$325

c. The fee for a temporary combined tattoo/body-piercing establishment license shall be \$175.

3.5. LICENSE DURATION. Each license issued under this section shall expire on June 30, except that a license initially issued during the period beginning on April 1 and ending on June 30 expires on June 30 of the following year.

4. PREINSPECTION FEE. For inspection of a new tattooing or body-piercing establishment, a preinspection fee of \$123 shall be charged.

5. STATE FEE. A portion of the fee shall be used to pay the state of Wisconsin administrative fee, the amount of which is on file with the Wisconsin department of health and family services.

6. DUPLICATE LICENSE. The fee for a duplicate copy of any of the licenses listed in this section shall be \$11.

(See s. 75-23.)

81-122. Tax Bill Duplicate. The fee for each duplicate tax bill, except for the current tax bill issued during the current tax collection period, shall be \$6.

(See s. 304-35.)

81-123. Tax Payment History and Tax Payment Receipt Duplicate.

a. The fee for each tax-levy year payment history shall be \$6.

b. The fee for a duplicate tax payment receipt for each property tax account shall be \$6.

81-124. Tax-Exempt Property Report Fee. The fee for filing a tax-exempt property report form shall be \$50 for a single parcel, plus \$15 for each additional parcel.

(See s. 307-2).

81-126.5. Temporary Change of Plan Permit. The fee for a temporary change of plan permit shall be \$50.

81-128. Traffic Signal Timing Schedule.

The fee for each copy of a traffic signal timing schedule shall be computed at the rate of \$30 per intersection.

(See s. 101-50.)

81-129. Traffic Signs, Documentation of Installation.

The fee for each letter of documentation relative to traffic control signs shall be \$20.

(See s. 101-50.)

81-129.7 License and Permit Fees

81-129.7. Tree Maintenance and Conservation Permit. The fee for a tree maintenance and conservation permit shall be \$100 plus \$10 for each tree proposed to be removed or disturbed under the permit. (See s. 252-80.)

81-131.3. Vehicle for Sale on Public Property.

1. The fee for each certificate required for vehicles that are for sale in the public way shall be \$40.

2. Certificates shall be valid for a period of 6 months from the date of issuance. (See s. 101-29).

81-132. Wage and Tax Statement Duplicates.

1. Upon written request, one copy or duplicate set of wage statements (W-2 form) shall be provided to current or former city employees without charge through April 15 for the preceding calendar year.

2. The processing charge for requests beyond April 15, or for additional copies or duplicates shall be \$15 and \$25, respectively, for each item requested.

81-133. Waste Collector's License, Private.

1. Each license shall be valid for 2 years from the date of issuance.

2. The fee for each vehicle shall be \$65. (See s. 79-9.)

81-134. Water Service. There shall be a processing fee of \$10 for each permit issued. (See s. 97-3.)

81-135. Weighing and Measuring Device Licenses. Weighing and measuring device licenses shall not be transferable between operators, establishments, devices or vehicles. Weights and measures inspection fees for noncompliant devices shall be as provided in s. 60-70.

1. LENGTH MEASURING DEVICES.

a. Length measuring device licenses shall be valid for 24 months from the date of issuance.

b. The fee for each length measuring device license shall be \$60. (See s. 82-14)

2. LIQUID MEASURING DEVICES.

a. Retail petroleum meter licenses shall be valid for 12 months from the date of issuance.

a-1. The fee for each retail petroleum meter shall be \$60.

a-2. A retail petroleum meter license shall expire at the same time as the filling station license issued under ch. 84.

b. All other liquid measuring device licenses, including bulk plant meter licenses, shall be valid for 24 months from the date of issuance.

b-1. The fee shall be based on the maximum flow rate of a liquid measuring device.

b-2. The following schedule of fees shall apply to a liquid measuring device license:

<u>Capacity</u>	<u>Fee</u>
0 – 30 gallons per minute	\$ 60
31 – 200 gallons per minute	\$250
Over 200 gallons per minute	\$250

(See s. 82-14)

3. SCALES.

a. Scale licenses shall be valid for 24 months from the date of issuance.

b. The fee for each scale license shall be \$55.

(See s. 82-14)

4. SCANNING DEVICES.

a. Retail establishment scanning device licenses shall be valid for 24 months from the date of issuance.

b. The following schedule of fees shall apply to retail establishment scanning device licenses:

<u>Capacity</u>	<u>Fee</u>
1 – 3 devices	\$130
4 or more devices	\$250

(See s. 82-20)

6. TIMING DEVICES.

a. Timing device licenses shall be valid for 24 months from the date of issuance.

b. The fee for each timing device license shall be \$30.

(See. s. 82-14)

For legislative history of chapter 81, contact the Municipal Research Library.

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CHAPTER 82 WEIGHTS AND MEASURES

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SUBCHAPTER 1 GENERAL REGULATIONS

82-1. Peddlers and Transient Merchants.

1. SCALES TO BE CHECKED. All itinerant peddlers and hawkers and all transient merchants shall, before making any use of any weights, scales, measures or weighing or measuring devices, cause the same to be taken to the office of the sealer of weights and measures and have the same adjusted and sealed annually with the seal for the year during which the same is to be used.

2. TO NOTIFY SEALER. Any person, firm or corporation who shall acquire or have in his or its possession, after this chapter shall take effect and be in force, any scales or weighing instruments or nonportable measures or measuring devices to be used in the sale or purchase of any article or thing for hire shall notify the sealer of weights and measures at his office that he has the same, giving a general description thereof, and the street and number of the place where same may be found. It shall be the duty of the sealer to acknowledge in writing forthwith the receipt of any such notice.

3. DEVICE SEALED. Any person, firm or corporation who shall acquire or have in his or its possession, after this chapter shall take effect and be in force, any portable measures or measuring devices to be used in the sale or purchase of any article or thing, or for hire, shall cause the same to be taken to the office of the sealer of weights and measures and shall not use the same until sealed by said sealer.

4. MOVING TO NEW LOCATION. Any person, firm or corporation who shall have in his or its possession any weighing or measuring device previously sealed and who shall move his or its place of business to a new location shall, at least 48 hours before using the said weighing or measuring devices at said new place of business, notify the sealer of weights and measures of his or its new business location. (File #46389, March 9, 1931.)

82-2 Weights and Measures

82-2. Use of False Weights and Measures;

Penalty. Any person who, by himself or by his servant or agent, or as the servant or agent of another, shall use or retain in his possession any false weight or measure or any weight or measure or weighing or measuring device to be used in the buying or selling of any commodity or thing which has not been sealed by the sealer of weights and measures according to this chapter, or any person who, by himself or by his servant or agent, or as the servant or agent of another, shall use, with or without an intent to defraud, in the buying or selling of any commodity or thing any false, defective or inaccurate weighing or measuring device; or any person who, by himself or by his servant or agent, or as the servant or agent of another, shall, with or without an intent to defraud, sell or offer or expose for sale, or keep for the purpose of sale a lesser quantity of any commodity than the quantity he represents it to be; or who shall in the purchase or offer of purchase of any commodity or thing represent such commodity or thing to be of a lesser quantity than its true quantity; or who, by himself or by his servant or agent or as the servant or agent of another, shall use any false weight or measure in buying or selling any commodity or thing, or shall sell or offer for exchange for sale, or keep for the purpose of sale, any commodity in manner contrary to law or this chapter; or any person who, by himself or by his servant or agent, or as the servant or agent for another, shall sell or offer to sell or have in his possession for the purpose of selling, any device or machine to be used or calculated to falsify any weight or measure shall upon conviction forfeit to the city a penalty of not less than \$25, nor more than \$500. (*File #48-2621, Feb. 14, 1949.*)

82-3. Dry Commodity Standards. 1. BY BUSHEL. Whenever any of the articles or commodities mentioned in this section shall be sold in the city by the bushel or fractional part thereof, and no special agreement as to weight thereof shall be made in writing, the measure thereof shall be ascertained by avoirdupois weight and shall be computed as follows:

- a. 60 pounds for a bushel of wheat, peas, potatoes, clover seed, beans, alfalfa or alsike (clover).
- b. 56 pounds for a bushel of Indian corn, rye, lima beans, wrinkled peas, flaxseed, rutabagas or tomatoes.
- c. 54 pounds for a bushel of sweet potatoes.
- d. 50 pounds for a bushel of corn meal, rapeseed, millet seed, beets, green cucumbers, rye meal, carrots, buckwheat, hickory nuts, onions or fine salt.
- e. 48 pounds for a bushel of barley, peaches, pears or Hungarian grass seed.
- f. 14 pounds for a bushel of blue grass seed or red top seed.
- g. 46 pounds for a bushel of castor beans.
- h. 45 pounds for a bushel of timothy seed or rough rice.
- i. 44 pounds for a bushel of hemp seed, parsnips, apples or sea island cotton seed.
- j. 42 pounds for a bushel of turnips.
- k. 35 pounds for a bushel of cranberries.
- L. 34 pounds for a bushel of barley malt.
- m. 33 pounds for a bushel of dried peaches.
- n. 32 pounds for a bushel of oats or onion sets.
- o. 30 pounds for a bushel of upland cotton seed.
- p. 25 pounds for a bushel of dried apples.
- q. 20 pounds for a bushel of bran or shorts.
- r. 70 pounds for a bushel of coarse salt or lime.
- s. 80 pounds for a bushel of unslaked lime.
- t. 8 pounds for a bushel of plastering hair. For a fractional part of a bushel, a like fractional part of the above weights shall be required.

2. STANDARD DRY MEASURE. All dry commodities not otherwise specified in this section shall be bought or sold only by standard dry measures, standard weights or numerical count except where parties otherwise agree in writing. (*File #9722, Oct. 25, 1915.*)

82-4. Standard Bushel. The bushel in struck measure shall contain 2,150.42 cubic inches. The 1/2 bushel and parts thereof shall correspond in capacity to that of the bushel and shall be the standard measure for fruits, vegetables and other dry commodities customarily sold by heaped measure, in measuring such commodities; the 1/2 bushel or other smaller measure shall be heaped as high as may be without special effort or design. (*File #5723, Feb. 2, 1914.*)

82-5. Packaged Food Articles. 1. QUANTITY TO BE MARKED. All articles or food sold or exchanged, or kept, exposed or offered for sale or exchange within the city in package form shall have the same actual quantity of the contents plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count; reasonable variations shall be permitted from such stated weight, measure or numerical count in accordance with the tolerances and the rules and regulations established by the Wisconsin state department of agriculture, trade and consumer protection.

2. PENALTY. Any person violating this section shall forfeit a penalty of not less than \$25 nor more than \$500 for each offense. (*File #64-3148-a, Jan. 12, 1965.*)

82-6. Sale of Milk or Cream in Bottles.

1. STANDARD MEASUREMENTS. Bottles or jars used for the sale of milk or cream shall be of the capacity of 1/2 gallon, 3 pints, one quart, one pint, 1/2 pint, one gill, when filled full to the bottom of the cap seat, stopple or other designating mark.

2. VARIATIONS. a. The following variations on individual bottles or jars may be allowed, but the average contents of not less than 25 bottles selected at random from at least 4 times the number tested must not be in error by more than 1/4 of the tolerances:

a-1. 6 drams above and 6 drams below on the 1/2 gallon.

a-2. 5 drams above and 5 drams below on the 3-pint.

a-3. 4 drams above and 4 drams below on the quart.

a-4. 3 drams above and 3 drams below on the pint.

a-5. 2 drams above and 2 drams below on the 1/2 pint.

a-6. 2 drams above and 2 drams below on the gill.

b. When milk or cream is pasteurized in the bottle in which it is to be sold or delivered, such bottle must have a capacity sufficient to permit of the expansion of the contents in the process of heating, but such bottle shall have clearly marked thereon by a line or other designating mark the points to which such bottle is filled when containing the respective capacities provided for in this section, at 68° F or 20° C.

3. SEALER. The sealer shall enforce the rules and regulations prescribed and adopted by the state superintendent of weights and measures and measures relating to the capacity of bottles used for the sale of milk and cream. Bottles or jars used for the sale of milk shall have clearly blown or otherwise permanently marked in the side of the bottle the capacity of the bottle and the word "sealed," and in the side or bottom of the bottle the name, initials or the trademark of the manufacturer and the designating number, as provided for in ch. 566, laws of Wisconsin, 1911.

5. COMPLIANCE. The sealer of weights or measures is not required to seal bottles or jars for milk or cream marked as provided in this section, but he shall from time to time make tests on individual bottles used by the various dealers in the city in order to ascertain whether the provisions [in this section] are being complied with. (*File #9722, Oct. 25, 1915.*)

82-6-4 *rp File #131559, 5/13/2014; eff. 7/1/2014/)*

82-7. Standard Barrels and Boxes. 1. A liquid barrel shall contain 31-1/2 gallons and a hogshead, 2 barrels; aliquot parts of a barrel shall contain the proportionate number of gallons. A barrel for beer, ale, porter or other similar fermented liquors shall contain 31 gallons. Each gallon to contain 231 cubic inches; a 1/2 barrel 15-1/2 gallons; a 1/4 barrel 7-3/4 gallons; an 1/8 barrel 3-7/8 gallons. The capacities of the barrel and its subdivisions enumerated shall apply to all containers in which beer, ale, porter or other similar fermented liquors are commonly sold, known as barrels, kegs, casks, or any other container made of staves, hoops and flat heads.

82-8 Weights and Measures

2. A liquid gallon shall contain 231 cubic inches.

3. A barrel of flour measured by weight shall contain 196 pounds.

4. A barrel of potatoes or other vegetables shall be the same as the standard barrel for apples or pears or other fruits, as provided in sub. 6.

5. A barrel of unslaked lime shall contain 200 pounds.

6. The standard barrel for apples or pears or other fruit, unless otherwise specifically defined, shall have an inner capacity of 7,056 cubic inches and shall not be less than 26 inches between the heads inside; the diameter of the heads shall be 17-1/8 inches, including the beveled edge; the outside bilge or circumference shall not be less than 64 inches, the thickness of the staves being 4/10ths of an inch; provided, however, that any barrel of a different form but of an interior capacity of 7,056 cubic inches shall be a legal barrel.

7. The standard barrel for cranberries shall measure not less than 25-1/4 inches between the heads inside; the diameter of the head shall be 16-1/4 inches, including the beveled edge; the outside bilge, or circumference, shall measure not less than 58-1/2 inches, the thickness of the staves being 4/10th of an inch. But any barrel of different form, but of the same interior capacity, shall be considered a legal barrel. (*File #9722, Oct. 25, 1915.*)

82-8. Standard Crates. 1. A standard crate for apples, pears, plums, peaches and other fruits, not secondarily contained in quart or other boxes within such crate, shall have an interior capacity of not less than 2,150 cubic inches exclusive of cover. (*File #51-3300, Mar. 25, 1952.*)

2. A bushel crate of cranberries and blueberries shall have an interior capacity of one bushel struck measure.

3. All sales of blackberries, blueberries, currants, gooseberries, raspberries, cherries, strawberries and similar berries in quantities of less than one bushel shall be by the quart, pint, or 1/2 pint dry measure, and all berry boxes or baskets sold, used or offered for sale within the city shall be of the interior capacity of not less than one quart, one pint, or 1/2 pint dry measure.

4. All sales of fresh fruits or vegetables in containers of less than one bushel dry capacity measure shall be in containers of the standard capacity of one quart, 2 quarts, 3 quarts, 4 quarts, 5 quarts, 6 quarts, 8 quarts, 16 quarts, or 24 quarts standard dry measure, and such receptacles shall in fact contain the full capacity of such fresh fruits or vegetables, or if in other than standard containers, such receptacles for fresh fruits or vegetables shall be plainly and conspicuously marked to indicate the true net weight, measure or numerical count of such fruits or vegetables. (*File #9722, Oct. 25, 1915.*)

82-9. Fruit and Berry Containers.

1. STANDARDS. All contracts for the sale of fruits, berries or vegetables by the barrel or crate, unless otherwise expressly stipulated in writing, shall be construed to mean barrels or crates of the capacity herein prescribed. The sealer of weights and measures shall not be required to seal the containers designated in this section.

2. FULL CAPACITY. It shall be and is declared unlawful for any person or persons to sell, offer for sale or otherwise dispose of for profit, unless otherwise expressly stipulated in writing, any berries or fruit within the city unless the crates, baskets, boxes, barrels or packages wherein the same are contained shall be of full interior capacity required for sale in the state of Wisconsin.

3. PENALTY. Any person violating this section shall forfeit a penalty of not less than \$25 nor more than \$100; and the illegal crates, boxes, barrels, packages or baskets, and the fruit or vegetables contained may be confiscated. (*File #9722, Oct. 25, 1915.*)

82-10. Weight to Mean Net Weight. When any commodity is sold by weight it shall be understood to mean net weight, and all contracts concerning goods or commodities sold by weight shall be construed accordingly unless such construction would be manifestly inconsistent with the special agreement of the parties contracting. When any commodity is sold by the ton, it shall be understood to mean the net weight of 2,000 avoirdupois pounds unless such construction would be manifestly inconsistent with the special agreement of the parties contracting. (*File #5723, Feb. 2, 1914.*)

82-11. Grain Measure, Bushel. No person shall sell, buy or receive in store for profit any grain at any weight or measure per bushel other than the standard weight or measure per bushel fixed by law, unless otherwise expressly stipulated in writing, and for any violation hereof the offender shall forfeit not less than \$5 nor more than \$50. *(File #5723, Feb. 2, 1914.)*

82-12. Sale of Fruits and Berries, Quality. All fruits and berries, fresh or dried, sold or offered for sale in the city in packages, shall be of equally good quality in every part of the package. Any person violating this section shall upon conviction thereof be fined not less than \$5 nor more than \$25.

82-13. Sale of Coal or Coke. 1. REGULATIONS. It shall be unlawful to sell or offer to sell in the city any coal, charcoal or coke in any other manner than by weights.

a. Receipt Required. No person, firm or corporation shall deliver any coal, charcoal, or coke without each such delivery being accompanied by a delivery ticket and a duplicate thereof, on each of which shall be in ink, or other indelible substance, distinctly expressed in pounds, the gross weight of the load, the tare of the delivery vehicle, and the quantity or quantities of coal, charcoal or coke contained in the cart, wagon or other vehicle used in such deliveries, with the name of the purchaser thereof, and the name of the dealer from whom purchased. One of these tickets shall be surrendered to the sealer of weights and measures, or his deputy or inspectors, upon demand, for his inspection, and the duplicate ticket or weight slip issued by the dealer shall be delivered to said purchaser of said coal, or his agent or representative, at the time of the delivery of the fuel.

b. Carry Out Purchase; Content. When the buyer carries away the purchase, a delivery ticket showing the actual number of pounds delivered over to the purchaser must be given to the purchaser at the time the sale is made. No coal or coke shall be sold in the city which contains more water or other liquid substance than that due to the natural condition of the coal or coke at the time the weight is taken for the purpose of sale.

2. VERIFICATION OF WEIGHT. a. Whenever the sealer or his deputy or inspectors shall demand that the weight shown by any coal delivery ticket be verified, it shall thereupon become the duty of the persons, firm or corporation delivering such fuel to convey the same forthwith to the nearest public scale, to be selected by the sealer, or his deputy, or inspectors in the particular locality where the coal or coke is to be delivered, or to the nearest scale in the particular locality where the owner thereof shall consent to such use, and permit the weighing of the coal or coke, together with the conveyance and equipment for the purpose of ascertaining the gross weight thereof, and shall, after the delivery of such fuel, return forthwith with the conveyance and equipment used in the delivery of such coal or coke to the same scale and permit the weighing of the said conveyance and equipment for the purpose of verifying the net weight of the coal or coke as shown by said ticket.

b. When any coal or coke is sold in bags or packages of any kind, such bags or packages shall have plainly marked thereon the quantity contained therein. In the event that coal or coke is sold or offered for sale by a peddler, such peddlers shall deliver to the purchaser or intended purchaser, or to the sealer of weights and measures, or his deputy or inspectors, upon his demand, a delivery ticket bearing the name of such peddler, his license number, if any, and showing the net weight of the fuel sold or offered for sale.

3. PENALTY. Any person who, either as principal, agent or servant, shall deliver or attempt to deliver a less quantity of coal or coke than that shown upon the delivery ticket in sub. 1-a shall forfeit to the city a penalty of not less than \$25 nor more than \$200; and any person who shall violate any of the provisions of this section shall forfeit to said city a penalty of not less than \$25 nor more than \$100. *(File #5723, Feb. 2, 1914.)*

82-14. Weighing or Measuring Device License. 1. REQUIRED.

a. General. No person, firm or corporation may operate or maintain weights and

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measures, weighing or measuring devices and systems and accessories relating thereto which are used commercially within the city in determining the weight, measure or count of commodities or cost of services or things bought or sold or offered or exposed for sale on the basis of weight, measure or count unless each such device is specifically licensed, is accurate and is operated in compliance with this section. No device may be operated without a current license and seal.

2. EXEMPTIONS. The following shall be exempt from the license requirement of this section:

b-1. A vehicle scale licensed under ch. ATPC 92.31, Wis. Adm. Code.

b-2. A public utility system that operates meters, other weighing and measuring devices and is regulated by the Wisconsin public service commission as set forth in s. 196.16, Wis. Stats.

b-3. Postal scales under the control of the state or federal government.

b-4. A vehicle tank meter licensed under ch. ATPC 92.50, Wis. Adm. Code.

3. APPLICATION. License application forms shall be obtained from the city clerk and require the information specified in s. 85-12.

4. PLAN OF OPERATION. An application for a license required under this section shall be accompanied by a completed plan of operation on a form provided therefor by the city clerk.

5. CHANGES TO BE REPORTED. See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

6. LICENSE FEE. See ch. 81 for the required license fee.

7. AGE QUALIFICATION. No license shall be issued to any person or any agent of a corporation or limited liability corporation who is not 18 years of age or older.

8. DISQUALIFICATION. Whenever any application is denied, or a license is revoked, surrendered or not renewed, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

9. INVESTIGATION. Each application for a new license shall be referred to the commissioner of health in accordance with s. 85-21.

10. OBJECTION. An objection to issuance of a license shall be based on the factors set forth in s. 85-2.7-4. If the local

common council member, chief of police or commissioner recommends against an application, no permit shall be issued unless the applicant requests, in writing, an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the recommendation of the common council member, police chief or commissioner. An appeal shall be forwarded by the city clerk to the licensing committee for its recommendation as to whether a permit should be granted. The procedure for considering an appeal shall be as provided in s. 85-2.7.

11. ISSUANCE. See s. 85-12.5 for provisions relating to the issuance of a license.

12. POSTING. Each license shall be posted in a conspicuous place on the premises.

13. TRANSFERABILITY. Licenses are not transferable between owners, meters, vehicles, vehicle scales or establishments. No device may be moved or transferred to another premises in the city and put into service, whether operated by the same owner or not, unless application is made first, a new fee paid and a license issued. See s. 85-19 for additional provisions relating to the transfer of a license and change of licensee names.

14. RENEWAL. Application for renewal of a license shall be made to the city clerk in accordance with the provisions of s. 85-26. The city clerk shall refer the application to the commissioner of health. If the applicant still meets the licensing qualifications, the license shall be issued unless a written objection has been filed under s. 85-3. If there is an objection to renewal of the license, the procedure for considering the renewal application shall be as specified in ss. 85-3 to 85-5.

15. REVOCATION OR SUSPENSION OF LICENSE. Any license issued under this section may be suspended or revoked for cause by the common council after notice to the licensee and a hearing. Notice and hearing on the revocation shall be conducted in accordance with s. 85-3. *(History: Section 82-14 cr. File #84-1062, Nov. 13, 1984.*

82-14-1-a am. File #882269, May 16, 1989; eff. June 3, 1989.

82-14-1 am. File #910063, Jan. 21, 1992; eff. Feb. 7, 1992.

82-14-3 am. File #881803, Jan. 24, 1989; eff. Feb. 11, 1989.

82-14-3 rn. File #882269, May 16, 1989; eff. June 3, 1989.

82-14-3-b cr. *File #882269, May 16, 1989; eff. June 3, 1989.*

82-14-5 am. *File #130790, Nov. 1, 2013; eff. Jan. 1, 2014.)*

82-14-5 am. *File #160192, Sept. 20, 2016; eff. Oct. 7, 2016.*

82-14 rc. *File #131559, May 13, 2014; eff. Oct. 1, 2014.)*

82-14-2-b-1 rc *File #180529, July 31, 2018; eff. August 17, 2018.*

82-14-2-b-4 rc *File #180529, July 31, 2018; eff. August 17, 2018.*

82-16. Sale of Firewood. 1. STANDARD CORD. The standard measurement of a cord of firewood is fixed and established at 128 cubic feet. (*File #9722, Oct. 25, 1915.*)

2. DELIVERY TICKET. It shall be unlawful to sell or offer for sale or expose for sale within the city any wood designed for fuel purposes in any other manner than by weight or measure. No person, firm or corporation shall deliver any firewood without such delivery being accompanied by a delivery ticket and duplicate thereof, which delivery ticket shall distinctly express in cords or fractional parts thereof or, if sold by weight, distinctly express in pounds the gross weight of the load, the tare of the delivery vehicle, the quantity or quantities of wood contained in the vehicle used in such deliveries, together with the name of the purchaser thereof and the name of the dealer from whom purchased. One of these tickets shall be tendered to the sealer of weights and measures or his deputies or inspectors upon demand for his inspection, and the duplicate ticket issued by the dealer shall be delivered to said purchaser of said wood or his agent or representative at the time of the delivery of the said wood. When the buyer carries away the purchase, a delivery ticket showing the actual number of pounds or cords or fractional parts of cords delivered over to the purchaser must be given to the purchaser at the time of the sale.

3. PENALTY. Any person, firm or corporation violating this section shall forfeit to the city a penalty of not less than \$25 nor more than \$100. (*File #41176, Apr. 8, 1929.*)

82-19. Coin-in-the-slot Machine, Maintenance.

1. TO BE KEPT IN WORKING ORDER. No person, firm or corporation shall erect, operate or maintain, or cause to be erected, operated or maintained, any coin

operated machine or automatic vending device without placing in charge thereof some person. The person in charge of such machine or device shall be held responsible for maintaining or operating, or causing to be maintained or operated, any such machine or device which is not in perfect working order. No such machine or device shall be maintained for use when the same is not in perfect working order. (*File #73-2157, May 21, 1974.*)

2. PLACARDING. a. Name of Owner, Person in Charge, etc. Except as otherwise specifically provided in pars. b and c, a placard shall be placed on every such machine or device in a conspicuous place which shall contain the name of the owner and the name of the person in charge, if different than the owner, of such machine or device including the current address of such persons and the telephone number at which the person in charge can be reached during normal daytime working hours and shall also state that the person in charge of such machine or device will refund to any person money deposited for which service has not been received, and it is made the duty of such person to do so. On premises having an attendant on duty at all times it is open to the public, the placard required above may, in lieu of stating a telephone number for refund purposes, state that the attendant may be contacted for reimbursements if the owner has authorized this practice. Such attendant must be easily identified and readily available. (*File #75-1037, Sept. 30, 1975.*)

b. Multiple Machines. Whenever multiple coin-operated machines are located in the same room and all such machines are owned or operated by the same owner or person in charge, one or more placards, containing the information required in par. a and which information is prominent and easily read from the entire working area of that room, may be posted and substituted for individual placards on each machine. (*File #74-1946, May 6, 1975.*)

c. Exception. An exception will be granted to the following types of establishments whereby the name and address of the owner or the person in charge referred to in par. a need not be posted, however the method for reimbursement and all other information required in par. a shall be posted: Self-service laundries as regulated in s. 75-1. (*File #75-1037, Sept. 30, 1975.*)

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63. PENALTY. Any person, firm or corporation violating this section shall forfeit to the city a penalty of not less than \$10 nor more than \$100, and in default of payment thereof shall be imprisoned in the county jail or house of correction of Milwaukee county not less than 10 nor more than 30 days. (*File #73-2157, May 21, 1974*)

82-20. Scanning Devices. 1. LICENSE REQUIRED. All business establishments, stores, corporations or other parties selling goods or products shall obtain an annual license for each premises on which an electronic scanning devices is used to determine or record the sale price of any item. Electronic scanning devices shall be subject to inspection prior to the issuance of a license and may be reinspected at such times as the department determines.

2. APPLICATION. License application forms shall be obtained from the city clerk and require the information specified in s. 85-12.

3. CHANGES TO BE REPORTED. A licensee shall notify the city clerk whenever there is a change in any information that is reported on the application form or renewal application form. The licensee shall make this notification in writing within 10 days after the change occurs.

4. LICENSE FEE. See ch. 81 for the required license fee.

5. AGE QUALIFICATION. No license shall be issued to any person or any agent of a corporation or limited liability corporation who is not 18 years of age or older.

6. DISQUALIFICATION. Whenever any application is denied, or a license is revoked, surrendered or not renewed, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

7. INVESTIGATION. Each application for a new license shall be referred to the commissioner of health in accordance with s. 85-21.

8. OBJECTION. An objection to issuance of a license shall be based on the factors set forth in s. 85-2.7-4. If the local common council member, chief of police or commissioner recommends against an application, no permit shall be issued unless the applicant requests, in writing, an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the recommendation of the common council member, chief or commissioner. An appeal

shall be forwarded by the city clerk to the licensing committee for its recommendation as to whether a permit should be granted. The procedure for considering an appeal shall be as provided in s. 85-2.7.

9. ISSUANCE. See s. 85-12.5 for provisions relating to the issuance of a license.

10. POSTING. Each license shall be posted in a conspicuous place on the premises.

11. RENEWAL. Application for renewal of a license shall be made to the city clerk in accordance with the provisions of s. 85-26. The city clerk shall refer the application to the commissioner of health. If the applicant still meets the licensing qualifications, the license shall be issued unless a written objection has been filed under s. 85-3. If there is an objection to renewal of the license, the procedure for considering the renewal application shall be as specified in ss. 85-3 to 85-5.

12. REVOCATION OR SUSPENSION OF LICENSE. Any license issued under this section may be suspended or revoked for cause by the common council after notice to the licensee and a hearing. Notice and hearing on the revocation shall be conducted in accordance with s. 85-3.

13. EMERGENCY SUSPENSION. The emergency suspension procedures of s. 75-23-19 may be applicable to a scanning device license if the situation warrants an emergency suspension. (*History: Section 82-20 cr. File #090259, July 28, 2009, eff. Jan. 1, 2010.*

Section 82-20 rc. File #131559, May 13, 2014; eff. Oct. 1, 2014.

Section 82-20-13 am. File #151320, Jan. 19, 2016; eff. Feb. 5, 2016.)

82-22. Penalty, General. Any persons or corporation who shall violate any of the provisions of this chapter for which a specific penalty is not hereinbefore imposed shall upon conviction thereof be punished by a fine of not less than \$10 nor more than \$500 for each offense, and in the default of payment thereof shall be imprisoned in the house of correction of Milwaukee county for not less than 10 nor more than 90 days. Any person convicted of the violation of any section of this chapter for which a specific penalty is provided in said section shall upon default of payment of such fine or penalty be imprisoned in the house of correction of Milwaukee county for not less than 10 nor more than 90 days. (*File #48-2622, Feb. 14, 1949.*)

SUBCHAPTER 2
WEIGHTS AND MEASURES PROGRAM

82-41. Weights and Measures Program. There is created in the health department a program which shall be known as the weights and measures program. The program shall be under the administrative control and direction of the commissioner of health. The commissioner shall have as assistants as many inspectors and such other assistants as the common council may from time to time determine.

(HISTORY: Section 82-41 rn. from 2-170, File #881930, March 7, 1989; eff. March 25, 1989.

82-41 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-45. Inspectors. Inspectors shall be appointed by the commissioner of health pursuant to the civil service laws.

(HISTORY: Section 82-45 rn. from 2-172, File #881930, March 7, 1989; eff. March 25, 1989.

82-45 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-47. Oath of Office. Each inspector shall, before entering upon their duties as an employee of the city, take the oath of office required by the city charter.

(HISTORY: Section 82-47 rn. from 2-173, File #881930, March 7, 1989; eff. March 25, 1989.

82-47 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-49. Duties of Inspectors. The inspectors shall perform such duties as the commissioner of health shall direct.

(HISTORY: Section 82-49 rn. from 2-174, File #881930, March 7, 1989; eff. March 25, 1989.

82-49 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-51. Official Standards of Weights and Measures. 1. The common council shall procure at the expense of the city and shall keep at all times a complete set of weights and measures, scales and beams in exact conformity with the state standards kept by the state superintendent of weights and measures, and the health department shall cause the same to be tried, proven, sealed and certified by the state superintendent of weights and measures. Said set of weights and measures, scales and beams shall be deposited with and preserved by the commissioner of health, and shall be the public standards for the city.

2. The weights and measures described by the laws of the state of Wisconsin are declared to be the standard weights and measures of the city.

(HISTORY: Section 82-51 rn. from 2-176, File #881930, March 7, 1989; eff. March 25, 1989.

82-51 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-53. Inspection of Weights and Measures; Right of Entry. 1. RIGHT OF ENTRY. The commissioner of health shall have the power within the city to inspect, test, try and ascertain if they are correct, all weights, scales, beams, measures of every kind, instruments or mechanical devices for measurement, and tools, appliances or accessories connected with any or all such instruments or mechanical devices for measurement, kept, offered or exposed for sale or sold.

2. AUTHORITY TO TEST. The commissioner shall within the city inspect, try and ascertain if they are correct, all weights, scales, beams, measures of every kind, instruments or mechanical devices for measurement, and tools, appliances or accessories connected with any or all such instruments or mechanical devices for measurement, used or employed within the city by any owner, agent, lessee or employee in determining the weight, size, quantity, extent, area or measurement of persons, quantities, services, things, produce or articles of any kind offered for distribution, consumption, transportation, sale, barter, exchange, hire or award.

3. INSPECTION. a. The commissioner shall, as often as the commissioner may deem necessary, see that all weights, measures and weighing and measuring apparatus used in the city are correct. The commissioner and inspectors may, for the purpose stated in sub. 2, and in the performance of their official duties, with or without formal warrant, enter or go in or upon any stand, place, building or premises, and may stop any vendor, peddler, dealer or vehicle for the purpose of making the proper tests.

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b. The commissioner shall from time to time weigh or measure and inspect packages or amounts of commodities of whatsoever kind, kept for the purpose of sale, offered or exposed for sale, or sold, or in the process of delivery, in order to determine whether the same contain the amounts represented and whether they be offered for sale or sold in a manner in accordance with the law.

(HISTORY: Section 82-53 rn. from 2-177, File #881930, March 7, 1989; eff. March 25, 1989.

82-53 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-55. Procedure in Case of Violation of Laws; Sealing. Whenever the commissioner of health finds a violation of the statutes or code provisions relating to weights and measures, the commissioner shall cause the violator to be prosecuted. Whenever an inspector compares weights and measures and finds that they correspond, or causes them to correspond with the standards in his possession, the inspector shall seal or mark the same with appropriate devices to be approved by the state superintendent of weights and measures. Inspectors shall condemn or seize, and may destroy incorrect weights and measures, and weighing or measuring instruments which cannot be repaired, or which have been falsified; and such as are incorrect and yet may be repaired, shall be marked or tagged as condemned for repairs, in a manner prescribed by the state superintendent of weights and measures. The owner thereof shall, within 10 days thereafter, have the same properly adjusted and sealed, and said inspectors may, at any time after the expiration of such period, seize or destroy all such weights, measures, weighing and measuring instruments which have not been corrected.

(HISTORY: Section 82-55 rn. from 2-178, File #881930, March 7, 1989; eff. March 25, 1989.

82-55 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-57. Authority to Make Arrest; Badges. There is conferred upon the commissioner and inspectors police power, and in the exercise of their duties they shall wear badges bearing their photograph, name and official designation, and they are empowered and authorized to make arrests, with or without formal warrant, of any person violating the provisions of any statute or the code relating to weights and measures.

(HISTORY: Section 82-57 rn. from 2-179, File #881930, March 7, 1989; eff. March 25, 1989.

82-57 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000)

82-59. Alteration of Weights and Measures.

Every person who shall, with intent to use the same for weighing or measuring, alter or permit to be altered, or shall use or permit to be used after the same shall have been altered, any weight, measure, scale beam, steel yard, automatic or computing scale, or other instrument for weighing or measuring, after the same shall have been tested, marked and sealed as aforesaid, which by reason of such alteration shall not conform to the city standards, shall upon conviction be punished by a fine of not less than \$25 nor more than \$100, and every person who shall alter or detach any seal or tag impressed or attached by the inspectors shall upon conviction thereof be punished by a fine of not less than \$5 nor more than \$100.

(HISTORY: Section 82-59 rn. from 2-180, File #881930, March 7, 1989; eff. March 25, 1989.

82-59 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-61. Refusal to Exhibit Weights and Measures.

Any person who shall refuse to exhibit any weight, measure, scale, scale beam, patent balance, steel yard, automatic or computing scale or other instrument used for weighing or measuring to said inspectors, for the purpose of having it inspected and examined, shall forfeit a penalty of not less than \$5 nor more than \$100 for each offense.

(HISTORY: Section 82-61 rn. from 2-181, File #881930, March 7, 1989; eff. March 25, 1989.

82-61 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-63. Interference with Officers. Any person who shall in any way or manner impersonate, obstruct, hinder or molest the inspectors in the performance of their duties shall forfeit a penalty of not less than \$10 nor more than \$100 for each offense.

(HISTORY: Section 82-63 rn. from 2-182, File #881930, March 7, 1989; eff. March 25, 1989.

82-63 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-65. Department Employees not to Vend Weights and Measures. It shall be unlawful for the commissioner of health or any person employed in the department to vend any weights, measures, scales, scale beams, patent balances, steel yards, automatic or computing scales, or other instruments to be used for the purpose of weighing or measuring, or to offer or expose the same for sale, or be interested directly or indirectly in the sale of the same in the city under a penalty of \$50 for every such offense.

(HISTORY: Section 82-65 rn. from 2-183, File #881930, March 7, 1989; eff. March 25, 1989.

82-65 am. File #961523, Feb. 11, 1997; eff. Feb. 28, 1997.

82-65 am. File #980963, Dec. 18, 1998; eff. Jan. 1, 1999.)

82-67. Record of Weights and Measures Inspected; Reports. It shall be the duty of the commissioner of health to keep a record of all weights, measures, scales, scale beams, patent balances, steel yards, computing and automatic scales, and other instruments used for weighing or measuring, inspected by the commissioner, in which the commissioner shall state the name of the owner of the same and whether they are conformable to the city standards. The commissioner shall also keep a complete record of the work done by the commissioner and the inspectors.

(HISTORY: Section 82-67 rn. from 2-184, File #881930, March 7, 1989; eff. March 25, 1989.

82-67 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

Subch. 2 rp. File #180529, July 31, 2018; eff. August 17, 2018.

Subch. 3 rn to Subch. 2 File #180529, July 31, 2018; eff. August 17, 2018.)

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**CHAPTER 83
MUNICIPAL IDENTIFICATION CARD**

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83-1. Definitions.

1. MUNICIPAL IDENTIFICATION CARD means a card authenticating the bearer as a resident of the city of Milwaukee.

2. RESIDENT means a person who has resided within the corporate limits of the city of Milwaukee for not less than 15 consecutive days and who presents proof of residency as provided in s. 83-5.

83-3. Authority. The city clerk shall create and issue municipal identification cards in accordance with the procedure specified in s. 83-5.

83-5. Procedure.

1. The city clerk shall promulgate rules for the implementation and issuance of municipal identification cards.

2. All rules and subsequent changes to the rules shall be approved by the licensing committee of the common council.

83-7. Acceptance. In compliance with s. 66.0438 (3), Wis. Stats., city departments shall recognize the municipal identification card as an acceptable form of identification.

83-(HISTORY) Municipal Identification Card

LEGISLATIVE HISTORY CHAPTER 83

Abbreviations:

am = amended

cr = created

ra = renumbered and amended

rc = repealed and recreated

rn = renumbered

rp = repealed

<u>Section</u>	<u>Action</u>	<u>File</u>	<u>Passed</u>	<u>Effective</u>
Ch. 83	cr	160193	7/26/2016	8/12/2016

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CHAPTER 84 MISCELLANEOUS LICENSES

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84-7. Extended Hours Establishments.

1. **FINDINGS.** The common council finds that certain businesses, when open in the early morning hours, have a tendency to become attractive nuisances, generating noise, congregations of people, traffic congestion and litter, and may provide an environment in which other offenses can occur. Moreover, it is the experience of the city of Milwaukee that these businesses - convenience stores, filling stations, personal service establishments, recording studios and restaurants - when open between the hours of 12 a.m. and 5 a.m., if unregulated, threaten to place an inordinate burden on the public safety resources of the city and its taxpayers. This section is enacted pursuant to the common council's authority to provide for the health, safety and welfare of the residents of the city of Milwaukee.

2. **DEFINITIONS.** In this section:

- a. "Convenience store" shall have the meaning set forth in s. 68-1-6-a.
- b. "Extended hours establishment" shall mean any convenience store, filling station, personal service establishment, recording studio or restaurant open at any time between the hours of 12 a.m. and 5 a.m.
- c. "Filling station" shall have the meaning set forth in s. 295-201-189.
- d. "Personal service establishment" shall have the meaning set forth in s. 295-201-451, but for the purposes of this section shall not include licensed massage establishments licensed pursuant to s. 75-21.
- e. "Recording studio" means an establishment containing one or more studios for the audio or video recording or filming of musical performances, radio or television programs or motion pictures, but not containing broadcasting

studios for over-the-air, cable or satellite delivery of regularly-scheduled radio or television programs.

f. "Restaurant" shall have the meaning set forth in both s. 295-201-499 and 501. It shall not apply to the provision of room service by a hotel or to the preparation and service of food inside a hospital.

3. **LICENSE REQUIRED.** No convenience store, filling station, personal service establishment, recording studio or restaurant shall be open between the hours of 12 a.m. and 5 a.m. without first applying for and receiving a license as provided in this section.

4. **EXEMPTIONS.** This section shall not apply to the following:

a. Premises holding class "B" alcohol beverage licenses during those hours during which class "B" premises may be open.

b. Extended hours establishments located within General Mitchell International Airport.

5. **APPLICATION.** License application forms shall be obtained from the city clerk and require the information specified in s. 85-12. Post office box numbers shall not be acceptable for addresses required for extended hours establishment licenses.

6. **PLAN OF OPERATION.** An application for a license required under this section shall be accompanied by a completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall include:

a. The planned hours of operation for the premises.

b. The number of patrons expected on a daily basis at the premises.

c. If the premises for which the license is sought is a restaurant, the legal capacity of the premises.

d. If the premises for which the license is sought is a personal service establishment or a restaurant, the number of off-street parking spaces available at the premises.

e. Plans, if any, the applicant has to provide security for the premises.

f. Plans, if any, the applicant has to ensure the orderly appearance and operation of the premises with respect to litter and noise.

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g. Such other reasonable and pertinent information the common council or the licensing committee may from time to time require.

7. FINGERPRINTING. All applicants for extended hours establishment licenses shall be exempt from the fingerprinting requirement provided in s. 85-21-1.

8. CHANGES TO BE REPORTED. See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

9. LICENSE FEE. See ch. 81 for the required license fee.

10. AGE QUALIFICATION. No license shall be issued to any person or any agent of a corporation or limited liability corporation who is not 18 years of age or older.

11. DISQUALIFICATION. Whenever any application is denied, or a license is revoked, surrendered or not renewed, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

12. INVESTIGATION. Each application for a new license shall be referred to the chief of police and the commissioner of neighborhood services in accordance with s. 85-21.

13. OBJECTION. An objection to issuance of a license shall be based on the factors set forth in s. 85-2.7-4. If the common council member, chief of police or commissioner recommends against an application, no license shall be issued unless the applicant requests, in writing, an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the recommendation of the common council member, chief or commissioner. An appeal shall be forwarded by the city clerk to the licensing committee for its recommendation as to whether a permit should be granted. The procedure for considering an appeal shall be as provided in s. 85-2.7.

14. ISSUANCE. See s. 85-12.5 for provisions relating to the issuance of a license.

15. POSTING. Each license shall be posted in a conspicuous place on the premises.

16. TRANSFER. See s. 85-19 for provisions relating to the transfer of a license and change of licensee names.

17. RENEWAL. Application for renewal of a license shall be made to the city clerk in accordance with the provisions of s. 85-26. The

city clerk shall refer the application to the chief of police, the commissioner of neighborhood services and the commissioner of health for review. If all 3 indicate that the applicant still meets the licensing qualifications, the license shall be referred to the common council for approval unless a written objection has been filed under s. 85-3. If there is objection to renewal of the license, the procedure for considering the renewal application shall be as specified in ss. 85-3 to 85-5.

18. REVOCATION OR SUSPENSION OF LICENSE. Any license issued under this section may be suspended or revoked for cause by the common council after notice to the licensee and a hearing. Notice and hearing on the revocation shall be conducted in accordance with s. 85-3. The common council shall consider the matter of suspension or revocation of the license in the manner provided in s. 85-5.

19. PENALTY. a. Any person who violates any of the provisions of this section shall, upon conviction, be subject to a forfeiture of not more than \$1,000 and, in default thereof, may be imprisoned as provided by law.

b. Citations may be issued for all violations of this section with or without prior notice. The stipulation, forfeiture and court appearance set forth in s. 50-25 shall apply.

84-10. Bill Posting Business License.

1. DEFINITION. A "bill posting business" shall mean any person, firm or corporation engaged in the business of outdoor advertising for a cash consideration by placing, posting or painting on billboards, ground or roof signs, displays, or on the walls of buildings to advertise goods or products to announce coming events, attractions or contests.

2. LICENSE; WHEN REQUIRED. a. It shall be unlawful for any person, firm or corporation to engage in the business of bill posting without having first secured a license therefor.

b. This section shall not be held to apply to the posting of a sign or notices by the order of any court or by any public officer in the performance of his duties or by any political campaign organization working to insure the election of a nominee or the success of a political issue by securing some definite result in an election.

3. APPLICATION. License application forms shall be obtained from the city clerk and require the information specified in s. 85-12.

4. CHANGES TO BE REPORTED. A licensee shall notify the city clerk whenever there is a change in any information that is reported on the application form or renewal application form. The licensee shall make this notification in writing within 10 days after the change occurs.

5. LICENSE FEE. See ch. 81 for the required license fee.

6. AGE QUALIFICATION. No license shall be issued to any person or any agent of a corporation or limited liability corporation who is not 18 years of age or older.

7. DISQUALIFICATION. Whenever any application is denied, or a license is revoked, surrendered or not renewed, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

8. OBJECTION. An objection to issuance of a license shall be based on the factors set forth in s. 85-2.7-4. If any interested party objects to the application, no license shall be issued unless the applicant requests, in writing, an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the objection. An appeal shall be forwarded by the city clerk to the licensing committee for its recommendation as to whether a license should be granted. The procedure for considering an appeal shall be as provided in s. 85-2.7.

9. ISSUANCE. See s. 85-12.5 for provisions relating to the issuance of a license.

10. POSTING. Each license shall be posted in a conspicuous place on the premises.

11. TRANSFER. See s. 85-19 for provisions relating to the transfer of a license and the change of licensee names.

12. RENEWAL. Application for renewal of a license shall be made to the city clerk in accordance with the provisions of s. 85-26. If the applicant still meets the licensing qualifications, the license shall be issued unless a written objection has been filed under s. 85-3. If there is objection to renewal of the license, the procedure for considering the renewal application shall be as specified in ss. 85-3 to 85-5.

13. REVOCATION OR SUSPENSION OF LICENSE. Any license issued under this section may be suspended or revoked for cause by the common council after notice to the permit holder and a hearing. Notice and hearing on the revocation shall be conducted in accordance with s. 85-3.

14. REGULATIONS. a. In all instances a permit must be obtained from the department of city development for the posting of each and every sign, except for the posting of posters within business establishments, as provided for in s. 244-2.

b. No person shall post or maintain any sign or advertisement on a billboard, building, or structure which does not fully comply with the regulations set forth in ch. 244.

c. It shall be unlawful to post any advertisement on any premises in the city without the consent of the owner of such premises.

d. It shall be unlawful for any person engaged in the bill posting business to permit any refuse resulting from this work to accumulate anywhere in the city except by placing it in properly established refuse receptacles.

15. PENALTY. Any person or firm violating this section shall upon conviction, forfeit not less than \$50 nor more than \$200, together with the costs of prosecution; and, in default of payment, may be imprisoned as provided by law.

84-20. Parking Lots or Places.

1. DEFINITIONS.

b. "Event parking place" means a parking place operating principally to provide temporary parking for events and festivals.

c. "Parking place" means any garage or other building, or any plot, piece or parcel of land in or upon which a business is conducted of storing motor vehicles where the owner or person storing the vehicle is charged a fee. This term does not include the renting of private parking places that have parking spaces for 15 or fewer motor vehicles.

d. "Person" means any individual, partnership, firm, association or corporation.

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e. "Security incident" means any incident on the premises of a parking place that results in criminal harm to parking patrons, vandalism of vehicles, theft of vehicles or property inside vehicles, or any other incidents that threaten patron health, safety and welfare.

f. "Security lighting" means natural or artificial lighting producing a minimum of 0.5-foot candle in horizontal luminance and 0.25-foot candle in vertical luminance, an average of 2.5-foot candle in horizontal luminance, and a maximum to minimum uniformity ratio of 15:1.

g. "Surface transportation" means the movement of people by road, train or ship.

1.5. FINDINGS. The common council finds that parking places are inherently prone to crimes against parking patrons, vandalism of vehicles, theft of vehicles or property inside vehicles, and other threats to the security of parking patrons and property because the area is often deserted, easily accessed, poorly lighted and for other reasons. The common council further finds that greater oversight of the issuance of new licenses and the renewal of existing licenses for parking places is likely to ameliorate the greater threat to the health, safety and security of parking patrons posed by parking places.

2. LICENSE REQUIRED. a. No person shall conduct a business storing motor vehicles for hire in a parking place within the limits of the city without first having obtained a license therefor, except that no license shall be required for a parking place in a residential district and operating under a temporary conditional permit issued after a hearing by the board of appeals.

b. The person conducting such a business shall pay the fee specified in ch. 81. An additional weighing and measuring license fee shall be paid for each timing device used to establish parking charges.

3. APPLICATION. License application forms shall be obtained from the city clerk and require the information specified in s. 85-12. Each application shall be signed by the property owner.

4. PLAN OF OPERATION. An application for a parking lot or place license shall be accompanied by a completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall include:

a. The planned hours of operation for the premises.

b. The number of customers expected on a daily basis at the premises.

c. The legal occupancy limit of the premises.

d. The number of off-street parking spaces available at the premises.

e. A security plan describing the security measures implemented on the premises to protect patrons from harm, and vehicles and property inside vehicles from theft, vandalism or other damage.

f. Plans the applicant has to ensure the orderly appearance and operation of the premises with respect to litter and noise.

g. Any other licenses held by the applicant or attached to the premises.

h. A description of any provisions made for clean-up of the premises.

i. A site plan showing:

i-1. The locations of all entrances and exits. This shall include a description of how customers will enter and leave the premises.

i-2. The locations and dimensions of any off-street parking and loading areas for customers.

j. Such other reasonable and pertinent information the common council or the licensing committee may from time to time require.

4.5. PARKING PLACE SECURITY.

a. **Police Review.** Following submission of a new license application by a parking place, but prior to the scheduling of a license committee hearing, the applicant shall meet in person with a police department community liaison officer, or other designee of the chief of police, to review the plan of operation, and to conduct a crime prevention through environmental design (CPTED) survey.

b. **Grounds for Non-renewal, Suspension or Revocation.** In addition to the evidence provided in s. 85-4-4, probative evidence concerning whether or not a license granted to a parking place should be subject to non-renewal, suspension or revocation shall include the suitability of the security plan for the premises and how the security plan compares to the review conducted by the police department under pars. a and b.

c. **Additional Security Measures.**

If 2 or more security incidents occur on the premises within a month, a parking place licensed under this section shall implement additional security measures, as determined by the police department, to protect the health, safety and welfare of parking patrons and the security of property. The parking place shall maintain these measures during the

remaining term of the license. These measures may include, but shall not be limited to:

c-1. Employment of at least one attendant. Each attendant shall be on duty on the premises whenever a customer's vehicle is parked on the premises. An attendant shall patrol the entire premises at least once every 40 minutes during daylight hours and every 20 minutes otherwise.

c-2. Security lighting throughout the premises whenever customer vehicles are parked on the premises.

c-3. A security video surveillance system capable of producing retrievable images. Cameras shall be positioned to view the faces of persons entering and leaving the parking facility, and moving among the parked vehicles. Videos shall be stored on digital video recorders, or other comparable media, and be readily available to assist law enforcement in identification, apprehension and prosecution of suspected law breakers. A security video surveillance system shall include drones or robots if appropriate.

c-4. Security fencing at least 6 feet tall enclosing the premises with gates for vehicle entry and egress.

c-5. At least one fixed or mobile elevated surveillance platform, staffed by an attendant whenever customer vehicles are parked on the premises, for every 200 spaces available for customer parking, if the parking place is not a garage.

5. CHANGES TO BE REPORTED. See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

5.1. LICENSE FEE. See ch. 81 for the required license fee.

5.2. AGE QUALIFICATION. No license shall be issued to any person or any agent of a corporation or limited liability corporation who is not 18 years of age or older.

5.3. DISQUALIFICATION. Whenever any application is denied, or a license is revoked, surrendered or not renewed, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

5.4. INVESTIGATION AND FINGER-PRINTING. Each application for a new license under this section shall be referred to the chief of police and commissioner of neighborhood services in accordance with s. 85-21. Each applicant under this section shall be exempt from the fingerprinting requirement provided in s. 85-21-1.

5.5. HEARING. Each application for a new license shall be referred to the licensing committee for a hearing in accordance with s. 85-2-7.

5.6. ISSUANCE. See s. 85-12.5 for provisions relating to the issuance of a license.

5.7. POSTING. Each license shall be posted in a conspicuous place on the premises.

5.8. TRANSFER. See s. 85-19 for provisions relating to the transfer of a license and change of licensee names.

5.9. RENEWAL. a. Application for the renewal of a parking lot license shall be made to the city clerk in accordance with the provisions of s. 85-26. The city clerk shall refer the application to the chief of police and the commissioner of neighborhood services for review.

b. If the chief of police and the commissioner of neighborhood services indicate that the applicant still meets the licensing qualifications, the application shall be referred to the common council for approval unless a written objection has been filed with the city clerk at least 45 days prior to the date on which the license expires.

c. If the city clerk determines that there is cause to question the renewal of the license on the basis of one or more written complaints related to operation of the licensee during the current license period, or if the chief of police objects on the basis of police reports of incidents and activities on or related to the licensed premises not previously considered by the licensing committee establishing cause to question whether renewal of the license may have an adverse impact on the health, safety and welfare of the public and the neighborhood, or if the applicant has been issued a warning letter or been subject to administrative sanctions by the Wisconsin department of agriculture, trade and consumer protection, the city clerk shall cause the application to be scheduled for hearing. A written objection shall meet the definition in s. 85-2-4 and shall comply with the requirements of s. 85-3-3.

6. REVOCATION OR SUSPENSION OF LICENSE. Any license issued under this section may be suspended or revoked for cause by the common council after notice to the licensee and a hearing. Notice and hearing on the revocation shall be conducted in accordance with s. 85-3.

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7. SIGNS POSTED. a. All owners, operators or maintainers of parking places shall post prominently, at the entrances thereof, signs bearing the names of the owners, operators or maintainers and designating the rates of charges for parking privileges. The rates shall be displayed before 8:00 a.m. and shall not be increased for 24 hours thereafter.

b. All signs posted shall be a minimum size of 18 by 24 inches. The vertical height of the lettering for the rates shall be a minimum 3 inches, and the vertical height of other lettering shall be a minimum of 1.5 inches.

8. CLAIM CHECKS TO BE FURNISHED. At the time of accepting a motor vehicle for storing or parking in a parking place, the person conducting the same, his agent or employee, shall furnish to such person parking his motor vehicle a distinctive check which shall be numbered to correspond to a coupon placed upon such motor vehicle, which check shall contain the name and address of the place owning or operating such parking place. These provisions shall not apply where cars are stored on a weekly or monthly fee basis.

9. FINANCIAL RESPONSIBILITY. All owners, operators or maintainers of parking places shall satisfy all final judgments arising out of or because of the operation or maintenance of parking places, in favor of and obtained by patrons within 15 days after the entry of judgment and, in default of compliance with this section and such judgment, the license of the owner, operator or maintainer shall be suspended until the judgment has been satisfied of record and satisfactory evidence of the financial responsibility of the owner, operator or maintainer has been furnished to the city clerk. Satisfactory evidence shall consist of the furnishing of a \$2,000 bond, on condition that the owner, operator or maintainer of a parking place will pay all final judgments recovered by the bailor according to law for damages arising from the operation or care of motor vehicles in the parking place and for the loss, damage, theft or conversion of any motor vehicle, except for personal property left in a car. The city clerk shall cancel the license for the operation of any parking place upon failure of any owner, operator or maintainer of a parking place to comply with this subsection.

10. BARRIERS. Persons operating parking places shall keep the same enclosed with a proper or suitable fence, wall or other barrier along streets upon which parking places front, so that motor vehicles cannot be removed from such place except at the regular established entrances and exits. Each licensee shall keep the sidewalks surrounding the parking places free from dirt, ice, sleet and snow, and shall keep the sidewalks in safe condition for the travel of pedestrians.

11. PARKED VEHICLES NOT TO BE USED WITHOUT AUTHORITY. It shall be unlawful to make any use for any purpose or purposes whatsoever of any motor vehicle parked on the premises of any parking place unless such use shall first be authorized by the owner or person having control of such vehicle.

12. VEHICLES NOT TO BE MOVED ONTO PUBLIC STREET. It shall be unlawful for any parking lot operator to park any motor vehicle, for which a fee has been charged, on the public highways or any location other than the parking lot under his control.

13. PARKING LOT EGRESS REQUIRED. a. Any person, firm or corporation offering parking service, whether licensed or not, upon any premises within the city shall provide for the egress or removal from said premises within 30 minutes of notification by the owner or operator of any vehicle for which a fee for parking has been paid.

b. Such person, firm or corporation offering parking for a fee shall post and maintain in a conspicuous place on the parking premises the name, address, and phone number of a party who shall be available at all times parking service is offered to serve as agent for notification under par. a.

14. PENALTY. Any person, firm or corporation violating this section shall be subject to a fine of not less than \$10 nor more than \$100, or in default of payment thereof to imprisonment in the county jail or house of correction, Milwaukee county, for not less than 10 days nor more than 30 days.

15. FRAUD OF PARKING LOT OPERATORS. a. Payment of Fees. It shall be unlawful for a parking lot patron to remove his car from a parking lot without paying any due parking fees.

b. Posting of Ordinance. The owner or operator of every parking lot shall post or cause to be posted a copy of this section, or a summary thereof, in a conspicuous place within said parking lot.

c. Penalty. Any person violating par. a shall be punished by a fine of not less than \$50 nor more than \$500 and in default of payment thereof shall be imprisoned in the county jail or house of correction for a period not to exceed 60 days.

d. Exception. The provisions of pars. a and c shall not apply if the operators of the parking lot have not met the provisions of sub. 13-b.

84-43. Cigarette and Tobacco License.

1. DEFINITIONS. In this section:

a. "Cigarette" means any roll of tobacco wrapped in paper or any substance other than tobacco.

b. "Tobacco products" means cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but "tobacco products" does not include cigarettes.

2. LICENSE REQUIRED. It shall be unlawful for any person, firm or corporation in any manner, or upon any pretense, or by any device, directly or indirectly, to sell, exchange, barter, dispose of or give away, any cigarettes or tobacco products without first obtaining a license therefor.

3. APPLICATION. License application forms shall be obtained from the city clerk and require the information specified in s. 85-12.

4. PLAN OF OPERATION. An application for a cigarette and tobacco license shall be accompanied by a completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall include:

a. The planned hours of operation for the premises.

b. The number of customers expected on a daily basis at the premises.

c. The legal occupancy limit of the premises.

d. The number of off-street parking spaces available at the premises.

e. Plans the applicant has to provide security for the premises.

f. Plans the applicant has to ensure the orderly appearance and operation of the premises with respect to litter and noise.

g. Any other licenses held by the applicant or attached to the premises.

h. A description of any provisions made for clean-up of the premises.

i. A site plan showing:

i-1. The locations of all entrances and exits. This shall include a description of how customers will enter and leave the premises.

i-2. The locations and dimensions of any off-street parking and loading areas for customers.

j. Such other reasonable and pertinent information the common council or the licensing committee may from time to time require.

5. CHANGES TO BE REPORTED. See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

6. LICENSE FEE. See ch. 81 for the required license fee.

7. AGE QUALIFICATION. No license shall be issued to any person or any agent of a corporation or limited liability corporation who is not 18 years of age or older.

8. ISSUANCE. See s. 85-12.5 for provisions relating to the issuance of a license.

9. TRANSFER OF LICENSE OR CHANGE OF NAME. No cigarette and tobacco license may be transferred from one licensee to another or from one premises to another. The city clerk may, however, change the name of a licensee as provided in s. 85-19 upon receiving information that the name of the licensee has been lawfully changed by marriage, order of a court or administrative determination by the Wisconsin department of financial institutions.

10. RECORDS TO BE KEPT. Every retailer licensed under this section shall keep complete and accurate records of all purchases and receipts of cigarettes and tobacco products. The records shall be preserved on the licensed premises for 2 years in a manner to ensure permanency and accessibility for inspection and

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shall be subject to inspection at all reasonable hours by authorized state and local law enforcement officials.

11. SUSPENSION, NONRENEWAL AND REVOCATION. The city adopts s.134.65 (6), (7) and (8), Wis. Stats.

12. PENALTIES. a. Any person violating this section shall be fined not less than \$25 nor more than \$100 for the first offense or, in lieu of nonpayment or default of such fine, costs and disbursements, may be imprisoned as provided by law; and for a second or subsequent offense not less than \$25 nor more than \$200 or, in lieu of nonpayment or default of such fine, costs and disbursements, may be imprisoned as provided by law.

b. If upon conviction of a 2nd or subsequent violation, the person violating this section is found personally guilty of a failure to exercise due care to prevent the violation, the person shall be fined not less than \$25 nor more than \$300 or, in lieu of nonpayment or default of such fine, costs and disbursements, may be imprisoned as provided by law. Conviction under this paragraph shall result in immediate termination of the license of the person convicted of being personally guilty of failure to exercise due care and the person shall not be entitled to another license under this section for a period of 5 years after conviction, nor shall the person in that period act as the servant or agent of a person licensed under this section in the performance of acts authorized by the license.

84-45. Filling Stations. 1. PURPOSE. In order to protect the health, safety and general welfare of the community and environment and prevent potential harm and nuisance that could result from the location and operation of filling stations, the common council enacts the following regulations.

2. DEFINITION. In this section, "filling station" (gas station) means a place, building, pump or device maintained and used on private premises for the purpose of dispensing to the public gasoline or other fuels for use in motor vehicles of any kind.

3. LICENSE REQUIRED. a. No person, firm or corporation shall operate a filling station unless the person, firm or corporation possesses a valid license issued pursuant to this section. See s. 81-51.6 for the required fee.

b. An additional weighing and measuring license fee specified in ch. 81 shall be paid for each pump or device used to establish charges for gasoline or other fuels.

3.5. SECURITY CAMERA REQUIRED. All filling stations open to customers on a 24-hour basis shall:

a. Install, maintain in proper working order and operate during all hours the store is open to customers a security camera which can produce reproducible digital color images.

b. The camera shall be placed to provide a clear and identifiable full frame of the filmed individual's face, either entering, exiting or at the cash register. Hanging displays shall not obstruct views of the individual's face.

c. If a time-lapse digital video camera is operated, recorded images shall not be recorded at a slower speed than 24 hours.

d. Recorded digital image files shall be kept for a minimum of 72 hours.

4. APPLICATION. License application forms shall be obtained from the city clerk and require the information specified in s. 85-12.

5. PLAN OF OPERATION. An application for a filling station license shall be accompanied by a completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall include:

a. The planned hours of operation for the premises.

b. The number of customers expected on a daily basis at the premises.

c. The legal occupancy limit of the premises.

d. The number of off-street parking spaces available at the premises.

e. Plans the applicant has to provide security for the premises.

f. Plans the applicant has to ensure the orderly appearance and operation of the premises with respect to litter and noise.

g. Any other licenses held by the applicant or attached to the premises.

h. A description of any provisions made for clean-up of the premises.

i. A site plan showing:

i-1. The locations of all entrances and exits. This shall include a description of how customers will enter and leave the premises.

i-2. The locations and dimensions of any off-street parking and loading areas for customers.

j. Such other reasonable and pertinent information the common council or the licensing committee may from time to time require.

6. CHANGES TO BE REPORTED. See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

7. LICENSE FEE. See ch. 81 for the required license fee.

8. AGE QUALIFICATION. No license shall be issued to any person or any agent of a corporation or limited liability corporation who is not 18 years of age or older.

9. DISQUALIFICATION. Whenever any application is denied, or a license is revoked, surrendered or not renewed, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

10. INVESTIGATION. Each application for a new license shall be referred to the chief of police, the commissioner of neighborhood services and the commissioner of health in accordance with s. 85-21-2. All applicants for filling station licenses shall be exempt from the fingerprinting requirement provided in s. 85-21-1.

11. OBJECTION. An objection to issuance of a license shall be based on the factors set forth in s. 85-2.7-4. If the local common council member, chief of police or commissioner recommends against an application, no license shall be issued unless the applicant requests, in writing, an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the recommendation of the common council member, chief or commissioner. An appeal shall be forwarded by the city clerk to the licensing committee for its recommendation as to whether a permit should be granted. The procedure for considering an appeal shall be as provided in s. 85-2.7.

12. ISSUANCE. See s. 85-12.5 for provisions relating to the issuance of a license.

13. POSTING. Each license shall be posted in a conspicuous place on the premises.

14. TRANSFER. See s. 85-19 for provisions relating to the transfer of a license and the change of licensee names.

15. RENEWAL. Application for renewal of a license shall be made to the city clerk in accordance with the provisions of s. 85-26. The city clerk shall refer the application to the chief of police. If the applicant still meets the licensing qualifications, the license shall be issued unless a written objection has been filed under s. 85-3. If there is objection to renewal of the license, the procedure for considering the renewal application shall be as specified in ss. 85-3 to 85-5.

16. REVOCATION OR SUSPENSION OF LICENSE. Any license issued under this section may be suspended or revoked for cause by the common council after notice to the licensee and a hearing. Notice and hearing on the revocation shall be conducted in accordance with s. 85-3.

17. ENFORCEMENT, PENALTY.

a. A person who violates any provision of this section or fails to comply with an order of the commissioner that was issued under this section or otherwise issued concerning the operation of a filling station shall be liable upon conviction to a Class J penalty under s. 61-16. Each day of a continued violation is a separate offense.

b. Citations may be issued for any violation of this section with or without prior order or notice. The stipulation, forfeiture and court procedure set forth in s. 50-25 shall apply.

84-49. Distribution of Printed Materials in City Hall Complex. The city clerk shall furnish periodical boxes for distribution of newspapers, newsletters, magazines, or other publications, which are published on a regular schedule. Any person, group, or organization distributing publications shall ensure that the periodical boxes are kept in a neat and orderly manner at all times and that publications are kept up-to-date. The city clerk may issue guidelines for the enforcement of this section. Any publications not maintained in accordance with this section or the guidelines established by the city clerk may be removed by the city clerk.

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For legislative history of chapter 84,
contact the Municipal Research Library.

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CHAPTER 85 LICENSE AND PERMIT PROCEDURES

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SUBCHAPTER 1 PROCEDURES FOR COMMITTEE HEARINGS AND COMMON COUNCIL REVIEW

85-1. Purpose and Scope. **1. PURPOSE.** It is the purpose of the common council to assure uniformity and clarity in the procedures under which certain licenses and permits are considered for approval, denial, renewal, non-renewal, suspension and revocation. It is the further purpose of the common council to guarantee to licensees, permittees and members of the public those protections of due process of law respecting a full and fair right to be heard upon adequate notice, to confront and cross-examine witnesses, to have the benefit of rules of evidence, and to present evidence and arguments of law and fact.

2. SCOPE AND APPLICATION. The provisions of this chapter shall not supercede or replace any provision contained elsewhere in this code respecting licenses and permits, but shall apply where provisions for notice, committee hearing or council action are otherwise silent.

85-2. Definitions. **1. APPLICANT** means any person, partnership, corporation, limited liability company or other firm causing, either directly or by agent or counsel, a written application for license or license renewal or for a permit or permit renewal to be filed with an office of the city for consideration and determination by the common council. For purposes of this chapter, applicant shall also mean a licensee or permittee subject to suspension or revocation proceedings.

2. COMMITTEE means the licensing committee or permitting committee designated by common council ordinance or rule to review and hear matters related to identified licenses or permits.

3. COMPLAINANT means a person or party who asserts an interest affected by the operation or proposed operation of a licensee, or the issuance or continuance of a permit, who files a written complaint in compliance with the provisions of this code or the provisions of state law with respect to the license or permit.

3.5. LICENSEE or PERMITTEE means a person licensed, permitted or otherwise approved under the provisions of this code to operate a particular type of business or to conduct a certain activity for which the code

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requires that a license, permit or other approval be granted or issued by the city before any person may operate that type of business or conduct that activity.

4. OBJECTION means a written statement submitted by an interested party to the city clerk that includes information personally known to the objector that could form the basis for nonrenewal or suspension of a license or permit as provided in s. 85-4-4, or as expressly provided elsewhere in this code for a license or permit as a basis for denying renewal or suspension of the license.

5. OBJECTOR means a person or party affected by the operation or proposed operation of a licensee, or who is or may be affected by the issuance or continuance of a permit, whose written objection is sufficient under this code to initiate proceedings for non-renewal, suspension or revocation of a license or permit.

6. PERSON means any individual, firm, partnership, association, corporation, limited liability company or limited liability partnership.

85-2.5. Notice of Hearing Upon Council Member Request. **1. CITY CLERK TO NOTIFY.** Upon request of the local council member, the city clerk may provide, by mail, written notice, regarding an application for any business license processed by the city clerk, which is scheduled for a hearing before the licensing committee of the common council, to up to 100 single-family residences in the immediate area of the property for which a license is sought, or to each resident of the circular area having a radius of 250 feet, centered on the property for which a license is sought, whichever is greater.

2. EXCEPTION. Notwithstanding sub. 1, those interested parties who have made written requests to the city clerk to be notified of a hearing for a particular license application shall be provided notice by the city clerk regardless of their residence.

85-2.7. Hearing Procedure, New License. **1. HEARING; NOTICE.** The licensing committee shall make a recommendation on whether or not to grant each new license. If there is a possibility of denial, the licensing committee shall hold a hearing. No hearing shall be heard unless the city clerk, or other city official or department

authorized to receive applications for licenses, has provided written notice to the applicant. The notice shall be served upon the applicant so that the applicant has at least 7 days' notice of the hearing. The notice shall contain:

a. The date, time and place of the hearing.

b. A statement to the effect that the possibility of denial of the license application exists and the reasons for possible denial. If the possibility of denial is based on the fitness of the location of the premises to be licensed, the notice shall also be served upon the owner of the premises so that the owner has at least 7 days' notice of the hearing. Notice to the owner of the premises shall contain the same information and statements included under this paragraph related to the notice to the applicant.

c. A statement that an opportunity will be given to the applicant to respond to and challenge any reason for denial and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

d. A statement that the applicant may be represented by an attorney of the applicant's choice at the applicant's expense, if the applicant so wishes.

2. POSSIBILITY OF DENIAL. If there is a possibility of denial, at the hearing the committee chair shall open the meeting by stating that a notice was sent and read the notice into the record unless the applicant admits notice. The chair shall advise the applicant that the applicant has an option to proceed with a due process hearing, represented by an attorney, with all testimony both direct and cross-examination under oath, or that the applicant may simply make a statement to the committee.

3. DUE PROCESS. A due process hearing shall be conducted in the following manner:

a. All witnesses shall be sworn in.

b. The chair shall ask those opposed to the granting of the license to proceed first.

c. The applicant shall be permitted an opportunity to cross-examine.

d. After the conclusion of the opponent's testimony, the applicant shall be permitted to present the applicant's own witnesses, subject to cross-examination.

e. Committee members may ask questions of witnesses.

f. The applicant shall be permitted a brief summary statement.

4. RECOMMENDATION. The recommendation of the committee regarding the applicant shall be based on the preponderance of evidence presented at the hearing. Probative evidence concerning whether or not the license should be granted may be presented on the following subjects:

a. Whether or not the applicant meets the municipal requirements.

b. The appropriateness of the location and premises where the licensed premises is to be located and whether use of the premises for the purposes or activities permitted by the license would tend to facilitate a public or private nuisance or create undesirable neighborhood problems such as disorderly patrons, unreasonably loud noise, litter, and excessive traffic and parking congestion. Probative evidence relating to these matters may be taken from the plan of operation submitted with the license application.

c. The fitness of the location of the premises to be maintained as the principal place of business, including but not limited to whether there is an overconcentration of businesses of the type for which the license is sought, whether the proposal is consistent with any pertinent neighborhood business or development plans, or proximity to areas where children are typically present.

d. The applicant's record in operating similarly licensed premises.

e. Whether or not the applicant has been charged with or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the activity to be permitted by the license being applied for.

f. Any other factors which reasonably relate to the public health, safety and welfare.

5. FACTORS NOT CONSIDERED FOR RECOMMENDATION. The recommendations of the committee regarding the applicant shall not be based on evidence presented at the hearing related to the type or content of any music, or the actual or likely financial or non-financial effects on actual or potential competitors.

6. Committee Decision. The committee may make a recommendation immediately following the hearing or at a later date. Written notice of the committee's decision will be provided if the decision is made at a later

date or if the applicant was not present or represented. The committee shall forward its recommendation in writing to the common council for vote at the next meeting at which such matter will be considered.

7. DOCUMENT. If the common council grants the application for a license, the city clerk, or other city official or department authorized by the code to issue licenses, shall issue an appropriate document to the applicant confirming that fact. The document shall also contain any restrictions or conditions which the common council may place on approval.

85-3. Notice and Service. 1. NOTICE OF POSSIBLE NON-RENEWAL, SUSPENSION OR REVOCATION. a. Unless otherwise provided, the city clerk, or other city official or department authorized by the code to receive applications for licenses or permits, shall provide written notice of the possibility of non-renewal, or of suspension or revocation of a license or permit to the applicant addressed to the person or agent at the address most recently provided by the applicant.

b. Written notice of possible non-renewal, suspension or revocation shall include:

b-1. The date, time and place of a hearing to be held by the committee.

b-2. A statement of the common council's intent to revoke, suspend or not renew the license or permit if objections, charges or allegations are found to be true.

b-3. A statement of the specific reasons for revocation, suspension or non-renewal.

b-4. A statement that an opportunity will be provided to respond to and challenge the reasons for revocation, suspension or non-renewal, and to present witnesses under oath and to confront and cross-examine witnesses under oath.

b-5. A statement that the applicant may be represented by an attorney of the applicant's choice at the expense of the applicant.

b-6. A statement that, if the applicant requires the assistance of an interpreter, the applicant may employ an interpreter at the expense of the applicant.

b-7. A statement that, upon conclusion of a hearing before the committee, the committee will prepare a written report and recommendation to the common council, and shall provide a copy of the report and recommendation to the applicant.

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2. SERVICE OF DOCUMENTS.

Service of notices of meetings and service of other documents including committee reports and recommendations shall be made upon any party entitled to such notice and service by placing the same in the United States first class mail, postage prepaid. Hearing notices shall be served upon the applicant so that the applicant has at least 7 days' notice of the hearing.

3. OBJECTIONS. a. How Made.

Notice of an objection to the renewal of a license or in support of suspension of a license or permit by an interested party shall not be included in the notice of hearing if the objection has not been received by the city clerk within 45 days of the expiration of the license. Failure to timely submit an objection shall not be a bar to testimony or other evidence that relates to any matter actually identified in the notice of hearing as a basis for nonrenewal or suspension. An objection shall include information that could form the basis of a license nonrenewal or suspension and may be transmitted in writing or by electronic means. Any city official, or the official's delegate, shall forward an objection from an interested party, or from a resident as provided in s. 90-1-19, to the city clerk. The information provided by an official or the official's delegate to the city clerk shall include the name of the objector, contact information for the objector, and information known to the objector that may form a basis for nonrenewal or suspension. The submission by a city official or the official's delegate of a written summary of the objection to the city clerk shall be treated in the same manner as other objections. The city clerk is authorized to establish forms for the purpose of assisting persons wishing to submit an objection.

b. Exception. If application for renewal is filed with the city clerk after the deadline for renewal application established by the city clerk and prior to the expiration of the license, an objection may be submitted in fewer than 45 days prior to the expiration of the license and may be considered at a regularly scheduled meeting of the licensing committee provided sufficient and timely notice is given.

85-4. Hearing Procedure; Non-Renewal, Suspension or Revocation. 1. **AUTHORITY OF COMMITTEE.** The committee shall conduct hearings with respect to the non-renewal, suspension or revocation of a license or permit pursuant to this section. The chair of the committee shall be the presiding officer.

1.5. MULTIPLE LICENSE TYPES.

When the committee conducts a hearing relating to the possible denial, non-renewal, suspension or revocation of a business type license and the licensee holds one or more other types of licenses or permits issued by the city clerk for the same premises, the committee shall also consider possible non-renewal, suspension or revocation of the other licenses or permits at the same hearing. Notice of possible denial, non-renewal, suspension or revocation of the non-alcohol beverage licenses or permits shall be provided in accordance with s. 85-3.

2. **COMMITTEE HEARING PROCEDURE.** a. The chair shall advise the applicant of the right to proceed to a due process hearing represented by counsel with all testimony, both direct and cross examination, under oath or that the applicant may simply make a statement to the committee.

b. The chair shall direct that oaths be administered and subpoenas issued upon request of any party.

c. The chair shall ensure that an orderly hearing is conducted in accordance with the requirements of this section. The chair shall open the hearing with a statement that a notice was sent to the applicant, and, if the applicant appears, shall further inquire whether the notice was received. Unless expressly provided elsewhere in this code, the chair shall advise the licensee and parties seeking nonrenewal, suspension or revocation of the license that each side will be limited to 30 minutes for testimony and oral argument. This time may be extended by the chair, subject to approval by the committee, if additional time is necessary for a full and fair presentation of the facts and arguments. When permitted by the chair, questioning by committee members and relevant responses shall not count against the time limitation. In the event that the applicant does not admit receipt of the notice and also denies knowledge of the contents of the notice, the chair shall ascertain whether the applicant wishes to immediately proceed to a full hearing or whether the applicant wishes the matter to be held to the call of the chair or to a time certain. The decision to proceed or to hold the matter shall be made by the committee.

d. The chair shall rule on objections to the admissibility of evidence. Any ruling of the chair shall be final unless appealed to the committee, and the committee shall reverse such ruling only upon the vote of a majority of its members.

3. RECORD. An electronic or stenographic record shall be made of all licensing proceedings before the licensing committee and the common council. An electronic record shall audibly, accurately and completely reflect the testimony and statements made by participants in the proceedings. Recordings shall be maintained in a manner prescribed by the city clerk. An electronic record shall be made available for stenographic transcription or for transcription by other means at the expense of the person or party seeking the transcription of all or any portion of the record.

4. GROUNDS FOR NON-RENEWAL, SUSPENSION OR REVOCATION. The recommendations of the committee regarding the applicant shall be based on the preponderance of evidence presented at the hearing. Unless otherwise specified in the code, probative evidence concerning non-renewal, suspension or revocation may include evidence of:

a. Failure of the applicant to meet municipal qualifications.

b. Pending charges against or the conviction of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the circumstances of the particular licensed or permitted activity, by the applicant or by any employee or other agent of the applicant.

c. If the activities of the applicant involve a licensed premises, whether the premises tends to facilitate a public or private nuisance or has been the source of congregations of persons which have resulted in any of the following:

- c-1. Disturbance of the peace.
- c-2. Illegal drug activity.
- c-3. Public drunkenness.
- c-4. Drinking in public.
- c-5. Harassment of passers-by.
- c-6. Gambling.
- c-7. Prostitution.
- c-8. Sale of stolen goods.
- c-9. Public urination.
- c-10. Theft.
- c-11. Assaults.
- c-12. Battery.
- c-13. Acts of vandalism including graffiti.
- c-14. Excessive littering.
- c-15. Loitering.
- c-16. Illegal parking.
- c-17. Loud noise at times when the licensed premise is open for business.

- c-18. Traffic violations.
- c-19. Curfew violations.
- c-20. Lewd conduct.
- c-21. Display of materials harmful to minors, pursuant to s. 106-9.6.
- c-22. Any other factor which reasonably relates to the public health, safety and welfare.
- c-23. Failure to comply with the approved plan of operation.

5. HEARING OFFICER. Where it is impractical for the committee to hold an evidentiary hearing, the committee may employ a hearing officer for the purposes of taking testimony and rendering recommended findings of fact and conclusions of law to the committee. When such hearing officer is employed, he or she shall prepare written findings of fact and conclusions of law which shall be simultaneously transmitted to the committee as well as to the applicant, the applicant's agent, manager, operator or any other employee of the applicant, and to the person bringing the complainant or objector. The chair of the committee shall schedule a hearing on the receipt of the report of the hearing officer in not more than 30 days from receipt of the report. Notice of the committee hearing on the report shall be given to all parties. The committee may take and reserve additional evidence at the time of said hearing. The committee may accept or reject the report of the hearing officer or make any changes to the report which are warranted by the circumstances, the evidence presented and any arguments of the parties who appeared before the hearing officer and the committee. The committee shall transmit its recommendation to the common council for action as provided in sub. 6.

6. COMMITTEE REPORT. The committee may make a report and recommendations immediately following the hearing or at a later date. The committee may recommend that the license or permit be renewed, not renewed, suspended or revoked. In addition, if the committee determines that circumstances warrant, the committee may recommend that the license or permit be renewed conditioned upon a suspension of the license or permit for a defined period of time. When the committee elects to recommend that a license or permit be renewed with a period of suspension, the license or permit may be suspended for a period of not less than 10 days and no more than 90 days.

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85-5. Council Action. 1. REPORT TO BE PROVIDED. Within 10 working days after it reaches a decision, the committee shall prepare and serve a report and recommendation upon the applicant and upon the complainant or objector, if any. The report and recommendations shall include specific findings of fact and conclusions of law made by the committee. A copy of the report shall be distributed to each member of the common council.

2. FILING WRITTEN STATEMENTS OR RESPONSES. Following a recommendation by the committee that the license or permit not be renewed, or that the license or permit be revoked or suspended, the applicant may submit a written statement including objections, exceptions and arguments of law and fact. When the proceedings have been commenced upon the complaint or objection of an interested party who has appeared and offered evidence, the complainant or objector may also submit a written statement in response. Written statements shall be filed with the city clerk before the close of business on a day that is at least 3 working days prior to the date set for hearing by the common council.

3. COPIES TO BE PROVIDED TO COMMON COUNCIL MEMBERS. A copy of any statement in response to the report and recommendations of the committee that is timely filed shall be provided to each member of the common council at least 24 hours before any vote on the question is scheduled before the common council.

4. PROCEDURE AT MEETING OF THE COMMON COUNCIL. a. At a meeting of the common council following the receipt of the report and recommendations of the committee, the common council shall consider the report and recommendations. The city clerk shall notify the applicant, and the complainant or objector, if any, by United States first class mail, postage prepaid, 5 working days prior to the hearing before the common council, and shall also notify the city attorney, that the council will convene to act upon the report and recommendations.

b. Each member of the common council shall be asked to affirm that he or she has read the report and recommendations of the committee. When a written statement has been or objector, each member of the common council shall be asked to affirm that he or she has read the statement. If members of the council have not read the recommendation and

report of the committee and any statement in response that has been timely filed, the chair shall allocate time for the members to do so.

c. Oral argument on behalf of the applicant, and oral argument by the complainant or objector, if any, shall be permitted only to those parties having timely filed a written statement. Oral argument shall be limited to 5 minutes. The city attorney shall also be permitted to make an oral presentation of not more than 5 minutes.

d. Applicants shall appear only in person or by counsel. Corporate applicants shall appear only by designated agents or counsel. Partnerships shall be represented only by a partner or counsel. Limited liability companies shall be represented only by designated agents or counsel. Complainants and objectors shall appear only in person or counsel. Any person making an appearance before the council who requires the services of an interpreter shall obtain one at his or her own expense.

e. The common council shall determine by a majority roll call vote of those in attendance and voting whether to adopt the recommendation of the committee. The city clerk shall provide written notice of the decision to the applicant, and to the complainant or objector, if any, including a written statement or summary of the reasons for the decision.

f. Unless otherwise expressly provided, the revocation of a license or permit shall be effective upon service of the notice of decision upon the applicant or upon any person having charge or control of a licensed premises. Suspension of a license or permit in proceedings for revocation shall be effective upon service of the notice of decision upon the applicant or upon any person having charge or control of a licensed premises. Suspension of a license or permit in proceedings for renewal shall be effective on the date the common council takes action to suspend the license or permit, or on the date of the expiration of the license or permit, whichever is later. A license or permit may be suspended for not less than 10 days and no longer than 90 days.

g. If a retail alcohol beverage license for a premises is suspended and the licensee also holds a public entertainment premises license for the premises, the public entertainment premises license shall be suspended for the same time period as the alcohol beverage license.

SUBCHAPTER 2
ADMINISTRATIVE PROCEDURES
APPLICABLE TO LICENSE AND
PERMIT APPLICATIONS

85-11. Purpose and Scope. 1. PURPOSE. It is the purpose of the common council to assure uniformity and clarity in the procedures related to application for and administration of certain licenses and permits.

2. SCOPE AND APPLICATION. The provisions of this subchapter shall not supersede or replace any provision contained elsewhere in this code respecting licenses and permits, but shall apply where provisions for application and administration are otherwise silent. This subchapter provides uniform procedures for licenses and permit disqualifications, transfers of licenses and permits, changes in names of licensees, permittees and business names, and consideration of changes in circumstances following denial, nonrenewal or revocation.

85-12. Contents of Application. 1. WHEN APPLICANT IS AN INDIVIDUAL. The license application, which shall be signed and certified by the applicant, shall contain the following information:

- a. The type of license being applied for.
- b. Name, permanent home address and telephone number of the applicant.
- c. The date of birth of the applicant.
- d. If applicable, the name and address of the business with which the license will be associated or at which the licensee will be employed.
- e. Such other reasonable and pertinent information as the common council or licensing committee may from time to time require.

2. WHEN APPLICANT IS A BUSINESS. An application for a new or renewal license shall be signed by the sole proprietor, one partner, the agent, a majority owner of the business entity, or a corporate officer. Each type of application shall contain the following information:

- a. The type of license being applied for.
- b. The name and permanent address of the applicant.
- c. If applicable, the name and address of the premises for which the license is to be granted.

d. If the applicant is a corporation, limited liability company or other organized business entity, the name of the corporation, company or other entity shall be set forth exactly as it is set forth in its articles of incorporation, together with the name and address of an agent and of each person who owns 20% or more of the corporation, company or entity.

e. If the applicant is a partnership, the application shall set forth the name and resident address of each of the partners, including limited partners, and the application shall be verified by each partner. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the corporate partners.

f. The date of birth of each sole proprietor, partner, agent or person who owns 20% or more of the business entity.

g. Such other reasonable and pertinent information the common council or the proper licensing committee of the common council may from time to time require.

3. PROOF OF IDENTITY; AGE REQUIREMENT. a. Every applicant shall present to the city clerk for examination a driver's license, Milwaukee municipal identification card, or some other proof of identity as may be reasonably required.

b. Every applicant shall be at least 18 years of age at the time of application, unless otherwise specified in this code.

85-12.5. Issuance of License or Permit; Duplicate Required. 1. ISSUANCE. Each license or permit authorized to be issued by the city clerk shall contain the signature of the city clerk and shall be sealed with the corporate seal of the city. No license or permit shall be issued until the applicant shall satisfy the common council, or other public body or official authorized by the common council, that he or she has in every manner complied with the ordinances pertaining to the issuance of the license or permit, including payment to the city of the required license or permit fee. In addition, no license or permit shall be issued by the city clerk if the health department or department of neighborhood services has placed a hold on issuance of the license or permit because of a need for the applicant to obtain an inspection or a permit, to pay a fee, or to comply with an order issued by the department.

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2. DUPLICATE REQUIRED. Any license or permit that cannot be produced or displayed due to loss, theft, mutilation or destruction or that is not legible due to defacement or any other reason shall be promptly replaced by the licensee or permittee upon payment of the fee for a duplicate copy provided in s. 81-1-4.

85-12.7. Scheduling of Committee Hearing.

For any license application subject to review by a licensing committee of the common council, the city clerk shall, upon certifying that the application is complete and that any required reports of the police department and department of neighborhood services have been completed, refer the application to the appropriate committee. Upon referral, the application shall be scheduled and heard by the common council committee before the expiration of the period beginning on the date of referral and ending not later than 3 complete periods between regularly scheduled meetings of the common council.

85-13. Disqualification for License.

1. APPLICABILITY. Whenever any application denied, or license not renewed, revoked or surrendered, is an alcohol beverage retail establishment or tavern entertainment license, the provisions of this section related to periods of disqualification for these licenses shall apply to any other type of alcohol beverage retail establishment license.

2. EXCEPTIONS. This section shall not apply to any application that is denied or any license that is not renewed for a reason based solely on the failure of the applicant to appear before the licensing committee for a hearing on whether a new or renewal application shall be recommended for approval or denial to the common council.

3. WHEN WITHDRAWN. Whenever a new application for a license is withdrawn after the city clerk issues a notice for a hearing on a possible denial, the application shall be considered denied upon withdrawal for purposes of the disqualification provided in sub. 4, except that the period of disqualification shall be 6 months from the date of withdrawal.

4. WHEN DENIED. a. Except as provided in par. b, whenever an application is denied, no other application by the same applicant for the same license, and where applicable, at the same premises, shall be recommended for approval by the licensing committee for a period of 12 months following the date of the denial.

b. Whenever an application for a new license is denied for a reason relating to the fitness of the location of the premises to be licensed, no other application by any party for the same license at the same premises shall be recommended for approval by the licensing committee within 3 years of the date of the denial unless the applicant has demonstrated under s. 85-15 a change of circumstances since the denial.

5. WHEN NOT RENEWED. a. Except as provided in par. b, whenever a license is not renewed, no other application by the same applicant for the same license, and where applicable, at the same premises, shall be recommended for approval by the licensing committee for a period of 12 months following the date of nonrenewal.

b. Whenever a license is not renewed for a reason relating to the fitness of the location of the licensed premises, no other application by any party for the same license at the same premises shall be recommended for approval by the licensing committee within 3 years of the date of the nonrenewal unless the applicant has demonstrated under s. 85-15 a change of circumstances since the nonrenewal.

6. WHEN REVOKED. a. Except as provided in pars. b and c, whenever a license is revoked, no other new application by the same applicant for the same license, and where applicable, at the same or any other premises, shall be recommended for approval by the licensing committee for a period of 12 months following the date of revocation.

b. Whenever a license is revoked, no other application by any other party who has a financial relationship with the person whose license was revoked, including, but not limited to membership in the same partnership, corporation, limited liability company or association, for the same license at the same premises shall be recommended for approval by the licensing committee for a period of 12 months following the date of revocation.

c. Whenever a license is revoked for a reason relating to the fitness of the location of the licensed premises, no other application by any party for the same license at the same premises shall be recommended for approval by the licensing committee within 3 years of the date of the revocation unless the person has demonstrated under s. 85-15 a change of circumstances since the revocation.

7. WHEN SURRENDERED. Whenever a license is surrendered in lieu of pending nonrenewal or revocation proceedings, no other new application by the applicant for the same license, and where applicable, at the same or any other premises, shall be recommended for approval by the licensing committee for a period of 12 months following the date of surrender.

85-14. Insurance Required.

1. For any license or permit issued by the city clerk for which insurance is required, an insurance policy shall continuously remain in effect for the duration of the license period. Failure to comply with this paragraph shall be grounds for suspension of the license or permit.

2. If a license or permit is suspended under par. a, the licensee or permittee shall pay the fee specified in s. 81-1-6 prior to reinstatement of the license or permit.

85-15. Change of Circumstances.

1. **ELIGIBILITY.** a-1. Except as provided in pars. b and c, whenever an application accompanied by the fee specified under s. 81-19.2 and a written statement of changed circumstances is filed with the city clerk setting forth the change in circumstances relating to the fitness of the location of the proposed premises since the prior denial, nonrenewal or revocation, the committee shall hold a hearing to determine if changed circumstances exist.

a-2. Except as provided in pars. b and c, whenever the owner of the premises has filed with the city clerk the fee specified under s. 81-19.2 and a written statement of changed circumstances setting forth the change in circumstances relating to the fitness of the location of the proposed premises since the prior denial, nonrenewal or revocation, and no application for a license or permit has been filed the committee shall hold a hearing to determine if changed circumstances exist sufficient for removal of the disqualification.

b. No hearing under this section shall be held by the licensing committee within a period of 12 months following the date of denial, nonrenewal or revocation of a license for a reason relating to the fitness of the location of the premises.

c. Not more than one hearing under this section involving the same applicant or owner at the same premises shall be held by the licensing committee during the period of disqualification under s. 85-13.

2. HEARING. a. At the hearing, testimony and other evidence shall be limited to that offered by the applicant or owner, appearing in person or by counsel, to demonstrate a change in circumstances. The committee may also entertain relevant evidence offered by city officers and employees.

b. If the committee determines that the applicant or owner has failed to demonstrate that a sufficient change in circumstances exists, the period of disqualification shall remain in effect. If an application has been filed under sub. 1-a-1, then the committee shall recommend that the application be denied.

c. If the committee determines that a sufficient change in circumstances has been demonstrated, the period of disqualification shall be terminated. If an application has been filed under sub. 1-a-1, then the committee shall schedule a separate hearing on whether the application should be recommended for approval or denial.

d. In considering whether changed circumstances exist, the committee shall consider, among other factors:

d-1. A change in the type of license sought by an applicant.

d-2. A change in the number of premises holding the same license in the neighborhood.

d-3. A change in zoning applicable to the subject property.

d-4. New developments or land uses in the vicinity of the subject property.

85-17. Request to Surrender a License.

1. If a licensee wishes to surrender his or her license or withdraw a renewal application after receiving a notice for a hearing on nonrenewal, revocation or suspension, the licensee shall request, in writing, permission from the licensing committee to do so prior to the date of the hearing. The committee may

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approve the request, or deny the request and proceed with the hearing.

2. If a licensee who has surrendered his or her license wishes to have the surrendered license returned, regardless of whether the license was surrendered pursuant to sub. 1, the licensee shall request, in writing at least 45 days prior to the expiration date of the license, permission from the licensing committee to do so and appear before the committee at the date, time and place specified in written notice provided to the licensee by the city clerk.

3. The committee may approve the request and return the license without further action by the common council, provided that the period for which the license was originally granted has not expired, or make a recommendation to the common council to deny the request based on the same grounds set forth for nonrenewal or revocation of the license. If the committee makes a recommendation to deny the request for the return of the license, all committee recommendations shall be prepared and common council actions conducted in the same manner set forth for nonrenewal or revocation.

85-18. License or Permit Not Issued.

1. No person shall be issued any license or permit after one year from the date of granting or approval of the license or permit.

2. The common council may waive the requirement of sub. 1 upon demonstration of unusual circumstances and payment of the fee provided in s. 81-1-9. A waiver shall be effective for one year from the date of approval by the common council.

3. If a waiver is filed under sub. 2, the hearing procedures of s. 85-2.7 and the investigation requirements of 85-21-2 shall apply.

85-19. Transfer of License or Permit or Change of Name.

1. GENERAL REQUIREMENT. Unless otherwise provided in this code, no license or permit shall be transferable whether as to licensee, permittee or location except as herein provided.

2. CHANGE OF PREMISES. Every license or permit issued under this code may be transferred from one premises to another within the city upon payment of the fees required in ch. 60 or ch. 81, as the case may be, but no

licensee or permittee shall be entitled to more than one transfer in any one license or permit year. The application and proceedings for such transfer shall be made in the same form and manner as the original application.

3. CHANGE OF NAME. The city clerk is authorized to change the name on a license or permit whenever there is a death in the family, a marriage, or a divorce with an award by court decree, provided the name change will not transfer the license or permit outside the family.

4. DEATH. a. **Death of Licensee or Permittee.** In case of death of the licensee or permittee, the license or permit may in the discretion of the common council be transferred to the executor, administrator or next of kin of the deceased licensee or permittee. In such event, the executor, administrator or next of kin of the deceased licensee or permittee shall report the death of the original licensee or permittee to the city clerk, together with the name and address of the person by whom the licensed or permitted business is to be conducted. The transfer of a license or permit under such circumstances may be made only if it is approved by the common council and the new licensee or permittee is in full compliance with the applicable provisions of this code.

b. **Death or Withdrawal of Partner.** In the case of the death or withdrawal of one or more members of a partnership to which a license or permit has been issued, the city clerk shall upon request allow the remaining partner or partners to operate the business for the remainder of the license or permit year.

5. DISABILITY. If a licensee or permittee becomes disabled, the common council may in its discretion, upon application, transfer the license or permit to the licensee's or permittee's spouse if that spouse may hold a license or permit under applicable license or permit qualifications and complies with all requirements under this code applicable to original applicants, except that the spouse is exempt from payment of the license or permit fee for the year in which the transfer takes place.

6. BANKRUPTCY. If any licensee or permittee becomes bankrupt or makes an assignment for the benefit of creditors, the receiver or creditor may continue or sell the business. The transfer of a license or permit under such circumstances may be made only if

it is approved by the common council and the new licensee or permittee is in full compliance with the applicable provisions of this code.

7. TRANSFER OF STOCK. The transfer of stock in any corporate licensee or permittee when the effect of the transfer would constitute a change in a stockholder list required by this code shall be reported to the city clerk within 10 days of the transfer. The transfer of corporate stock shall not require the payment of any transfer of license or permit fee.

8. SOLE PROPRIETORSHIP OR BUSINESS ENTITY REORGANIZATION. A sole proprietorship that reorganizes as a business entity or a business entity that reorganizes as either a sole proprietorship or a different type of business entity may transfer a license or permit for operation of an establishment to the newly-formed business entity or sole proprietorship if the following conditions are satisfied:

a. The establishment remains at the location for which the license or permit was issued.

b. At least one individual who had an ownership interest in the sole proprietorship or business entity to which the license or permit was issued has an ownership interest in the newly-formed sole proprietorship or business entity.

9. NOTIFICATION. a. The city clerk shall be notified of any changes made in the name of a licensed or permitted business within 10 days of the change.

b. The city clerk shall notify the chief of police, the licensing committee and the Wisconsin department of revenue of any name change or license transfer involving an alcohol beverage licensee or permittee.

85-20. Provisional Renewal Licenses.

1. ISSUANCE. If a licensee files a renewal application but the common council will not be able to meet to take action on the application prior to the expiration date of the license, the city clerk may issue a provisional renewal license whenever:

a. The renewal application contains all required information.

b. The licensee has submitted all required supporting documentation.

c. The licensee has paid the required fee for the renewal license and provisional renewal license specified in ch. 81.

d. Except in the case of a Class "D" operator's license or a Class "B" manager's license, the local common council member has approved the application for a provisional renewal license.

e. Issuance of the provisional license would not be contrary to state law.

f. The renewal application is filed before the end of the license period subsequent to the expiration date of the license.

2. EXCEPTIONS. a. If a licensee files a renewal application by the date established by the city clerk but the common council will not be able to meet to take action on the application prior to the expiration date of the license, the city clerk may issue a provisional renewal license and the licensee shall not be subject to pars. 1-c and d.

b. If an application is held in committee, the city clerk may issue a provisional renewal license, and the licensee shall not be subject to pars. 1-c and d.

3. APPEAL. If an application is denied approval by a common council member under sub. 1-d, the city clerk shall forward the application to the licensing committee for a hearing on the appeal of the decision of the common council member.

4. EXPIRATION DATE. A provisional renewal license shall expire 60 days after the date of issuance by the city clerk or upon issuance, non-renewal or suspension of the regular license, whichever is sooner, and shall not be renewable.

5. REVOCATION. The city clerk may revoke a provisional renewal license without further common council action if he or she determines that the licensee provided false information on the license application.

85-21. Fingerprinting and Investigation Required.

1. FINGERPRINTING REQUIREMENT. a. Each applicant for a license or permit subject to review by a licensing committee of the common council shall be fingerprinted in a manner directed by the chief of police unless otherwise provided in this code.

a-1. If the applicant is a partnership, each partner shall be fingerprinted.

a-2. If the applicant is a corporation, limited liability company or similar firm or business recognized in law, the agent as well as any persons holding 20% or more ownership in the legal entity shall be fingerprinted.

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b. If there is a change of agent by the licensee, the new agent shall be fingerprinted within 10 days of the change.

c. If there is change of ownership where the change results in any person holding 20% or more ownership in the legal entity, that person shall be fingerprinted within 10 days of the change, if not already fingerprinted under this section.

d. Exemption. This requirement shall not apply to a person already licensed by the city when that person is renewing the license. If a set of fingerprints is on file with the police department, an additional set shall not be required unless expressly requested by the police department for verification.

2. INVESTIGATION REQUIREMENT. a. Each application for a license or permit subject to review by a licensing committee of the common council shall be referred to the chief of police who shall cause an investigation to be made and report the findings to the licensing committee of the common council within 14 days of the applicant's compliance with background investigation requirements.

b. The report provided by the chief of police shall include information for the preceding 10 years related to any criminal or ordinance convictions and any pending criminal charges and ordinance citations of the applicant; each partner, if the applicant is a partnership; or agent, as well as any persons holding 20% or more ownership in the legal entity, if the applicant is a corporation, limited liability company or similar firm or business recognized in law.

c. If referral of a license or permit application to the commissioner of neighborhood services, commissioner of health, commissioner of public works or chief of police for investigation is required, the commissioner or chief of police shall cause an investigation to be made and report the findings to the licensing committee of the common council within 14 days of the city clerk's referral of the application to the commissioner or chief of police.

85-23. Maximum Authorized Occupancy for Certain Licensed Establishments.

1. PURPOSE. The common council finds that the overcrowding of licensed establishments constitutes a serious risk of harm, injury or death, that overcrowding may also be detrimental to the character and well-

being of the surrounding neighborhood, including traffic and parking patterns in that neighborhood, and that these risks and detrimental impacts increase with each person over the established occupancy limit for an establishment. The purpose of this section is to require the clear and accurate posting of occupancy limitations and to enforce occupancy limitations so as to assure the health, safety and welfare of the public and of persons employed by licensed establishments with occupancy limitations.

2. POSTING REQUIRED. Any licensed establishment with a maximum occupancy established by the commissioner of neighborhood services or, in the case of a public entertainment premises, by the common council under s. 108-7-3, shall securely post and maintain official placards issued by the department of city development indicating the maximum number of persons permitted on the licensed premises as established by the commissioner of neighborhood services or, in the case of a public entertainment premises, by the common council under s. 108-7-3, whichever is less.

3. POLICE ORDERS. If, in the determination of the police department, the number of persons on the premises exceeds the limitation set on the official placard, the police department shall order the number reduced to the permitted number. The police department may also order the establishment closed until it complies with this section.

4. PROHIBITIONS. a. No greater number of persons than the number indicated on the official placard shall be permitted on the licensed premises by any person responsible for operations or activities conducted on the premises.

b. Tampering with, obscuring or otherwise changing the official placard is prohibited.

c. Refusal by a patron to comply with a police department order to leave an establishment that has been determined by the police department to exceed the posted occupancy limitation is prohibited.

5. CITATION. The citation for a violation of sub. 4 shall state the occupancy limitation contained upon the official placard and shall further state the number of persons determined to be present in excess of the permitted limitation.

6. PENALTIES. Any person convicted of a violation of this section shall be subject to the following forfeitures and penalties:

a. For conviction of a violation of subs. 2, 4-b and 4-c, not less than \$200 nor more than \$1000.

b. For conviction of a violation of sub. 4-a, not less than \$200 nor more than \$10,000

c. For conviction of a second violation of sub. 4-a within 12 months, not less than \$200 nor more than \$15,000.

d. For conviction of a third or subsequent violation of sub. 4-a all within 12 months, not less than \$200 nor more than \$25,000

e. For purposes of determining the amount of a forfeiture for violation of sub. 4-a, the court may treat each person found to have been on the premises in excess of the permitted limit as a separate violation.

f. Any person convicted of a violation of this section shall, in default of payment of the prescribed forfeiture, be imprisoned as permitted under law.

85-24. Issuance and Transfer of License.

1. STATE TAX DOCUMENTATION REQUIRED. The city clerk shall not issue any business license or permit until the license applicant has provided the city clerk with proof of one of the following:

a. The applicant is the holder of or exempt from holding a seller's permit or use tax registration certificate issued by the Wisconsin department of revenue. b. The applicant is registered with the Wisconsin department of revenue to collect, report and remit use tax under subch. III of ch. 77, Wis. Stats.

c. The applicant has been informed by an employee of the Wisconsin department of revenue that the department will issue a seller's permit or use tax registration certificate to the applicant or register the applicant to collect, report and remit use tax.

2. COMPLIANCE WITH ORDINANCES. No license or permit shall be issued until the person, firm or corporation applying for the same shall satisfy the common council or the city clerk, as the case may be, that he or she has in every manner complied with the ordinances pertaining to the issuance of the license or permit, including the presentation to the city clerk of the city treasurer's receipt showing payment to the city of the required license or permit fee.

3. SIGNATURE AND SEAL. Each license or permit issued by the city clerk shall contain the signature of the city clerk and shall be sealed with the corporate seal of the city.

4. TRANSFER. No license or permit issued by the city clerk shall be assignable or inure to the benefit of any other than the person to whom the license or permit was originally issued, except as may otherwise be provided, but the license or permit may be transferred from one premises to another upon proper application made to the common council or city clerk, as the case may be, and the transfer shall be endorsed, after proper action by the common council if necessary, upon the original license or permit by the city clerk.

85-25. Display of License or Permit. Except as otherwise expressly provided in this code, any license or permit issued by the city clerk that authorizes the conduct of business upon or within identified premises shall be posted and displayed in a conspicuous place on the premises and shall be readily accessible for inspection by all members of the public and proper authorities who enter upon or within the premises.

85-26. Application for Renewal. 1. Application for renewal of a permit or license shall be timely made prior to deadlines established by the city clerk.

2. Except where expressly permitted in this code, no activity authorized by permit or license shall be conducted by the permittee or licensee after expiration of the permit or license.

3. Application for renewal of a permit or license may be made at any time during the permit or license period immediately subsequent to the expired permit or license period except where state law requires application for a new license following expiration.

4. A permit or license renewed after expiration shall be valid for the license period specified in ch. 81.

85-27. Revocation of Licenses. The judge of the county court may at his or her discretion revoke and annul any license issued under this code upon the conviction of any licensed person of any crime or of the violation of any city ordinance which in the opinion of the judge should necessitate revocation. It shall be the duty of the clerk of the county and municipal courts to notify the city clerk of the revocation of

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a license. Any license issued under this code may be also revoked by the common council in its discretion for any improper conduct of the licensed person.

85-29. Discrimination by License Holders.

1. DISCRIMINATION PROHIBITION. No holder of any license, permit or franchise issued by the city may willfully refuse services or add charges or require deposits not required of the general public under such license, permit or franchise because of sex, race, religion, color, national origin or ancestry, age, handicap, lawful source of income, marital status, sexual orientation, gender identity or expression, familial status, the fact that a person is a past or present member of the military service, whether dressed in uniform or not, or because a person is affiliated, or perceived to be affiliated, with a protected individual. No holder of a dwelling facility license issued by the city may willfully refuse services or add charges or require deposits not required of the general public under the dwelling license because of a person's place of residence.

2. DECLARATION REQUIRED. All applications submitted by persons seeking the licenses, permits or franchises listed in sub. 1 shall contain the following declaration: (name of applicant) shall not willfully refuse to provide those services offered under this license, permit or franchise, or add charges or required deposits not required of the general public because of race, color, sex, religion, national origin or ancestry, age, handicap, lawful source of income, marital status, sexual orientation, gender identity or expression, familial status or the fact that a person is now or has been a member of the military service, whether dressed in uniform or not. All applications submitted by persons seeking a dwelling facility license shall also contain the following declaration: (name of applicant) shall not willfully refuse to provide those services offered under this license or add charges or require deposits not required of the general public because of a person's place of residence.

3. LICENSEES EXERCISING AGE DISTINCTION IN THE INTEREST OF PUBLIC ORDER. Notwithstanding sub. 1, Class "B" tavern license holders may, in the interest of the public order and keeping the general peace, exercise a predetermined age restriction that must be posted at the establishment. A declaration required by sub. 2, minus the age

provision, shall be required for the holders of these licenses.

85-30. Collusive Agreements Prohibited.

Any person licensed in the city who shall permit any other person to conduct business under the licensee's license, or in the name of said licensee, or who shall connive, collude, or agree with any other person to enable such other person to conduct any business under the licensee's license or in the name of the licensee, and any person who shall conduct any business within the city under a license issued to another person, or in the name of another person, or who shall connive, collude, or agree with any licensee to enable such person to conduct business in the name, or under the license of such licensee, shall be subject to the penalty specified in s. 85-41-2. This section shall not apply to holders of Class "B" special fermented malt beverage licenses issued under s. 90-4-7.

85-32. Operation of Public Utilities on Licensed Premises.

1. GENERALLY. Operators of a licensed or permitted premises shall not permit or allow the operation, whether directly or under contract, of any telephone, Internet, broadcast or other public utility service as defined in s. 196.01, Wis Stats., in any manner inconsistent with the rules, regulations and requirements of the U.S. federal communications commission.

2. TELEPHONE ACCESSIBILITY. A telephone made routinely available to members of the public by a licensee or permittee for payment or otherwise, shall be provided and operated in compliance with all U.S. federal communications requirements for accessibility, including rules, regulations or other requirements ensuring toll free calling in emergencies.

85-34. Truth of Statements and Affidavits.

1. No document submitted to the city clerk by any person relating to any application filed with or license or permit issued through the city clerk's office shall contain false, misleading or fraudulent information or false affidavit.

2. Any application filed with or license or permit issued through the city clerk's office may be denied, suspended, not renewed or revoked by the common council after notice to the applicant or licensee and a hearing, if the applicant or licensee provided false, misleading or fraudulent information or a false affidavit.

3. The city clerk may revoke a provisional license without further common council action if he or she determines that the applicant provided false, misleading or fraudulent information.

4. The city clerk shall provide on each individual application for any license or permit issued through the city clerk's office notice that a penalty is provided for any false, misleading or fraudulent information or false affidavit provided by any applicant or licensee.

85-35. Changes to Application. A licensee shall notify the city clerk whenever there is a change in any information that is reported on the application form or renewal application form. The licensee shall make this notification in writing within 10 days after the change occurs.

85-37. Changes to Plan of Operation, Permanent. If, after a license has been issued, the licensee wishes to permanently deviate from the plan of operation that was submitted with the original application, the licensee shall file a written request with the city clerk which states the nature of the change. No change shall take place until the request is approved through issuance of a new license.

85-39. Changes to Plan of Operation, Temporary. 1. **AUTHORITY.** The granting of a temporary change of plan permit shall authorize the permittee or licensee to deviate from the plan of operation specified on the existing license or permit. Such authority shall be contingent on the licensee also obtaining any other special privileges or permits required to effectuate the additional action or activity sought in the change of plan permit application.

2. **ELIGIBLE AREAS.** Areas included in any temporary change of plan permit shall be owned by or under the control of the permittee or licensee. If the applicant seeks to encroach upon public property or a public thoroughfare, the applicant shall also obtain the applicable special privilege permit.

3. **APPLICATION.** a. Application for a temporary change of plan permit shall be made by an individual, or authorized agent in the case of a corporation, who shall be personally responsible for compliance with all of the provisions of this section.

b. Application for the temporary change of plan permit shall be filed on or before

the deadline established by the city clerk on forms provided by the city clerk. The application shall include:

b-2. The name, business address and telephone number of the applicant.

b-3. The address of the existing licensed premises, the aldermanic district in which the premises is located, and a specific description of the site for which the temporary change is sought.

b-4. The name of the particular event or function for which the temporary change of the licensed premises is sought.

b-5. The date and period of time for which the particular event or function will be operated.

b-6. Such other reasonable and pertinent information as the common council or licensing committee may require.

c. The city clerk shall accept applications filed after the filing deadline established by the city clerk, provided the applicant affirms the applicant's understanding that any decision made by a common council member under sub. 4 is final and not subject to further review.

4. **APPROVAL BY COUNCIL MEMBER.** a. The completed application shall be referred to the common council member representing the district in which the premises for which the permit is sought is located. The common council member shall determine whether to approve the permit and shall inform the city clerk of his or her decision.

b. In making a determination, the common council member shall consider each of the following factors:

b-1. The appropriateness of the location and site for which the permit is sought, and whether the activity for which the permit is sought will create undesirable neighborhood problems.

b-2. The hours during which the activity would take place on the site and the likely effect of the activity on the surrounding area.

b-3. Whether previous permits granted to the same applicant or to other applicants for the same site have resulted in neighborhood problems including, but not limited to, complaints of loud music, noise, litter, disorderly assemblages, loitering or public urination.

b-4. Any other factors which reasonably relate to the public health, safety and welfare.

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5. COMMITTEE ACTION. a. If an application filed prior to the deadline set by the city clerk is denied approval by a common council member under sub. 4-a, the applicant may appeal the decision to the licensing committee.

b. If a written objection to an application is filed by any interested person, the city clerk shall forward the application to the licensing committee for a hearing.

6. HEARING PROCEDURE. a. Any hearing required under sub. 5 shall be conducted as set forth in s. 85-2.7.

b. No hearing shall be heard unless the city clerk provides the applicant written notice in the manner set forth in s. 85-3 so that the applicant has at least 7 days' notice of the hearing.

7. ISSUANCE. a. If the common council member approves or the common council grants the application for a temporary change of plan permit, the city clerk shall issue an appropriate document to the applicant confirming that fact and specifying the date, period of time and specific location for which the temporary change of plan shall be in effect. The document shall also contain any restrictions or conditions which the common council member or common council may place on the approvals.

b. The city clerk shall not issue a temporary change of plan permit if the commissioner of neighborhood services has provided the city clerk with a request to hold the issuance on the basis that the applicant has not obtained all required permits for the premises or final inspection of the premises has not yet occurred.

c. The city clerk shall, within 24 hours after the issuance of the approving document, inform the chief of police of the date, place and event for which the temporary change of plan was issued.

8. ON-PREMISES SALE.

a. A licensee granted a temporary change of plan permit and in possession of a current Class "B" tavern license, Class "B" fermented malt beverage retailer's license, or Class "C" wine retailer's license may not sell any alcohol or non-alcohol beverages for consumption in bottles, cans and glass containers in the temporary location of the change of plan. Beverages may only be sold in single-service cups for on-premises consumption in the location of the temporary extension of the licensed premises.

b. An exception to the limitation on sale of alcohol beverages to single-service cups in par. a may be permitted by the chief of police upon application of an event sponsor or the licensee of the temporary change of plan made at least 60 days prior to the special event. In an application for such an exception, the applicant shall provide all of the following to the chief of police:

b-1. A copy of the change of plan application or permit, if issued, and information identifying the sponsor or sponsors of the special event, if any.

b-2. The reason or reasons for which an exception is sought.

b-3. The security plan proposed for the event, including a specific description of the procedures and policies for ensuring the safety of the public.

b-4. A description of the entertainment or amusement to be provided during the special event.

b-5. The type and estimated quantity of single-service beverage containers proposed for sale or possession upon the extended premises.

b-6. Any other information the chief of police may require.

c. The chief of police may permit beverage containers other than single-service cups when, in his or her discretion, considering information in the application and other factors consistent with the health, safety and welfare of the public and of police officers, it is determined that the exception poses no appreciable risk. These factors may include past experience with the same or similar special events, the estimated number of participants in the special event, and neighborhood circumstances.

d. The chief of police may, upon cause clearly shown in the application, waive the requirement that an application be made at least 60 days prior to the event.

9. DISPLAY OF PERMIT.

a. Every person issued a temporary change of plan permit pursuant to this section shall post the permit in a conspicuous place in the premises during those times when the activity is taking place.

b. It shall be unlawful for any person to post a permit or to be permitted to post a permit upon premises other than those mentioned in the application, or knowingly to deface or destroy a permit.

c. Failure to appropriately post a permit shall be treated in the same manner as operating without a permit.

10. FEE. Each application shall be accompanied by the fee specified in s. 81-126.5.

85-41. Penalty, General. 1. Any person who violates any of the provisions of this chapter shall, where no other provisions are expressly made for the enforcement of any forfeitures or penalties under this chapter, upon conviction be subject to a forfeiture of not more than \$500 and in default of payment thereof, shall be imprisoned as provided by law.

2. Any person who violates s. 85-30 shall upon conviction be subject to a forfeiture of not less than \$2,500 and not more than \$5,000, and in default of payment thereof, shall be imprisoned as provided by law.

For legislative history of chapter 85, contact the Municipal Research Library.

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CHAPTER 88 CLOSING OUT SALES

TABLE

88-1 Closing Out Sales

88-1. Closing Out Sales. 1. DEFINITIONS. a. Advertising. Any and all means of conveying to the public notice of sale or notice of intention to conduct the sale, whether by word of mouth, or by newspaper advertisement, by magazine advertisement, by handbill, by written notice, by printed notice, by printed display, by banner, by billboard display, by poster, by radio or television announcement and any and all means, including oral, written or printed.

b. Applicant. Any person applying for or required to apply for a license under this section.

c. City sealer. The sealer of weights and measures of the city of Milwaukee.

d. Closing out sale. The sale of any goods, wares or merchandise at retail represented or advertised in any manner to be the goods, wares or merchandise of a bankrupt, insolvent, assignee, liquidator, adjuster, administrator, trustee, executor, receiver, wholesaler, jobber, manufacturer, or of any business that is in liquidation, or that is selling out or closing out, closing or disposing of its stock or a particular part or department thereof, or that has lost its lease or has been or is being forced out of business, or that is conducting a removal sale, or is disposing of stock on hand because of damage by fire, water, smoke or other causes, or that the business conducting the sale is selling the goods, wares or merchandise of any other business which is in liquidation or has quit business or a sale that is held out in such manner as to reasonably cause the public to believe that the person conducting the sale will cease and discontinue business at the place of sale upon the disposal of the stock of goods on hand.

e. Partial removal sale. A sale in the regular course of its business of goods represented to have been purchased from a bankrupt, insolvent, assignee, liquidator, adjuster, administrator, trustee, executor, receiver, wholesaler, jobber, manufacturer, or

person, that is liquidating or that has been forced out of business while at the same time the applicant sells at its place or places of business goods, wares and merchandise out of its regular stock where the applicant will not discontinue its regular business after such sale.

f. Person. Any person, firm, or partnership, association, corporation or organization of any kind.

2. LICENSE REQUIRED. It shall be unlawful for any person to advertise or conduct at retail within the city of Milwaukee any closing out sale or partial removal sale without first having obtained a license to conduct such sale.

3. APPLICATION TO BE FILED WITH CITY SEALER. Every person requiring a closing out sale license or partial removal sale license shall make a verified application in writing to the city sealer. The city sealer may approve a license at any time within 30 days after such application. There shall be no advertisement or commencement of such sale until said license is issued and in effect. As a part of such application such person shall submit the following:

a. A complete and accurate list of the stock of goods, wares and merchandise on hand to be offered at such sale accompanied by an affidavit by a certified public accountant having no financial interest in such sale, from which it shall appear that the information set forth in said inventory is true and correct according to commonly accepted accounting practices within the trade. Such inventory shall contain the cost price as well as the initial marked retail price of the respective articles enumerated therein, together with the date of purchase or purchases and the names and addresses of the sources from which merchandise was obtained. If the goods, wares and merchandise were purchased by the applicant for a lump sum or other circumstances that in the judgment of the city sealer make the listing of the cost price for each article impracticable, said inventory shall state the lump sum paid for said goods, wares and merchandise and the circumstances of the purchase of the same.

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b. An affidavit setting forth the names and addresses of the person, such as partners, officers, directors, principal stockholders, and owners of the business and merchandise, the place at which said sale is to be conducted and the period of time during which the proposed sale is to continue. Such affidavit shall further state that the applicant has been the owner of the business described in the application for at least 12 months prior to the date of the application. Such affidavit shall further state the names and addresses of any person or persons aiding in or conducting said sale other than employees of the applicant who have been employed for not less than 90 days prior to the application.

c. Photostatic copies of the personal property tax returns of the applicant for the 2 years preceding the application.

d. Photostatic copies of Wisconsin department of taxation form 10 filed by the applicant for the 2 years preceding the application.

e. An affidavit by the applicant that no stock has been ordered for or added to the applicant's stock within a period of 60 days prior to the filing of the application.

f. Such other information as the city sealer may require.

g. Paragraphs c to e shall only apply to closing out sales and shall not be required in partial removal sales.

4. TIME OF SALE. a. Not in Excess of 60 Days. No license shall be granted by the sealer for a period in excess of 60 successive days, Sundays excepted, from the date of the issuance of said license. In the event a license has been granted for a period of less than 60 days, the applicant therein, upon tendering the additional amount sufficient to constitute the fee required for a license for a longer period, but not exceeding 60 days, may have the expiration date of such license extended to such further date.

b. Extensions. The period of time for which a license may be granted may be extended by the city sealer beyond said 60 days period, if at any time during the term of the license a written application for such extension, duly verified by an affidavit of the applicant, shall be filed by said licensee with the city sealer. Said application for an extension of said license shall state the amount of goods, wares and merchandise listed in the

original inventory which have been sold since the issuance of the license and the amount of goods contained in the original inventory which still remain in the possession of the applicant for sale, and shall state the length of time for which an extension is requested. The city sealer, in consideration of the facts upon hearing said petition, may grant or deny a supplemental license, provided, however, that the extension of the supplemental license shall not exceed 30 days from the expiration of the original license. The fee for the extension of the license is provided for in s. 60-16.

5. CONDUCT OF SALE. a. Stock. No stock of goods, wares, or merchandise may be added to the inventory of stock being sold if the same was ordered or received within 60 days prior to the application for license, and no stock may be added during said sale.

b. Pricing. No advertisement of such sale shall set forth the previous retail price of any merchandise being reduced in price as a part of the sale unless identical merchandise was sold continuously at such retail price during a period of time at least 90 days prior to the commencement of the sale. Evidence of such prior sales shall be available on demand. c. Labeling. No

labels using the applicant's business name or any other known brand name may be placed on any merchandise for purposes of or during the sale, unless labels had been placed on identical merchandise which was sold continuously during a period of time at least 90 days prior to the commencement of such sale.

d. Management. If any person or persons are retained to conduct or manage the sale, other than the applicant or employees who have been employed continuously for at least 90 days prior to the commencement of the sale, the names and addresses of such persons shall be clearly stated in all advertising material so that the public is aware that such persons are conducting or managing the sale.

e. Inventory Report. At the end of each week of such sale and within 2 days thereafter, the applicant shall submit to the city sealer a statement under oath as to the total of retail selling prices of the inventory sold during that week, and the total amount of inventory remaining to be sold.

f. Remaining Stock. At the end of the time of closing out sale under the license, it shall be unlawful for the applicant, or any successor in interest, to sell at retail any of the stock of goods remaining at the location for which the license was issued.

6. DENIAL OR REVOCATION OF LICENSE. Whenever the city sealer finds that the applicant, his agents, servants or employees have failed to provide any of the information required with the application or during the sale, or have furnished any false information, or have failed to comply with any of the requirements of this section, he shall forthwith deny the application or revoke the license.

7. REPETITIOUS SALES PROHIBITED. No person or successor in interest shall be granted a license to conduct a closing out sale within 12 months after a closing out sale license is granted, applied for and denied and/or revoked.

8. PARTIAL REMOVAL SALES. Any person conducting a partial removal sale shall comply with all of the provisions of this section and, in addition, shall distinguish by a colored tag all of the goods being sold at the sale so that said goods are readily ascertainable to prospective purchasers and shall not label or tag any other goods not included in the inventory furnished the city sealer in the same or like manner.

9. FEES. See s. 60-16 for the required license fees.

10. EXCEPTIONS. The provisions of this section shall not apply to sales by public officers or sales under judicial process.

11. PENALTY. Any person violating or failing to comply with any of the provisions of this section or furnishing any false information to the city sealer shall be subject to a fine of not less than \$25 nor more than \$500 together with the costs of action, and in default of payment thereof to imprisonment in the county jail or the house of correction of Milwaukee county for a period not to exceed 30 days, or until such fine and costs shall be paid. Each day a violation continues shall constitute a new offense.

88—(HISTORY) Closing Out Sales

LEGISLATIVE HISTORY CHAPTER 88

Abbreviations:

am = amended
cr = created

ra = renumbered and amended
rc = repealed and recreated rp = repealed

rn = renumbered

<u>Section</u>	<u>Action</u>	<u>File</u>	<u>Passed</u>	<u>Effective</u>
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88-1-9	rc	78-2150	6/12/79	1/1/80

CHAPTER 89 ESCORTS AND ESCORT SERVICES

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89-1. Definitions. In this chapter:

1. **ESCORT** means any person who, for a fee, commission, salary, hire, profit, payment or other monetary considerations accompanies or offers to accompany another person to or about social affairs, entertainments or places of amusement or consorts with another person about any place of public resort or within any private quarters.

2. **ESCORT SERVICE** means service provided by any person who, for a fee, commission, salary, hire, profit, payment or other monetary consideration, furnishes or offers to furnish names of persons, or who introduces, furnishes or arranges for persons, who may accompany other persons to or about social affairs, entertainments or places of amusement, or who may consort with others about any place of public resort or within any private quarters.

3. **PERSON** means any natural person, sole proprietorship, partnership, corporation or association, excepting the United States of America, the State of Wisconsin, and any political subdivision thereof.

89-3. Exemptions. This chapter does not apply to businesses, agencies and persons licensed by the state of Wisconsin or the city pursuant to a specific statute or ordinance, and employees employed by a business so licensed, and which perform an escort or an escort service function as a service merely incidental to the primary function of such profession, employment or business and which do not hold themselves out to the public as an escort or an escort service.

89-5. Escort Service License Required. No person may engage in, conduct or carry on or permit to be engaged in, conducted or carried on, the operation of an escort service within the city without first having a valid escort service license issued under this chapter.

89-7. Application for Escort Service License.

1. **FILING FEE.** Any person desiring to obtain an escort service license shall pay the fee required in s. 81-49.9 to defray the costs of administration and investigation of the application.

2. **APPLICATION.** Any person desiring an escort service license shall file a written application with the city clerk on a form to be provided by the city clerk. The application shall include any other name by which the applicant has been known during the previous 5 years. The application for an escort service license shall set forth the proposed place of business of the escort service by business address, including suite number, and not by post office box, and shall contain a description of the nature and scope of the proposed business operation. In addition, the following information shall be furnished concerning the applicant if an individual, and concerning each stockholder holding 10% or more of the stock or beneficial ownership of the corporation, each officer and director if the applicant is a corporation, and concerning each partner, including limited partners, if the applicant is a partnership:

a. The previous residence addresses, if any, for a period of 3 years immediately prior to the date of application and the dates of such residence.

b. The date of birth.

c. A complete set of fingerprints.

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d. The business, occupation or employment history for 3 years immediately preceding the date of application, including but not limited to, whether such person previously operated under any permit or license in another city in this or another state and whether any such permit or license had ever been suspended or revoked.

e. All pending criminal charges in any state or federal court, with a brief statement of the nature of the pending charges and the jurisdiction in which the charges are pending.

f. The name of persons who will have custody of the business records at the business location.

g. The name and address of the person who will be the agent for service of process.

3. INVESTIGATION; HEARING. Applications shall be referred to the chief of police, commissioner of neighborhood services and commissioner of health, all of whom shall cause an investigation to be made and report their findings to the common council licensing committee. The chief of police who shall make and complete an investigation of the applicant's criminal history for the preceding 10 years.

a. For applications relating to escort service licenses, the report to the common council licensing committee by the commissioner of neighborhood services shall include information related to the zoning district in which the place of business of the escort service is to be located.

b. An application for an escort service license shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 and 85-5.

4. DISQUALIFICATION. Whenever any application is denied, or license not renewed, revoked or surrendered, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

89-8. Escort License Required. No person may work or perform services as an escort in the city, either individually or while working for an escort service, unless the person has first obtained a valid escort license issued under this chapter.

89-9. Application for Escort License. 1. FILING FEE. Any person desiring to obtain an escort license shall pay to the city the fee required in s. 81-49.8 to defray the costs of administration and investigation of the application.

2. APPLICATION. Any person desiring an escort license shall file a written application with the city clerk on a form to be provided by the city clerk. Any applicant for an escort license shall furnish all information required by s. 89-7-2 as well as a description of the applicant's height, weight, color of eyes and color of hair. The applicant shall provide one passport-size color photograph at least one inch by one inch taken within 3 months of the date of application. In addition, the applicant shall identify by name and address the escort service at which the applicant is currently working, if any, or at which the applicant expects to be employed.

3. INVESTIGATION; COMMON COUNCIL ACTION. Each application for an escort license shall be referred to the chief of police, who shall cause an investigation to be made and report his or her findings to the common council licensing committee. The application shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 and 85-5.

89-11. Issuance and Display of Escort License.

1. The city clerk shall issue an escort license on which there shall be the person's true first name, surname and middle initial, if any, the picture of the applicant, the license number and the expiration date of the license. The license shall be in such form as to avoid alteration.

2. The certificate shall be carried on the person of the escort and shall be exhibited to any person, including law enforcement personnel, requesting to see it at any time while the person is engaged in acting as an escort.

89-13. Restrictions on Corporate Licenses.

Any corporation holding an escort service license under this chapter shall report to the city clerk, in writing, within 15 days of the event described herein, any of the following:

1. Any change of officers of the corporation.

2. Any change in the membership of the board of directors of the corporation.

89-15. Sale or Transfer. Upon the sale or transfer of any interest in an escort service, the license shall be void. Any person desiring to continue to operate an escort service following sale or transfer shall apply for a license.

89-17. Escort Service Responsibility. Each person obtaining an escort service license from the city shall be responsible for the acts of the escorts employed or working with the escort service, regardless of whether the escorts are employees, agents or independent contractors. An escort service licensed by the city shall be subject to all of the penalties under this chapter to which an escort would be subject, if an escort violated this chapter, including suspension or revocation of the escort service's license.

89-19. Prohibited Practices. 1. No person who conducts, manages or operates an escort service may allow or permit any person to work as an escort for such escort service unless the person so employed has a valid escort license issued by the city.

2. No escort may work for any person who conducts, manages or operates an escort service unless the person for whom he or she works has a valid escort service license issued by the city.

3. No escort service may operate other than from a fixed location identified in the application filed with the city clerk's office.

4. No person granted an escort service license under this chapter may operate under any name or conduct an escort service business under any designation for any location not specified in the license issued by the city.

5. No escort service may conduct any business without maintaining on its premises a daily register containing the name of each escort currently employed or otherwise working for the escort service on the date in question, a duplicate of the escort license certificate provided under s. 89-9, and the actual hours of employment of each escort for each day. The daily register shall be available during all business hours for inspection by law enforcement personnel.

6. No person licensed as an escort or escort service may in any manner advertise its services as licensed by the city.

89-23. Procedures for Renewal, Non-Renewal, Revocation or Suspension of Licenses.

1. RENEWAL. Applications for the renewal of an escort service or escort license shall be made to the city clerk. The applications shall be filed in a timely manner in accordance with a schedule provided by the city clerk. The clerk shall refer the application to the chief of police, the commissioner of neighborhood services and the commissioner of health for review. If the chief of police, commissioner of neighborhood services and commissioner of health indicate that the applicant still meets the licensing qualifications, the application shall be referred to the common council for approval unless an objection, written or otherwise, has been filed with the city clerk at least 45 days prior to the date of which the license expires. Any interested person may file this objection. If an objection is filed, or if a determination is made that the applicant no longer meets the licensing qualifications, the application shall be forwarded to the licensing committee for a hearing on whether the application should be recommended for approval or denial to the common council.

2. NON-RENEWAL, SUSPENSION OR REVOCATION. a. Procedure. If there is a possibility that the licensing committee will not recommend renewal of the license, or if revocation or suspension proceedings are initiated, the procedures for notice and committee hearing and for the committee report, recommendations and common council consideration provided in ss. 85-3 to 85-5 shall apply.

b. Revocation or Suspension Proceedings. Any license issued under this section may be suspended or revoked for cause. Suspension or revocation proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police, or upon a sworn written complaint filed with the city clerk by any interested party.

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c. Grounds for Non-renewal, Suspension and Revocation. The recommendation of the committee regarding the licensee must be based upon evidence presented at the hearing. Probative evidence concerning non-renewal, suspension or revocation may include evidence of:

c-1. Failure of the licensee to meet the municipal qualifications or any of the terms of this section.

c-2. Pending charges against or the conviction of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the circumstances of the particular licensed activity, by the licensee, his or her employees, or frequenters.

c-3. Failure to abide by conditions imposed by the common council pursuant to s. 89-7-3-h.

c-4. Neighborhood problems due to management or the appropriateness of the location and premises where the principal business is located.

c-5. Any other factor or factors which reasonably relate to the public health, safety and welfare or which demonstrate that the premises where the place of business is located has generated the undesirable secondary effects.

89-25. Penalties. Any person who violates any provision of this chapter shall, upon conviction, be subject to a forfeiture of not less than \$500 nor more than \$2,000, together with the costs of prosecution, and upon default of payment, be imprisoned in the county jail or house of correction until the costs are paid, but not to exceed 80 days.

**LEGISLATIVE HISTORY
CHAPTER 89**

Abbreviations:

am = amended

cr = created

ra = renumbered and amended

rc = repealed and recreated

rn = renumbered

rp = repealed

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89-7-2	am	121521	4/30/2013	5/17/2013
89-7-2-e	rp	110346	9/20/2011	10/7/2011
89-7-2-f	rn to	110346	9/20/2011	10/7/2011
	89-7-2-e			
89-7-2-g	rn to	110346	9/20/2011	10/7/2011
	89-7-2-f			
89-7-2-h	rn to	110346	9/20/2011	10/7/2011
	89-7-2-g			
89-7-3	rc	051512	6/20/2006	7/8/2006
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89-7-3-c	rp	131502	4/22/2014	5/9/2014
89-7-3-d	rp	131502	4/22/2014	5/9/2014
89-7-3-e	rp	131502	4/22/2014	5/9/2014
89-7-3-f	rp	131502	4/22/2014	5/9/2014
89-7-3-g	rp	131502	4/22/2014	5/9/2014
89-7-3-h	rp	131502	4/22/2014	5/9/2014
89-7-4	rn to 89-7-5	051512	6/20/2006	7/8/2006
89-7-4	cr	051512	6/20/2006	7/8/2006
89-7-4	rc	080189	7/1/2008	7/19/2008
89-7-5	rp	131502	4/22/2014	5/9/2014
89-7-7	cr	111624	4/11/2012	4/28/2012
89-9-2	am	160068	6/14/2016	7/1/2016
89-9-3	rc	051512	6/20/2006	7/8/2006
89-9-3	rc	131502	4/22/2014	5/9/2014
89-9-4	rp	131502	4/22/2014	5/9/2014
89-21	rp	051512	6/20/2006	7/8/2006
89-23	rc	051512	6/20/2006	7/8/2006
89-23-2	rc	080009	5/20/2008	6/7/2008
89-23-2-d	rp	080189	7/1/2008	7/19/2008
89-23-2-e	rp	080189	7/1/2008	7/19/2008
89-23-3	rp	080009	5/20/2008	6/7/2008
89-23-4	rp	080009	5/20/2008	6/7/2008
89-23-5	rp	080009	5/20/2008	6/7/2008
89-23-6	rp	080009	5/20/2008	6/7/2008
89-23-7	rp	080009	5/20/2008	6/7/2008

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**CHAPTER 90
LIQUOR AND TAVERN REGULATIONS**

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90-1. Definitions. 1. APPLICATION shall mean a formal written request filed with the city clerk for the issuance of a license, supported by a verified statement of facts.

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2. BAR shall mean a counter or article of tavern furniture fully equipped with plumbing, sinks or washbasins, and workboards that is used for the sole purpose of dispensing and serving food and beverages directly to customers. A "service bar" shall mean a counter or article of tavern furniture at which intoxicating liquors or fermented malt beverages are dispensed or served only to employees of the licensed alcohol beverage establishment and no stools, chairs or other articles of furniture shall be placed at the service bar for customers to sit upon.

4. BREWER shall mean any person, firm or corporation who shall manufacture for the purpose of sale, barter, exchange or transportation fermented malt beverages as defined herein.

4.5. CIDER shall mean any alcohol beverage that is obtained from the fermentation of the juice of apples or pears and that contains not less than 0.5% alcohol by volume and not more than 7.0% alcohol by volume. "Cider" includes flavored, sparkling and carbonated cider.

5. "CLASS B" TAVERN LICENSE shall mean the document combining the "Class B" retailer's intoxicating liquor license, and the Class "B" fermented malt beverage retailer's license, to embody formal permission from the city to sell or offer for sale intoxicating liquors and fermented malt beverages.

6. CLUB shall mean an organization, whether incorporated or not, which is the owner, lessee or occupant of a building used exclusively for club purposes, and which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent or athletic purpose but not for pecuniary gain; except that where such club is located in an office or business building it may be licensed as such provided it otherwise qualifies as a club within the meaning of this subsection.

7. CORPORATION shall mean a form of business organization that may have many owners with each owner liable only for the amount of his investment in the business.

8. FERMENTED MALT BEVERAGE has the meaning given in s. 125.02(6), Wis. Stats., as amended.

9. GAMBLE shall mean to play or game, for money or other stake; hence to stake money or other thing of value on an uncertain event.

10. GAMBLING HOUSE shall mean a building, place or room for use as a place to gamble, or to keep or exhibit for the purpose of gaming, any bank, table, alley, machine, wheel or device.

11. HOTEL shall mean an establishment open to the public offering lodging and food for travelers that is owned, leased, or operated by a person holding a duly issued and valid license as an innkeeper.

12. HOUSE OF PROSTITUTION shall mean a brothel; a building, place or room maintained for purposes of prostitution as defined in s. 944.30, Wis. Stats.

13. IMMEDIATE FAMILY. In this chapter the term "immediate family" of the Class "B" or "Class B" licensee shall include only the spouse, son, daughter, father, mother, mother-in-law, father-in-law, son-in-law or daughter-in-law of the Class "B" or "Class B" licensee having the same abode and domicile.

14. INCOME shall mean the dollar amount of gross receipts from sales on a licensed premises in any calendar month during the license year.

15. INTOXICATING LIQUOR has the meaning given in s. 125.02(8), Wis. Stats., as amended.

16. LEGAL DRINKING AGE means 21 years of age.

17. LICENSE shall mean the document embodying formal permission from the city to carry on a certain activity, the conduct of which would otherwise be illegal.

19. OBJECTION shall mean any information that could form the basis of a license denial, non-renewal, suspension or revocation. An objection may result from probative information provided by any resident or from the written reports summarizing the arrest and convictions of an applicant filed by the chief of police pursuant to this chapter.

20. OFFICER shall mean a person who is elected or appointed to serve in a position of trust, authority or command within an organization, business or social club.

21. OPERATOR shall mean any person who shall draw or remove any alcohol beverage as defined in ch. 125, Wis. Stats., for sale or consumption from any barrel, keg, cask, bottle or other container in which alcohol beverages shall be stored or kept on premises requiring a license under this chapter, for sale or service to a consumer for consumption in or upon the premises where sold; or one who shall sell or serve intoxicating liquor to customers upon premises operated under a "Class A" retailer's intoxicating liquor license, "Class B" tavern license or retail "Class C" wine license; or who shall sell bottled intoxicating liquors or bottled and canned fermented malt beverages on a premises requiring a "Class A" retailer's intoxicating liquor license or a Class "A" fermented malt beverage retailer's license.

22. PAINTING STUDIO means an establishment that is primarily engaged in the business of providing to customers instruction in the art of painting and that offers customers to purchase food and beverages for consumption while they paint.

23. PREMISES means the area described in a license.

24. REGULATION shall mean any requirement controlling business conduct which has been prescribed by city ordinance.

25. RESIDENCE shall mean a place where one actually lives or has his home as distinguished from a place of temporary sojourn or transient visit; or the principal place of business and location of corporate headquarters.

26. RESTAURANT shall mean and include any building, room or place where meals or lunches are prepared or served to the general public; except that the term "restaurant" shall not apply to churches, religious, fraternal, youth or patriotic organizations, service clubs or civic organizations which occasionally prepare or serve or sell meals or lunches to the general public nor shall it include any private individuals selling foods from movable or temporary stands at public farm sales.

27. RETAILER shall mean any person who sells, or offers for sale, any intoxicating liquor or fermented malt beverages for personal consumption.

28. SELL, SOLD, SALE OR SELLING shall mean any transfer of alcohol beverages with consideration or any transfer without

consideration if knowingly made for the purposes of evading the law relating to the sale of alcohol beverages or any shift, device, scheme or transaction for obtaining alcohol beverages, including the solicitation of orders for, or the sale for future delivery of, alcohol beverages.

29. SODA WATER BEVERAGE shall mean and include all such beverages commonly known as soft drinks, as soda water, carbonated or uncarbonated or sweetened and flavored, and mineral and spring waters, carbonated or uncarbonated; and shall not include strong, spirituous, vinous, malt, ardent or intoxicating liquor.

30. UNDERAGE PERSON means a person who has not attained the legal drinking age.

31. WHOLESALER shall mean any person who sells, or offers for sale, any intoxicating liquor or fermented malt beverage to any retailer or other licensee for the purpose of resale.

32. WINE shall mean products obtained from the normal alcohol fermentation of the juice or must of sound, ripe grapes, other fruits or other agricultural products, imitation wine, compounds sold as wine, vermouth, cider, perry, mead and sake, if such products contain ½ of 1% or more of alcohol by volume.

90-2. State Law Applicable. In addition to the requirements imposed by ch. 125, Wis. Stats., incorporated by reference herein, the following regulations shall apply to all licenses granted or issued under this chapter.

90-3. License Required. 1. BASIC REQUIREMENT. It shall be unlawful for any person to sell, barter or offer for sale or barter in the city any intoxicating liquors or fermented malt beverages without having obtained a license as provided for in this chapter, or to be in violation of the terms of such license.

2. PROHIBITED PRACTICES, ILLEGAL ALCOHOL BEVERAGE DISTRIBUTION, UNLICENSED PREMISES. It shall be unlawful for any person to sell, barter or offer to sell or barter in the city any intoxicating liquors or fermented malt beverages in or on a premises where the issuance of a license is prohibited by this chapter or Wisconsin statute.

90-3-3 Liquor and Tavern Regulations

3. SEPARATE LICENSE REQUIRED. A separate license shall be required for each stand, place, room or enclosure where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale, except that only one license shall be required when either of the following is true:

a. A suite of rooms or enclosures are in direct connection or communication or contiguous to each other and operated by the licensee as one premises.

b. A secured area located in the same building or structure as the licensed premises, or in a building or structure adjacent to the licensed premises, is used by the licensed premises only for storage of alcohol beverages.

3.5. RESIDENTIAL PREMISES. No license shall be issued to any person for the purpose of possessing, selling or offering for sale any intoxicating liquors or fermented malt beverages in any dwelling house, flat or residential apartment.

4. DRIVE-IN AND DRIVE-THROUGH WINDOW SALES PROHIBITED. No fermented malt beverages or intoxicating liquor shall be sold to any person who has not entered that portion of the premises licensed under s. 90-4-1, 2, 3, 5 and 6 in which fermented malt beverages or intoxicating liquor is kept for sale.

5. WINE SAMPLING ON "CLASS A" PREMISES. a. Free Taste Samples Permitted. No license or permit is required under this chapter for the provision of wine taste samples of not more than 3 fluid ounces each, free of charge, by a "Class A" retail intoxicating liquor licensee to customers and visitors for consumption on the premises.

b. Number of Samples Limited. No "Class A" retail intoxicating liquor licensee may provide more than 2 taste samples per day to any one person.

c. Hours for Free Samples. This subsection applies only between the hours of 11 a.m. and 7 p.m.

d. Underage Persons. No "Class A" retail intoxicating liquor licensee may provide taste samples under this subsection to any underage person.

e. Wine to Come from Wholesaler. No "Class A" retail intoxicating liquor licensee may provide as taste samples under this subsection wine that the licensee did not purchase from a wholesaler.

6. FERMENTED MALT BEVERAGE SAMPLING ON CLASS "A" PREMISES. a. Free Taste Samples Permitted. No license or permit is required under this chapter for the provision of fermented malt beverage taste samples of not more than 3 fluid ounces each, free of charge, by a Class "A" fermented malt beverage retailer licensee to customers and visitors for consumption on the premises.

b. Number of Samples Limited. No Class "A" fermented malt beverage retailer licensee may provide more than 2 taste samples per day to any one person.

c. Hours for Free Samples. This subsection applies only between the hours of 11 a.m. and 7 p.m.

d. Underage Persons. No Class "A" fermented malt beverage retailer licensee may provide taste samples under this subsection to any underage person.

6.5. INTOXICATING LIQUOR SAMPLING ON "CLASS A" PREMISES. a. Free Taste Samples Permitted. No license or permit is required under this chapter for the provision of intoxicating liquor taste samples, not including wine, that are not in original packages or containers and are of not more than 0.5 fluid ounces each, free of charge, by a "Class A" retailer's intoxicating liquor licensee to customers and visitors for consumption on the premises.

b. Number of Samples Limited. No "Class A" intoxicating liquor retailer may provide more than one intoxicating liquor taste sample per day to any one person.

c. Hours for Free Samples. This subsection applies only between the hours of 11 a.m. and 7 p.m.

d. Underage Persons. No "Class A" intoxicating liquor retailer may provide taste samples under this subsection to any underage person.

e. Intoxicating Liquor to Come from Wholesaler. No "Class A" retail intoxicating liquor licensee may provide as taste samples under this subsection intoxicating liquor that the licensee did not purchase from a wholesaler.

7. EVADING LAW BY GIVING AWAY ALCOHOL BEVERAGES. No person may give away any alcohol beverages, except as provided in subs. 5 and 6, or use any other means to evade this chapter or any state law relating to the sale of alcohol beverages.

8. PENALTY. Any person convicted of violating this section shall be fined not less than \$2,500 nor more than \$5,000 for each violation, plus costs of prosecution, and in default thereof, be imprisoned for a period not to exceed 90 days, or until forfeiture costs are paid.

90-4. Classification of Licenses. Licenses to sell or offer for sale intoxicating liquor or fermented malt beverages shall be divided into the following classes.

1. "CLASS A" RETAILER'S INTOXICATING LIQUOR LICENSE. A "Class A" retail intoxicating liquor licensee shall sell or offer for sale intoxicating liquor in original packages or containers only which is to be consumed off the licensed premises.

2. "CLASS B" TAVERN LICENSE. a. On-premises Sale. A "Class B" tavern licensee shall sell or offer for sale intoxicating liquors to be consumed by the glass only on the licensed premises.

b. Off-premises Sale. b-1. The licensee shall also be entitled to sell intoxicating liquor in original packages or containers, in quantities of not more than 4 liters at any one time, to be consumed off the licensed premises, except that wine may be sold in the original package or otherwise in any quantity to be consumed off the licensed premises.

b-2. Any person who shall purchase any bottle or container of intoxicating liquor from any Class "B" tavern premises shall be prohibited from consuming its contents, either in part or in whole, on such premises. The provisions of this section shall not apply to hotels, restaurants, clubs and fraternal organizations which are the holders of a Class "B" license.

b-3. See s. 90-15-3-b of the code for the closing hour requirement restricting off-premise sales.

c. License Restrictions. In order to preserve the distinction between businesses conducted under "Class A" retail intoxicating liquor license, and those conducted under the "Class B" tavern license, the following regulations shall govern the conduct of businesses operated in the city of Milwaukee under the "Class B" tavern license:

c-1. The licensee shall not cause the delivery of intoxicating liquors or fermented malt beverages from the licensed premises by truck or any other means.

c-2. No patron shall be suffered or permitted by any person licensed under this chapter to remove intoxicants or fermented malt beverages in open containers, whether in bottles, cans, or glasses, from the Class "B" licensed tavern, except in the case where the licensed tavern premises is contiguous to another licensed tavern premises, both licensed tavern premises are contiguous to a recognized festival being held and at least one of the licensed tavern premises has been granted a temporary change of plan permit.

c-3. Notwithstanding the restrictions upon permitting patrons to remove intoxicants in open containers in subd. 2, a restaurant operating under a Class "B" tavern license is authorized to sell wine in an opened original bottle, in a quantity not to exceed one bottle, for consumption both on and off the premises where sold at retail if all of the following apply:

c-3-a. The licensee provides a dated receipt that identifies the purchase of food and the purchase of the bottle of wine.

c-3-b. Prior to removing a partially consumed bottle of wine from the premises, the licensee shall securely reinsert the cork into the bottle to the point where the top of the cork is even with the top of the bottle.

c-3-c. The cork is reinserted after 6 a.m. and before 12 midnight on any day of licensed operation.

c-4. See sub. 4 for the circumstances when a Class "B" manager's license is required for a Class "B" tavern.

d. Prerequisite. The provisions of this subsection are subject to s. 125.51(3)(f), Wis. Stats.

3. CLASS "B" RETAILER'S SERVICE BAR LICENSE. A Class "B" retailer's service bar licensee shall have the same rights and privileges granted to any other Class "B" licensee except that all intoxicating liquors or fermented malt beverages served for consumption on the premises so licensed shall be served only to patrons seated at tables. No stools, chairs or other articles of furniture shall be placed at the service bar for patrons to sit upon.

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4. CLASS "B" MANAGER'S LICENSE. a. When Required. A manager shall be required for each establishment holding a Class "B" or "Class C" retailer's license if the individual proprietor, or partnership, or agent for the corporation or limited liability company is not the manager of the business. The manager shall be appointed in writing by the licensee and shall obtain a Class "B" manager's license from the city clerk.

b. Manager's Responsibilities. Pursuant to s. 125.32(1), Wis. Stats., the Class "B" manager shall have responsibility or authority for:

b-1. Personnel management of all employees, without regard to whether the person is authorized to sign employment contracts.

b-2. The terms of contracts for the purchase or sale of goods or services without regard to whether the person is authorized to sign contracts for goods or services; or

b-3. The daily operation of the licensed premises.

c. Licensee's Responsibility. The appointment of a manager shall not relieve the licensee of his responsibility for the licensed premises under this chapter; the licensee shall be subject to suspension or revocation proceedings as provided for in s. 90-12.

e. Application; Issuance. The application and issuance of such a license shall be made in accordance with s. 90-5. A manager's license shall be issued for a period not to exceed one year and shall expire on June 30. The license shall not be transferable.

f. Termination of Manager's Manager Status or Employment. If the licensee terminates the appointment of the manager as manager of the establishment, or if the manager leaves employment with the licensee, the licensee shall notify the city clerk of such action in writing within 10 days of the termination or separation. The manager shall surrender the manager's license and return the license to the city clerk not later than 10 days following the day on which the manager appointment was terminated or separation from employment occurred.

5. CLASS "A" FERMENTED MALT BEVERAGE RETAILER LICENSE (PACKAGE STORE). A Class "A" fermented malt beverage retailer licensee shall sell at retail fermented malt beverages only for consumption away from the licensed premises and in the original packages, containers, or bottles in quantities of

no more than 4 1/2 gallons. The limitation of quantities of no more than 4 1/2 gallons does not apply to a Class "A" fermented malt beverage retail licensee if the licensee also holds a "Class A" retailer's intoxicating liquor license for the same premises. The licensee shall not be authorized to sell nonintoxicating liquors containing less than 1/2 of 1% of alcohol by volume. No holder of said license shall sell fermented malt beverages between 9:00 p.m. and 8:00 a.m.

6. CLASS "B" FERMENTED MALT BEVERAGE RETAILER LICENSE. A Class "B" fermented malt beverage retailer license shall authorize the licensee to sell fermented malt beverages to be consumed by the glass only on the premises, and in the original unopened package or containers to be consumed off the licensed premises; however, no person may sell between 9:00 p.m. and 8:00 a.m. on any Class "B" licensed premises fermented malt beverages in an original unopened package, container or bottle for consumption away from the premises.

7. CLASS "B" SPECIAL LICENSE. (A SHORT-TERM LICENSE FOR CLUBS.) a. Authority. A Class "B" special license shall authorize the licensee to sell at retail fermented malt beverages, wine and soda water beverages at a particular picnic or similar gathering, or at a meeting of a veterans' post or during a fair conducted by fair associations or agricultural societies.

b. Eligibility Requirement. The Class "B" special license shall only be issued to bona fide clubs, organized labor unions, county, or local fair associations, or agricultural societies, churches, lodges or societies that have been in existence for not less than 6 months prior to the date of application, or to posts established by veterans' organizations.

c. Applicant's Responsibility. Application for such a license shall be made by an officer or officers who shall appoint an agent who shall be personally responsible for compliance with all of the terms and provisions of this section.

d. Application. Application for a Class "B" special license shall be filed on or before the filing deadline established by the city clerk. Applicants may at the time of application specify on the application alternative dates for which the license is sought.

e. The city clerk shall accept an application from an applicant who files the application after the filing deadline established by the city clerk, provided the applicant affirms the applicant's understanding that, if a written objection is received as provided in par. f, it may not be possible to conduct a hearing before the date for which the license is sought due to the late filing of the application.

f. Objections.

f-1. The city clerk shall issue the license unless a written objection regarding the licensee or the location has been filed with the city clerk. The objection may be filed by any interested person. If a written objection is filed, the application shall be forwarded to the licensing committee for its recommendation to the common council.

f-2. The written objection must address one or more of the following factors:

f-2-a. The appropriateness of the location and site for which the license is sought and whether the event for which the license is sought will create undesirable neighborhood problems.

f-2-b. The hours during which the event would be operated on the site and the likely effect of the event on the surrounding area.

f-2-c. Whether previous licenses granted to the same applicant or to other applicants for the same site have resulted in neighborhood problems including, but not limited to, complaints of loud music, noise, litter, disorderly assemblages, loitering or public urination.

f-2-d. Whether the applicant has been charged or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the activity for which the license is sought.

f-2-e. Any other factors which reasonably relate to the public health, safety and welfare.

g. Issuance. If no written objection has been filed and upon payment of the license fee specified in s. 81-28, the city clerk shall issue the Class "B" special license for a period of time set by the local common council member.

h. Hearing Procedure. h-1. In the event there is a written objection filed regarding an application for a Class "B" special license the application shall be forwarded to the licensing committee. A hearing of an appeal shall be conducted as set forth in s. 90-5-8-b. The committee may make a decision immediately

following the hearing or on a later date. In making its decision, committee members may consider the factors set forth in par. e-2. Written notice of the committee's decision will be provided if the decision is made at a later date or if the applicant was not present. In these instances, the decision of the licensing committee shall be final and the applicant shall have no right of appeal to the common council.

h-2. An applicant may appeal the decision of the licensing committee to the common council. In the case of an appeal, the committee shall forward its decision in writing to the common council for vote at the next meeting at which such matter will be considered. In making its decision, common council members may consider the factors set forth in par. e-2.

i. Chief of Police Notified. The city clerk shall within 24 hours after the issuance of any such license inform the chief of police of the date, place and event for which such a license has been issued. The Milwaukee police department shall check such event and report any violations of law to the common council.

j. City Clerk's Annual Report. The city clerk shall submit to the common council every year a report of all Class "B" special licenses issued by the city clerk.

k. Number of Licenses. No more than 2 Class "B" special licenses shall be issued under this subsection to any club, organized labor union, county or local fair association, agricultural association, church, lodge, society or veterans' post in any 12-month period.

7.9. PERMANENT EXTENSION OF PREMISES. a. Authority. The granting of a permanent extension of licensed premises shall constitute an amendment of the primary license and plan of operation and shall authorize the licensee to sell or serve intoxicating liquors or fermented malt beverages, as permitted by the specific license held, in the area described in the application for permanent extension, as expressly approved by the common council.

b. Eligibility. Any person holding a valid Class "A" fermented malt beverage, "Class A" retailer's intoxicating liquor, "Class B" tavern, Class "B" fermented malt beverage, or "Class C" wine license may apply for permanent extension of the licensed premises. The area which the licensee wishes to include in a permanent extension of the licensed premises shall be owned by or under the control of the licensee.

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c. **Applicant's Responsibility.** Application for the permanent extension of licensed premises shall be made by an individual licensee, partner or the authorized agent in the case of a corporation or limited liability company, who shall be personally responsible for compliance with all of the terms and provisions of this chapter.

d. **Application.** Application for the permanent extension of licensed premises shall be made in writing to the city clerk on forms provided by the city clerk. The application shall contain the name of the licensee, the address of the existing licensed premises, including the aldermanic district in which it is situated, a specific description of the area for which the permanent extension is sought, and such other reasonable and pertinent information as the common council, licensing committee, or city clerk may require. The city clerk shall forward all applications to the licensing committee.

e. **Committee Action.** The licensing committee shall hold a hearing on whether or not to grant each application for a permanent extension of licensed premises. If any interested person objects to the granting of a particular application, the licensee shall receive at least 7 days' notice of the hearing date and the nature of the objection to the application. The applicant shall have an opportunity to appear at the hearing and be represented by counsel and to cross-examine witnesses opposed to the granting of the application for permanent extension of the licensed premises, and to present evidence in favor of the granting of the application. At the conclusion of the hearing, the committee shall make a recommendation to the common council on whether to grant the application. In making its recommendation, the committee may consider, among other factors, the appropriateness of the location for which a permanent extension of licensed premises is sought, whether the location will create an adverse impact on other property in the neighborhood, and any other factors which reasonably relate to the public health, safety and welfare. The common council shall act on the committee's recommendation without further hearing.

f. **Issuance.** If the common council grants the application for a permanent extension of licensed premises, and upon receipt of information that the department of neighborhood services has approved occupancy of the extended premises, the city clerk shall issue an

appropriate confirming document to the applicant specifying the area of extension. The city clerk shall accept an amended plan of operation, subject to any conditions established by the common council, and shall amend the license accordingly. Operations on extended premises are not permitted prior to posting of the amended license.

9. "CLASS C" WINE RETAILER LICENSE. a. **Authority.** A "Class C" wine retailer license shall authorize the licensee to sell or offer for sale wine by the glass or in an opened original container for consumption on the premises where sold.

b. Notwithstanding the limitation on consumption of wine on the licensed premises in par. a, a restaurant operating under a "Class C" wine retailer license may sell wine in an opened original bottle, in a quantity not to exceed one bottle, for consumption both on and off the premises where sold at retail if all of the following apply:

b-1. The licensee provides a dated receipt that identifies the purchase of food and the purchase of the bottle of wine.

b-2. Prior to removing a partially consumed bottle of wine from the premises, the licensee shall securely reinsert the cork into the bottle to the point where the top of the cork is even with the top of the bottle.

b-3. The cork is reinserted after 6 a.m. and before 12 midnight on any day of licensed operation.

c. **Eligibility.** A "Class C" license may be issued to a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts and which does not have a barroom or for a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts and which has a barroom in which wine is the only intoxicating liquor sold. In this paragraph, "barroom" shall mean a room that is primarily used for the sale or consumption of alcohol beverages.

d. **Prohibition.** A "Class C" license may not be issued to a foreign corporation, a foreign limited liability company or a person acting as agent for or in the employ of another.

10. CLASS "D" OPERATOR'S LICENSE. a. **Authority.** A Class "D" operator's license shall authorize the operator to draw or remove from any barrel, keg, cask, bottle, or any other container, fermented malt beverages and to serve them in any place operated under a Class "B" fermented malt beverage retailer's

license; to sell or serve intoxicating liquors in any place operated under a "Class B" tavern license; or to sell or serve wine in any place operated under a "Class C" wine retailer's license; or to sell intoxicating liquor or fermented malt beverages in any place operated under a "Class A" retailer's intoxicating liquor license or a Class "A" fermented malt beverage retailer's license.

b. **Applicable to Family Members.** Any member of the immediate family and household of the licensee 21 years or older shall be considered as holding a Class "D" Operator's License so long as he or she is working only on the family premises. An underage member of the immediate family and household of the licensee may perform the duties of a Class "D" operator if he or she is at least 18 years of age, is working only on the family premises, and is under the immediate supervision of any of the following persons who must be on the premises at the time of service: the licensee, an agent, a Class "B" manager, a person holding an operator's license, or a member of the immediate family and household who is at least 21 years of age.

c. **Prohibition.** No person other than the licensee, certain members of the licensee's family and household, a Class "B" manager, or a licensed operator, or a person under the immediate supervision of the licensee, certain members of the licensee's family and household, an agent or a person holding an operator's license who is on the premises at the time of service, shall function as a Class "D" operator. See s. 90-26 for serving restrictions.

11. CLASS "D" PROVISIONAL OPERATOR'S LICENSE. a. **Authority; Duration.** A provisional Class "D" operator's license shall authorize the operator to perform those activities permitted a person holding a Class "D" operator's license under sub. 10. Except as provided in par. d, a provisional license shall expire 60 days after its issuance or when a Class "D" operator's license is issued to the holder, whichever is sooner. A provisional license may not be renewed.

b. **Application.** Application for a license shall be made to the city clerk pursuant to s. 90-5-1. An applicant for a provisional Class "D" operator's license may only apply for the provisional license upon application for the Class "D" operator's license. All matters submitted in writing to the city clerk shall be true

and subject to s. 90-5-2. Applicants shall be fingerprinted pursuant to s. 85-21-1. In addition, all applications shall be referred to the chief of police for investigation who shall report findings to the city clerk.

c. **Issuance of License.** Except as provided in par. d, the city clerk may only issue a provisional Class "D" operator's license to an applicant meeting the following criteria:

c-1. The applicant upon applying for a provisional Class "D" operator's license has also applied for a Class "D" operator's license.

c-2. The applicant complies with s. 90-6-1-b and c.

c-3. The police chief, pursuant to the chief's investigation under par. b, does not find that the applicant has been charged with or convicted of any felony, misdemeanor or other offense the circumstances of which substantially relate to the circumstances of the licensed activity.

c-4. The applicant has not been denied a Class "B" manager's or Class "D" operator's license, or has not had his or her Class "B" or Class "D" license not renewed within the preceding 12 months.

c-5. The applicant has not had his or her Class "B" manager's or Class "D" operator's license revoked within the preceding 12 months.

c-6. The applicant furnishes evidence that the applicant complies with the requirements of s. 90-6-4.

d. **License issued by Another Municipality.** The city clerk shall issue a provisional Class "D" operator's license to an applicant who, at the time of application for a Class "D" operator's license and payment of the fee as provided in s. 81-31.3, files with the city clerk a certified copy of a valid Class "D" operator's license issued by another municipality.

d-1. **Expiration.** A provisional license issued under this paragraph expires as provided under par. a or upon expiration of the operator's license issued by another municipality and filed under this paragraph, whichever is sooner.

d-2. **Revocation.** The city clerk may revoke the provisional license issued under this paragraph if the city clerk determines that the operator's license issued by another municipality and filed under this paragraph is not valid or upon denial of the holder's application for a Class "D" operator's license.

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12. CLASS "D" SPECIAL TEMPORARY OPERATOR'S LICENSE. a. Authority. A Class "D" special temporary operator's license shall authorize the operator, who shall be 18 years of age or older, to draw or remove from any barrel, keg, cask, bottle or any other container fermented malt beverages and to serve said beverages; and to sell or serve intoxicating liquors, only for those religious, scientific, educational, benevolent or other corporations, or associations of individuals not organized or conducted for pecuniary profit.

b. This license may be issued only to operators employed by or donating their services to, nonprofit corporations.

c. No person may hold more than one license of this kind per year.

d. Application; Issuance. Application for the Class "D" special temporary operator's license shall be made to the city clerk in writing on forms furnished by the city clerk. Such application shall state the name and permanent address of the applicant, the date of birth, the organization and the premises at which the applicant will be working, and the date or dates of the specific event, not to exceed 14 consecutive days, sponsored by the organization. The city clerk shall issue the Class "D" special temporary operator's license upon payment of the license fee required in ch. 81 without referring any of the applications to the common council for action. The license shall state the name of the individual, and the period and the premises for which it is issued.

90-4.5. Limitations On Other Business; Class "B" Premises. No Class "B" fermented malt beverage retailer license may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" fermented malt beverage retailer license is issued is connected to premises where other business is conducted by a secondary doorway which serves as a safety exit and is not the primary entrance to the Class "B" fermented malt beverage retailer premises. No other business may be conducted on premises operating under a Class "B" fermented malt beverage retailer license. These restrictions do not apply to any of the following:

1. A hotel.
2. A restaurant, whether or not it is a part or located in any mercantile establishment.

3. A combination grocery store and tavern.

4. A combination novelty store and tavern.

5. A bowling alley or recreation premises.

6. A club, society or lodge that has been in existence for 6 months or more prior to the date of filing application for Class "B" fermented malt beverage retailer license.

7. A painting studio.

90-4.7 Restriction on Granting of Class "A" Fermented Malt Beverage and "Class A" Retailer's Intoxicating Liquor Licenses. No "Class A" retailer's intoxicating liquor license or Class "A" fermented malt beverage retailer license may be granted to an applicant applying for a premises currently licensed as a filling station.

90-5. Licensing. 1. APPLICATION: FORM AND CONTENTS. a. To Be Filed. Application for all licenses issued pursuant to this chapter, except for the short-term Class "B" special fermented malt beverage license, shall be made to the city clerk in writing on forms furnished by the city clerk.

b. Content. Such application shall state:

b-1. The kind of a license applied for.

b-2. The name and permanent address of the applicant.

b-3. The name and address of the premises for which the license is to be granted, including the aldermanic district in which it is situated.

b-5. If the applicant is a corporation, the name of the corporation shall be set forth exactly as it is set forth in its articles of incorporation, together with the names and addresses of each of its officers, directors and designated manager(s), if any; the application shall be verified by any officer of the corporation.

b-6. If the applicant is a partnership, the application shall set forth the name and resident address of each of the partners, including limited partners, and the application shall be verified by each partner. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the corporate partners.

b-7. If the applicant is a club, association or other organization which is neither a corporation or partnership, the application shall set forth the exact name of the entity together with the names and residence addresses of all officers and be verified by an officer of the club, association, or organization.

b-8. The date of birth.

b-9. Such other reasonable and pertinent information the common council or the proper licensing committee of the common council may from time to time require.

c. Additional Requirements. In any application for an alcohol beverage retail establishment license, excepting the short-term Class "B" special fermented malt beverage license, the applicant shall file a detailed floor plan on a 8-1/2 inch x 11 inch sized sheet of paper for each floor of the premises and a completed plan of operation on forms provided therefor by the city clerk.

c-1. Floor Plan. In this paragraph, "floor plan" means a blueprint or detailed sketch of the alcohol beverage retail establishment and shall include:

c-1-a. Area in square feet and dimensions of the premises.

c-1-b. Locations of all entrances and exits to the premises. This shall include a description of how patrons will enter the premises, the proposed location of the waiting line, estimated waiting time, and the location where security searches or identification verification will occur at the entrance to the premises.

c-1-c. Locations of all seating areas, bars and, if applicable, food preparation areas for applications for Class "B" and "Class C" alcohol beverage retail establishment licenses.

c-1-d. Locations and dimensions of any alcohol beverage storage and display areas.

c-1-e. Locations and dimensions of any outdoor areas available at the premises for the sale or service of alcohol beverages.

c-1-f. Locations and dimensions of any off-street parking and loading areas for patrons, employees and entertainers available at the premises.

c-1-g. North point and date.

c-1-h. Any other reasonable and pertinent information the common council may from time to time require.

c-2. Plan of Operation. The plan of operation shall require:

c-2-a. The current or planned hours of operation for the premises.

c-2-b. The number of patrons expected on a daily basis at the premises.

c-2-c. The legal occupancy capacity of the premises, if known by the applicant.

c-2-d. The number of off-street parking spaces available at the premises.

c-2-e. What plans the applicant has to insure the orderly appearance and operation of the premises with respect to litter and noise. This shall include a description of designated or likely outdoor smoking areas, the number and placement of exterior and interior trash receptacles, crowd control barriers and sanitation facilities, as well as a description of how applicable noise standards will be met for the subject premises.

c-2-f. What other types of business enterprises, if any, are planned or currently conducted at the premises.

c-2-g. What other types of licenses and permits, if any, are planned or currently issued for the premises.

c-2-h. Whether or not, pursuant to s. 90-14, the premises is less than 300 feet from any church, school or hospital.

c-2-i. What, if any, age distinctions are planned or currently conducted at the premises.

c-2-j. A description of any proposed security provisions for off-street parking and loading areas.

c-2-k. The number of security personnel expected to be on the premises, their responsibilities, the equipment they will use in carrying out their duties and their licensing, certification or training credentials.

c-2-L. A description of any provisions made for clean-up of the premises, including identification of the solid waste contractor to be used by the applicant.

c-2-m. Any other reasonable and pertinent information the common council may from time to time require.

c-3. Right to Occupy. An applicant for an alcohol beverage retail establishment license shall provide any information that may be requested by the city clerk relating to the terms and conditions of occupancy of the premises for which the license is sought.

c-3-a. Documents establishing a right to occupy include deeds, leases, accepted offers to purchase and similar documents including agreements that are contingent upon issuance of the requested license.

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c-3-b. An applicant shall provide any additional information that may be requested by the city clerk relating to the terms and conditions of occupancy of the premises for which the license is sought.

c-4. Exemptions. For any renewal application for an alcohol beverage retail establishment license for which there is no change in any information that is reported in the floor plan and plan of operation as submitted with the original or previous renewal application pursuant to this paragraph, the licensee may file a written statement to that effect with the city clerk and, having done so, shall not be required to file a new floor plan and plan of operation with the renewal application.

d. Number of Licenses. In any application for an alcohol beverage retail establishment license, the applicant shall state whether the applicant currently holds any alcohol beverage retail establishment license in any other location in the state.

1.5. POLICE REVIEW OF FLOOR PLAN, PLAN OF OPERATION AND CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN SURVEY. Following submission of the floor plan and plan of operation required by s. 90-5-1-c, but prior to the scheduling of a licensing committee hearing under s. 90-5-8-a-2, the applicant for a new Class "A," Class "B" or "Class C" retail license shall meet in person with a police department community liaison officer or other designee of the chief of police to review the floor plan and plan of operation and to conduct a crime prevention through environmental design (CPTED) survey.

2. TRUTH OF STATEMENTS AND AFFIDAVITS; PENALTY. a. All matters submitted in writing to the city by any applicant or licensee pertaining to an intoxicating liquor or fermented malt beverage license shall be true. Any person who submits in writing any untrue statement or affidavit to the city in connection with any such license or application shall be fined not to exceed \$500 or in default of payment thereof shall be imprisoned in the county jail or house of correction of Milwaukee county for not more than 90 days; and that license, if granted, shall be subject to revocation and no intoxicating liquor or fermented malt beverage license of any kind or nature whatsoever shall thereafter be granted to such a person for a period of one year from the date of such revocation.

b. There shall be contained on each individual application for an intoxicating liquor or fermented malt beverage license of any kind information to the effect that a penalty is provided for any false statement or false affidavit supplied by any such applicant or licensee.

3. TIME OF FILING; LEGAL NOTICE AND FEE. a. Filing Time. Application shall be filed for all liquor and beer licenses at least 30 days prior to the date of granting by the common council. When an application has been on file at least 14 days prior to the date of granting, and the police investigation has been completed with no police objection, and there are no other objections to the granting of the license, the common council may grant such licenses prior to the passage of the full 30 days.

b. Legal Notice and Fee. A notice of the application for an alcohol beverage retail establishment license containing the name and address of the applicant and the kind of license applied for and the location of the premises to be licensed shall, prior to the granting of such license be published in a daily paper which shall have been regularly and continuously published daily in the city for a period of at least 3 times successively. At the time of filing an application the applicant shall pay to the city clerk such sum as computed by the rate per folio for legal notices or publications as created, established, and applied in the counties of this state by provisions of Wisconsin statutes, would be required to pay for such publication.

4. DEPOSIT OF FEE; REFUND.

a. Prior to issuance of a license, each applicant shall deposit with the city treasurer the full amount of the fee required in ch. 81 for the specific license or licenses applied for.

b. It shall be the duty of the city treasurer to accept the deposit, issue a receipt therefor, and cause a record to be kept thereof. When a license is granted by the common council, it shall be the duty of the city treasurer to apply such deposit as full payment of the license fee, upon receipt of certification thereof by the city clerk.

c. It shall be the duty of the city clerk to enter on all applications filed with him the amount deposited with the city treasurer, the date of the deposit and the number of the treasurer's receipt.

e. Non-payment of all applicable fees, late fees and processing charges within 15 days from the date of the letter advising of the insufficiency shall render the license null and void as prescribed in s.125.04(1) and (8), Wis. Stats. If the license is required for the operation of an establishment, the establishment shall be closed until all fees, late fees and processing charges are paid in full.

5. MONEY TO BE PART OF GENERAL CITY FUND. All moneys received by the treasurer for licenses issued under this chapter shall be appropriated to and become part of the general city fund.

6. FINGERPRINTING. All applicants for a "Class A" retailer's intoxicating liquor license, a "Class B" tavern license, a Class "B" manager's license, a Class "A" fermented malt beverage retailer's license, a "Class C" wine retailer license, a Class "D" operator's license or a Class "D" provisional operator's license shall be fingerprinted as provided in s. 85-21-1.

7. INVESTIGATION. a. All applications shall be referred to the chief of police, the commissioner of neighborhood services and the commissioner of health, all of whom shall cause an investigation to be made and report their findings to the licensing committee of the common council. For an application for a "Class A" or "Class B" license for the sale of intoxicating liquor, the report of the commissioner of neighborhood services shall include a statement as to whether the main entrance of the premises is less than 300 feet from the main entrance of any church, school, day care center or hospital.

b. The chief of police shall investigate each applicant as provided in s. 85-21-2. The chief of police shall also provide copies of any licensed premise synopsis reports relating to licensed premises previously located at the premises proposed for licensing as a Class "A," "Class A," Class "B," "Class B" or "Class C" retail establishment during the 5-year period prior to the date of application.

8. COMMITTEE ACTION. a. Notice.

a-1. Applications for Class "D" operator's licenses shall be referred to chief of police for review. If the police chief files no written report summarizing the arrest and convictions of the applicant which could form a basis for denial, the license shall be forwarded to the common council for approval. If the chief or police files a written report summarizing the arrest and convictions of the applicant which

could form a basis for denial, the application, except as provided in subd. 3, shall be forwarded to the licensing committee of the common council for its recommendation as to whether or not each license should be issued.

a-2. Applications for all new Class "A," "Class A," Class "B," "Class B" and "Class C" retail licenses and Class "B" manager's licenses shall, except as provided in subd. 3, be referred to the licensing committee for its recommendation as to whether or not each license should be issued. Applications shall be referred without delay upon certification by the city clerk that the application is complete. Upon referral, the application shall be scheduled and heard by the licensing committee before the expiration of the period beginning on the date of referral and ending not later than 3 complete periods between regularly scheduled meetings of the common council.

a-2-a. Certification shall not be made prior to completion of all application paperwork and prior to receipt by the city clerk of the required police report required in subpar. a-2.

a-2-b. Certification shall not be made within 10 days following the provision of written notice of the application by the city clerk to all addresses located within 250 feet of the premises proposed for licensing with information about submitting comments related to the application, including objections to the proposed license, if any. The city clerk may receive comments and objections electronically, by telephone, by mail or through the direct filing of a written document. Communications relating to the license application shall be placed in the file containing application materials.

a-2-c. Certification shall not be made within 10 days following written and signed assurance to the city clerk by the applicant that notice of the application, on a form prescribed by the city clerk and approved by the licensing committee, has been conspicuously posted on the outside of the premises at applicant's expense providing notice to members of the public that an application has been made and that objections to the application may be filed with the city clerk, and that a survey form may be submitted electronically, through the city Internet site, by phone or in writing. The written and signed assurance shall include a statement of applicant's intent to maintain the posting, or replace any missing posting, until the date scheduled for hearing by the licensing committee.

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a-2-d. Certification shall not be made prior to submission of a copy of a map displaying concentration in the neighborhood of licensed alcohol beverage retail establishments.

a-2-e. Except for a Class "B" manager's license application, certification shall not be made prior to the city clerk's receipt from the chief of police of written confirmation that the applicant has, as required by s. 90-5-1.5, met with a police department community liaison officer or other designee of the chief to review the applicant's floor plan and plan of operation and to conduct a crime prevention through environmental design (CPTED) survey.

a-2-f. An applicant for a new alcohol beverage retail establishment license, with the exception of applicants under subpar. h, shall appear before the licensing committee at the date, time and place specified in written notice provided to the applicant by the city clerk's office. The notice shall be accompanied by a copy of any written report prepared as a result of investigation under sub. 7, and shall further be accompanied by copies of previous licensed premise reports relative to the premises in the 5-year period prior to the date of application.

a-2-g. If the applicant is a corporation or limited liability company, a duly authorized agent or legal representative of the corporation shall appear before the licensing committee. All applicants may be represented by legal representatives before the licensing committee.

a-2-h. Unless there is a possibility of denial of any license, applicants shall not be required to appear before the licensing committee under subd. 2-f and g provided the applicants have been previously granted alcohol beverage retail establishment licenses for premises upon the Henry W. Maier Festival park grounds. Applications for alcohol beverage retail establishment licenses for premises upon the Henry W. Maier Festival Park grounds may be certified by the city clerk as complete without meeting the requirements for certification in subd. 2-a to d.

a-3. If the chief of police files a written report summarizing the arrest and convictions of an applicant for a new operator's license or manager's license which could form the basis for denial of the application, the city clerk shall, in lieu of forwarding the application to the licensing committee for a hearing under subds. 1 and 2, refer the application to the common council for

approval and, except as provided in subd. 4, issue a warning letter to the applicant whenever all of the following are true:

a-3-a. The applicant has no more than one pending charge for a misdemeanor offense and the pending charge is related to a non-violent offense.

a-3-b. The applicant has not within 12 months of the date of application been convicted of any misdemeanor offense related to a violent offense.

a-3-c. The applicant has not within 12 months of the date of application been convicted of more than one misdemeanor offense or municipal code violation.

a-3-d. The applicant has not within 3 years of the date of application been convicted of more than one misdemeanor offense or municipal ordinance violation related to serving underage or intoxicated persons.

a-3-e. The applicant has not within 3 years of the date of application been convicted of more than 3 misdemeanor offenses and municipal ordinance violations.

a-3-f. The applicant has not within 5 years of the date of application been convicted of more than one felony offense and has not within 5 years of the date of application served probation or been imprisoned for any felony conviction.

a-3-g. The applicant has not within 10 years of the date of application been convicted of a second or subsequent offense related to operating a motor vehicle while intoxicated.

a-4. If an applicant eligible to be issued a warning letter under subd. 3 has not within 10 years of the date of application been convicted of any misdemeanor or felony offense or municipal code violation, then the city clerk shall refer the application to the common council for approval and issue no warning letter.

a-5. In determining the eligibility of the applicant to be issued a warning letter under subd. 3, the city clerk shall not consider either of the following:

a-5-a. Any pending charges or convictions of any misdemeanor or felony offenses related to failure to pay child support.

a-5-b. Any one conviction of a misdemeanor offense or municipal ordinance violation related to retail theft for which the applicant was not imprisoned.

a-6. In determining the number of pending charges under subd. 3-a and convictions under subd. 3-b to g, any pending charges or convictions arising out of the same incident or occurrence shall be counted as one pending charge or conviction.

a-7. Notwithstanding the provisions of subds. 3 and 5, an applicant who meets the criteria of those subdivisions shall have his or her application forwarded to the licensing committee if a written objection to the application is filed by any interested party.

a-8. If there is a possibility of denial of any license regulated by this subsection, no hearing shall be heard unless the city clerk's office has provided written notice to the applicant so that the applicant has at least 7 days' notice of the hearing.

a-9. The notice shall contain:

a-9-a. The date, time and place of the hearing.

a-9-b. A statement to the effect that the possibility of denial of the license application exists and the reasons for possible denial.

a-9-c. A statement that an opportunity will be given to the applicant to respond to and challenge any reason for denial and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

a-9-d. A statement that the applicant may be represented by an attorney of the applicant's choice at the applicant's expense, if the applicant so wishes.

a-10. If it appears for the first time at the hearing that there will be objections, then the matter shall be laid over until the next meeting, prior to which proper notice shall be given.

a-11. If the chair at any time determines that a hearing is or will be contested, the chair shall announce that a time limit of 30 minutes shall be provided opponents of the proposed license and a time limit of 30 minutes for the applicant and supporters of the proposed license. This time shall be extended for relevant questioning by licensing committee members. If upon expiration of 30 minutes for opponents or 30 minutes for the applicant and proponents the chair determines, subject to the approval or objection of the committee, that a full and fair hearing of relevant issues requires an extension of time to protect the interests of the public and the applicant, a reasonable extension of time may be granted. Individuals opposing the proposed license and members of the public

supporting the proposed license may be limited to not more than 2 minutes testimony each, or a greater or lesser amount if the chair determines that a different time limit is appropriate to the fair and efficient conduct of the hearing. The applicant shall have the privilege of using any portion of applicant's 30 minutes for presentation and testimony. At any time, the chair may overrule or prohibit redundant testimony or argument found unnecessary to substantiate or corroborate testimony and argument previously presented.

b. Hearing. Upon certification by the city clerk as provided in par. a-2, all new applications for Class "A," "Class A," Class "B," "Class B" and "Class C" retail licenses shall be timely scheduled for hearing by the licensing committee on a date prior to the expiration of 3 full periods of time between regularly scheduled meetings of the common council. Licensing committee hearings on all new applications under this section shall be conducted in the following manner:

b-1. If there is a possibility of denial, at the hearing the committee chairman shall open the meeting by stating that a notice was sent and read the notice into the record unless the applicant admits notice. The chairman shall advise the applicant that the applicant has an option to proceed with a due process hearing, represented by counsel, with all testimony both direct and cross-examination under oath, or that the applicant may simply make a statement to the committee.

b-2. A due process hearing shall be conducted in the following manner:

b-2-a. All witnesses will be sworn in.

b-2-b. Any report prepared under sub. 7 and offered by the chief of police, the commissioner of health or the commissioner of neighborhood services shall be entered into the permanent record of the hearing without motion. Information contained in the report shall be admissible and considered by the committee as a public report to the extent that the report sets forth the activities of department personnel, or provides information about matters observed by department personnel under a duty imposed by law, or contains factual findings resulting from an investigation made under authority of law, unless the sources of information or other circumstances indicate lack of trustworthiness.

b-2-c. The chair shall then ask those opposed to the granting of the license to proceed.

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b-2-d. The applicant shall be permitted an opportunity to cross-examine.

b-2-e. After the conclusion of the opponent's testimony, the applicant shall be permitted to present the applicant's own witnesses, subject to cross-examination.

b-2-f. Committee members may ask questions of witnesses.

b-2-g. Both proponents and opponents shall be permitted a brief summary statement.

c. Recommendations. c-1. The recommendations of the committee regarding the applicant shall be based on the preponderance of evidence presented at the hearing. Probative evidence concerning whether or not the license should be granted may be presented on the following subjects:

c-1-a. Whether or not the applicant meets the statutory and municipal requirements.

c-1-b. The appropriateness of the location and premises to be licensed and whether the location will create undesirable neighborhood problems. Probative evidence relating to these matters may be taken from the floor plan and plan of operation submitted pursuant to sub. 1-c and shall include information provided by the chief of police pursuant to sub. 7 of calls for service, complaints or criminal activity occurring on the premises that may be formally documented in a regular police department record such as a PA 33, summary or equivalent record that is proposed for licensing as a Class "A," "Class A," "Class B" or Class "B" retail establishment or a "Class C" retail establishment or incidents associated with the premises during the 5-year period prior to the date of application.

c-1-c. Whether there is an over-concentration of licensed establishments in the neighborhood. A concentration map placed in the applicant's file prior to certification for hearing may be admitted to the record upon motion of any interested party.

c-1-d. Whether or not the applicant has been charged with or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the licensed activity.

c-1-e. Any other factors which reasonably relate to the public health, safety and welfare.

c-2. The committee may make a recommendation immediately following the hearing or at a later date. This recommendation may include such revisions to the floor plan and

plan of operation submitted pursuant to sub. 1-c as the committee may deem necessary and which are agreed to by the applicant. Written notice of the committee's decision will be provided if the decision is made at a later date or if the applicant was not present or represented. The committee shall forward its recommendation in writing to the full common council for vote at the next meeting at which such matter will be considered.

9. DISQUALIFICATION.

a. Whenever any application is denied, or license not renewed, revoked or surrendered, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

b. Whenever a new application for a "Class A" retailer's intoxicating liquor license, a "Class B" tavern license, a Class "B" manager's license, a Class "A" fermented malt beverage retailer license, a Class "B" fermented malt beverage retailer license, a "Class C" wine retailer license, a Class "D" operator's license, a tavern amusement, dancing and music license, or a center for the visual and performing arts license, is withdrawn after commencement of the hearing of the licensing committee procedures for withdrawal provided in s. 85-13-3 shall apply.

10. ISSUANCE OF LICENSE BY CITY CLERK. It shall be the duty of the city clerk, whenever a license for the sale of intoxicating liquors, or fermented malt beverages shall have been granted by the common council, and the applicant shall have produced and filed with the city clerk a receipt showing payment of the sum required for such license to the city treasurer, to prepare and deliver to such applicant a license in accordance with this chapter and of the laws of the state of Wisconsin. Such license shall specifically state the premises to be licensed. Such license shall not be transferable from one person to another, except as otherwise provided in s. 90-10, and it shall not authorize the sale of intoxicating liquors or fermented malt beverages in any other manner than that specified in the license. It shall not inure to the benefit of any person other than the licensee therein named and shall not authorize the sale of intoxicating liquors or fermented malt beverages in any other place than that specified in the license. It shall bear the signature of the city clerk and the corporate seal of the city.

11. LICENSE PERIOD; FEES. See ch. 81 for the required license fees and the date of expiration.

12. CHANGES TO BE REPORTED.

a. A licensee shall notify the city clerk whenever there is a change in any information that is reported in the application form or renewal application form. The licensee shall make this notification in writing within 10 days after the change occurs.

b. A licensee, or an applicant if action has not been taken on an application, shall advise the city clerk upon receiving information that the right of the applicant or licensee to occupy the licensed premises will be interrupted or terminated prior to the expiration of the license period. Notification shall be made in writing within 10 days after the information becomes known to the licensee or applicant. The city clerk shall forward the communication to the member of the common council in whose district the licensed premises is located.

13. CHANGE IN PLAN OF OPERATION. See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

90-5.5. License for Cider Sales Only.

1. GRANTING AND ISSUANCE.

Notwithstanding s. 90-14, upon application, the common council shall grant, and the city clerk shall issue, a "Class A" license to the applicant if the following apply:

a. The application is made for a "Class A" license containing the condition that retail sales of intoxicating liquor are limited to cider.

B The applicant holds a Class "A" fermented malt beverage retailer license issued for the same premises for which the "Class A" license application is made.

2. SALES LIMITED TO CIDER.

Notwithstanding s. 125.51(2)(a), Wis. Stats., and s. 90-3-5 of this code, a person issued a "Class A" license under sub. 1 may not make retail sales, or provide taste samples, of any intoxicating liquor other than cider.

90-6. Qualifications for Licenses.

1. PROFESSIONAL CHARACTER.

a. The common council, consistent with ss. 111.321, 111.322, and 111.335, Wis. Stats., may refuse to grant a license to any person who has been convicted of any felony, misdemeanor or other offense the circumstances of which substantially relate to the circumstances of the particular licensed activity. If the applicant is a corporation, this requirement does not apply if the corporation has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.

b. In addition, any applicant for a Class "D" operator's license or a Class "B" manager's license shall not have been convicted of 2 or more offenses during the last 3 years relating to serving minors or intoxicated persons.

c. Class "D" operator's licenses may be issued only to applicants who have attained the age of 18. All other licenses issued under this chapter may be issued only to applicants who have attained the age of 21.

2. RESIDENCY REQUIREMENTS.

a. By License Class. "Class A" retailer's intoxicating liquor license; "Class B" tavern license, retailer's intoxicating liquor and service bar licenses; Class "A" fermented malt beverage retailer's license; Class "B" fermented malt beverage retailer's license; "Class C" wine retailer's license:

a-1. The applicant shall have been a resident of the state of Wisconsin continuously for at least 90 days prior to the date of the application.

a-2. This subsection shall not apply to officers and directors of corporations.

b. Class "B" Manager's License. The applicant shall have been a resident of the state of Wisconsin prior to the date of issuance.

c. Licenses Not Requiring City Residency. There shall be no city residency requirements for the following licenses:

c-1. Class "B" special malt beverage retailer's license.

c-3. Class "D" operator's license.

c-4. Class "D" special temporary operator's license.

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d. Limited Partners. All limited partners in a limited partnership, as defined in ch. 179, Wis. Stats., shall have been residents of the state of Wisconsin continuously for at least 90 days prior to the date of the application for any license issued pursuant to ch. 90.

3. PROOF OF SELLER'S PERMIT.

The applicant shall have submitted proof under s. 77.61 (11), Wis. Stats., that the applicant is the holder of a seller's permit as required by subch. 3, ch. 77, Wis. Stats., or has been informed by an employee of the Wisconsin department of revenue that the department will issue a seller's permit to the applicant. This provision shall not apply to the following:

a. Applicants for a Class "D" operator's license.

b. Applicants for a Class "B" manager's license.

c. Applicants for a Class "B" special fermented malt beverage license.

4. TRAINING COURSE. a. No alcohol beverage retail establishment license, Class "B" manager's license or Class "D" operator's license may be issued unless the applicant has successfully completed a responsible beverage server training course approved by the Wisconsin department of revenue unless the applicant fulfills one of the following requirements:

a-1. The person is renewing an operator's license, a manager's license, an alcohol beverage retail establishment license.

a-2. Within the past 2 years, the person held an alcohol beverage retail establishment license, manager's license or operator's license.

a-3. Within the past 2 years, the person has completed such a training course.

a-4. The person was an agent of a corporation or limited liability company that held, within the past 2 years, an alcohol beverage retail establishment license, manager's or operator's license.

b. If the applicant is a corporation or limited liability company, the agent shall complete the required responsible beverage server training course.

90-7. Restrictions on Corporations.

1. RESPONSIBLE PERSON.

a. General. No corporation organized under the laws of the state of Wisconsin or of any state or foreign country may be issued a license to sell in any manner any intoxicating

liquor or fermented malt beverage unless it has appointed as agent a natural person who has been a resident of the state of Wisconsin continuously for at least 90 days prior to the date of the application for any license issued pursuant to ch. 90. The agent must meet the provisions of s. 90-6-1-a. The agent shall have vested in him or her, by properly authorized and executed written delegation, full authority and control of the premises described in the license of the corporation, and of the conduct of all business on the premises relative to intoxicating liquor or fermented malt beverages that the licensee could have and exercise if it were a natural person.

b. Certain Retail Premises. Under a "Class B," Class "B" or "Class C" retailer's license, there shall be upon the licensed premises at all times, the licensee, or the agent of the corporation or limited liability company, or a Class "D" operator, or a person holding a Class "B" manager's license.

2. CORPORATE STOCK. Each corporate applicant shall file with its application for a license a statement by its officers showing names and addresses of all persons who individually hold 20% or more of the corporation's total or voting stock, or proxies for that amount of stock, together with the amount of stock or proxies held by each person. It shall be the duty of the corporation agent to file with the city clerk a statement of the transfer of any stock or proxies, where the effect of the transfer would constitute a change in the stockholders list then on file. Notice to the city clerk shall be given not later than 10 calendar days after any transfer. If this transfer results in any person holding 20% or more of the corporation's total or voting stock, or proxies for that amount of stock, and that person has not been fingerprinted pursuant to another provision of this chapter, that person shall be fingerprinted. All of the information provided pursuant to this subsection shall be forwarded to the chief of police who shall cause an investigation to be made and who shall report his or her findings to the city clerk. The provisions of this subsection do not apply to hotels, duly organized fraternal organizations, concessionaires in public auditoriums, municipal festival organizations and to the Wisconsin center district established pursuant to ch. 229, Wis. Stats.

3. CHANGE OF OFFICERS. Whenever a corporation or licensed limited partnership licensed to sell intoxicating liquor or fermented malt beverages changes any of its corporate officers, directors or members, it shall be the duty of the corporation agent to file with the city clerk a statement of the change on a form provided therefor. Notice to the city clerk shall be given not later than 10 calendar days after any change is made. This subsection shall not apply to hotels concessionaires in public auditoriums, municipal festival organizations, the Wisconsin center district established pursuant to ch. 229, Wis. Stats., or duly organized fraternal organizations nor when a change in the corporate setup is necessitated by the death of officers or directors.

90-8. Responsible Person Upon Licensed Premises. 1. REQUIRED. There shall be upon the premises operated under an alcohol beverage retail establishment license at all times the licensee, or a Class "B" Manager, or a Class "D" Operator who shall be responsible for the control of the establishment which includes the acts of all employees serving intoxicating liquor or fermented malt beverages to customers. The appointment of a Class "B" manager or a Class "D" operator to oversee the premises shall not relieve the licensee of his responsibility under this chapter.

2. PENALTY. a. Any person violating this section shall be subject to the penalty specified in s. 90-40.

b. In addition to the penalty specified in par. a., a licensee may also be subject to suspension or revocation proceedings provided in s. 90-12.

90-8.5. Use of License by Another Prohibited. No person may allow another to use his or her alcohol beverage retail establishment license to sell alcohol beverages.

90-10. Transfer of License or Change of Name. See s. 85-19 for provisions relating to the transfer of licenses and change of licensee names.

90-10.5. Surrender of License Upon Ceasing Operation. Any person holding an alcohol beverage retail establishment license under this chapter shall surrender the license upon ceasing operations and return the license to the city clerk

not later than 5 working days following the day on which operations permitted by the license ceased.

90-11. Renewal of License. 1. PROCEDURE FOR RENEWAL a. General. Applications for the renewal of alcohol beverage retail establishment licenses and manager and operator licenses shall be made to the city clerk on forms provided therefor. The city clerk shall refer all applications for license renewal to the chief of police and, excepting applications for manager's and operator's licenses, to the commissioner of neighborhood services and the commissioner of health for their review. If the chief of police and, when applicable, the commissioner of neighborhood services and commissioner of health indicate that the applicant still meets all of the licensing qualifications, the application shall be referred to the common council for approval.

b. Objection. Upon the filing of an application for renewal of a Class "A," "Class A," Class "B," "Class B" or "Class C" retail establishment, the city clerk shall provide the applicant with a form, prescribed by the city clerk and approved by the licensing committee, to be completed by the applicant and conspicuously posted at the expense of the applicant on the outside of the licensed premises providing notice to members of the public that an application has been made and that objections to the application may be made in accordance with the procedures in s. 85-3-3. If the city clerk determines that there is cause to question the renewal of the license on the basis of one or more written complaints related to operation of the licensee during the current license period, or if police reports of incidents and activities on or related to the licensed premises not previously considered by the licensing committee establish cause to question whether renewal of the license may have an adverse impact on the health, safety and welfare of the public and the neighborhood, the city clerk shall cause the application to be scheduled for hearing. A written objection shall meet the definition in s. 85-2-4 and shall comply with the requirements of s. 85-3-3.

c. Warning Letter. c-1. If the chief of police files a written report summarizing the arrest and convictions of an applicant for renewal of an operator's license or manager's license which could form a basis for nonrenewal

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of the application, and if no written objection has been filed under par. b, the city clerk shall, in lieu of forwarding the application to the licensing committee for a hearing under par. b, refer the application to the common council for approval and, except as provided in subd. 2, issue a warning letter to the applicant whenever all of the following are true:

c-1-a. The applicant has no more than one pending charge for a misdemeanor offense and the pending charge is related to a non-violent offense.

c-1-b. The applicant has not within 12 months of the date of application been convicted of any misdemeanor offense related to a violent offense.

c-1-c. The applicant has not within 12 months of the date of application been convicted of more than one misdemeanor offense or municipal code violation.

c-1-d. The applicant has not within 3 years of the date of application been convicted of more than one misdemeanor offense or municipal ordinance violation related to serving underage or intoxicated persons.

c-1-e. The applicant has not within 3 years of the date of application been convicted of more than 3 misdemeanor offenses and municipal ordinance violations.

c-1-f. The applicant has not within 5 years of the date of application been convicted of more than one felony offense and has not within 5 years of the date of application served probation or been imprisoned for any felony conviction.

c-1-g. The applicant has not within 10 years of the date of application been convicted of a second or subsequent offense related to operating a motor vehicle while intoxicated.

c-2. If an applicant eligible to be issued a warning letter under this paragraph has not within 10 years of the date of application been convicted of any misdemeanor or felony offense or municipal code violation, then the city clerk shall refer the application to the common council for approval and issue no warning letter.

c-3. In determining the eligibility of the applicant to be issued a warning letter under this paragraph, the city clerk shall not consider either of the following:

c-3-a. Any pending charges or convictions of any misdemeanor or felony offenses related to failure to pay child support.

c-3-b. Any one conviction of a misdemeanor offense or municipal ordinance violation related to retail theft for which the applicant was not imprisoned.

d. In determining the number of pending charges under par. c-1-a and convictions under par. c-1-b to g, any pending charges or convictions arising out of the same incident or occurrence shall be counted as one pending charge or conviction.

e. Notwithstanding the provisions of pars. 1 and 3, an applicant who meets the criteria of those paragraphs shall have his or her application forwarded to the licensing committee for a hearing if a written objection to the renewal is filed by any interested party.

f. If any person fails to have issued by the city clerk prior to the expiration of the license an alcohol beverage retail establishment license that has been approved by the common council, the person shall not be permitted to apply for and be issued more than one renewal license for the premises, provided that the person is residentially and in all other respects qualified to make the application. The common council may waive the provisions of this paragraph if unusual circumstances have been demonstrated.

2. PROCEDURE FOR NON-RENEWAL. a. Notice. a-1. The licensing committee shall be responsible for holding hearings regarding the nonrenewal of licenses. If there is a possibility that the committee will not renew a license, a motion should be entertained to hold the application in committee and instruct the city clerk to forward proper notice to the applicant, unless such proper notice has already been sent, in which case the hearing shall proceed.

a-2. Prior to the date set for the hearing, the city clerk's office shall forward notice to the applicant which shall contain:

a-2-a. The date, time and place of the hearing.

a-2-b. A statement of the common council's intention not to renew the license or suspend the license in the event any objections to renewal are found to be true.

a-2-c. A statement of the reasons for nonrenewal.

a-2-d. A statement that an opportunity will be given to respond to and challenge such reasons for nonrenewal and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

a-2-e. A statement that the applicant may be represented by an attorney of the applicant's choice at the applicant's expense, if the applicant so wishes.

b. Hearing. b-1. At the committee hearing, the chairman shall open the hearing by stating that a notice was sent, and shall read the notice into the record unless the applicant admits notice. The chairman shall advise the applicant that he or she has an option to proceed with a hearing, represented by counsel, with all testimony under oath, or he or she can make a statement.

b-2. If the applicant selects a hearing:

b-2-a. Any report prepared as the result of a review required under sub. 1-a and offered by the chief of police, the commissioner of health or the commissioner of neighborhood services shall be entered into the permanent record of the hearing without motion. Information contained in the report shall be admitted and considered by the committee as a public report to the extent that the report sets forth the activities of department personnel, or provides information about matters observed by department personnel under a duty imposed by law, or contains factual findings resulting from an investigation made under authority of law, unless the sources of information or other circumstances indicate lack of trustworthiness. The chief of police shall offer a written report summarizing any criminal or ordinance convictions or pending criminal charges or ordinance citations of an applicant for license renewal. The report offered by the chief of police shall also include information summarizing any police investigation or action related to the licensed premise or its patrons.

b-2-b. The chairman shall order all witnesses sworn in.

b-2-c. The chairman shall then ask those opposed to the renewal of the license to present their case in opposition to renewal.

b-2-d. The applicant shall then be permitted an opportunity to cross-examine witnesses in opposition to the renewal.

b-2-e. After the conclusion of the opponent's case, the applicant shall be permitted to present witnesses, testimony and exhibits subject to cross-examination.

b-2-f. Committee members may ask questions of witnesses.

b-2-g. Both sides shall be permitted a brief summary statement.

b-2-h. If the chair should at any time determine that a hearing is or will be contested, the chair will announce that a time limit of 30 minutes shall be provided opponents of the license renewal and a time limit of 30 minutes for the applicant and supporters of the license renewal. This time will be extended for relevant questioning by licensing committee members. If upon expiration of 30 minutes for opponents or 30 minutes for the applicant and proponents the chair should determine, subject to the approval or objection of the committee, that a full and fair hearing of relevant issues requires an extension of time to protect the interests of the public and the applicant, a reasonable extension of time may be granted. Individuals opposing the proposed license and members of the public supporting the proposed license may be limited to not more than 2 minutes testimony each, or a greater or lesser amount if the chair determines that a different time limit is appropriate to the fair and efficient conduct of the hearing. The applicant shall have the privilege of using any portion of applicant's 30 minutes for presentation and testimony. At any time, the chair may overrule or prohibit redundant testimony or argument found unnecessary to substantiate or corroborate testimony and argument previously presented.

b-2-i. A record shall be made of all committee hearings as provided in s. 85-4-3.

c. Recommendation. c-1. The recommendation of the committee regarding the applicant shall be based on the preponderance of evidence presented at the hearing. Probative evidence concerning nonrenewal may include evidence of:

c-1-a. Failure of the applicant to meet the statutory and municipal license qualifications.

c-1-b. Pending charges against or the conviction of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the circumstances of the particular licensed activity, on behalf of the licensee, his or her employees, or patrons.

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c-1-c. The appropriateness of tavern location and premises. Evidence of the appropriateness of the location may be included in the report provided by the chief of police or chief's designee under par. b-2-a.

c-1-d. Neighborhood problems due to management or location.

c-1-e. If the licensee is a corporation or licensed limited partnership, the conviction of the corporate agent, officers, directors, members or any shareholder holding 20% or more of the corporation's total or voting stock, or proxies for that amount of stock, of any of the offenses enumerated in s. 125.12(2)(ag), Wis. Stats., as amended.

c-1-f. Failure of the licensee to operate the premise in accordance with the floor plan and plan of operation submitted pursuant to s. 90-5-1-c.

c-1-g. Any other factor or factors which reasonably relate to the public health, safety and welfare.

c-2. The committee may make a recommendation immediately following the hearing or at a later date. The committee may recommend that the license be renewed or not renewed. In addition, if the committee determines that circumstances warrant it, the committee may recommend that the license be renewed conditioned upon a suspension of the license for a defined period of time. When the committee elects to recommend that a license be renewed with a period of suspension, the license may be suspended for not less than 10 days and no longer than 90 days. Such suspension shall commence on the effective date of the license renewal. Following the hearing, the committee shall submit a report to the common council, including findings of fact, conclusions of law and a recommendation as to what action, if any, the council should take. The committee shall provide the complainant and applicant with a copy of the report. The applicant and complainant, if any, may file a written statement in response to the report including objections, exceptions and arguments of law and fact. A written statement must be filed with the city clerk before the close of business on a day that is at least 3 working days prior to the date set for hearing by the common council.

d. Council Action. d-1. The applicant shall be given 5 working days' notice of the date set for hearing by the full common council.

d-2. At the meeting of the common council, the chair shall allow oral argument by an applicant or complainant who has timely submitted a written statement in response to the recommendations of the licensing committee. The city attorney shall also be permitted a statement. Oral arguments shall not exceed 5 minutes on behalf of any party. Applicants shall appear only in person or by counsel. Corporate applicants shall appear only by the agent or by counsel. Partnerships shall be represented only by a partner or by counsel. Limited liability companies shall be represented only by the agent or by counsel. Complainants shall appear only in person or by counsel. Any person making an appearance before the council pursuant to this subsection and who requires the services of an interpreter shall obtain one at his or her own expense.

d-3. Prior to voting on the committee's recommendation, all members of the council who are present shall signify that they have read the recommendation and report of the licensing committee and any written statements in response that have been filed thereto. If they have not, the chair shall allocate time for the members to do so. If they have read the report and recommendation, then a roll call vote shall be taken as to whether or not the recommendation of the committee shall be accepted. The applicant shall be provided with written notice of the results of the vote taken by the common council.

3. REQUEST TO SURRENDER A LICENSE. See s. 85-17 for provisions relating to the surrender of licenses and the return of surrendered licenses.

90-12. Revocation or Suspension of Licenses. 1. CAUSES. Any license issued under this chapter may be suspended or revoked for cause by the common council after notice to the licensee and a hearing. Such licenses shall be suspended or revoked for the following causes:

a. The making of any material false statement in any application for a license.

b. The conviction of the licensee, his agent, manager, operator or any other employee for keeping a gambling house or a house of prostitution or any felony related to the licensed operation.

c. A showing that such licensee has violated any state law or city ordinance prohibiting the sale of intoxicating liquors or fermented malt beverages to underage persons, or to any person intoxicated or bordering on the state of intoxication.

d. The violation of the provisions in ss. 90-7 through 90-10 and 90-13 through 90-31.

e. The violation of any of the excise laws of this state.

f. The licensed premises is operated in such a manner that it constitutes a public or private nuisance or that conduct on the licensed premises, including but not limited to loud and raucous noise, has had a substantial adverse effect upon the health, safety or convenience and prosperity of the immediate neighborhood; or

g. If the licensee is a corporation or licensed limited partnership, the conviction of the corporate agent, officers, directors, members or any shareholder holding 20% or more of the corporation's total or voting stock, or proxies for that amount of stock, of any of the offenses enumerated in s. 125.12(2)(ag), Wis. Stats., as amended.

h. Failure of the licensee to operate the premise in accordance with the floor plan and plan of operation submitted pursuant to s. 90-5-1-c.

i. For any other reasonable cause which shall be in the best interests and good order of the city.

3. STATE LAW APPLICABLE. Except as hereinafter provided, the provisions of ss. 125.12(2)(ag) to (c), Wis. Stats., shall be applicable to proceedings for the suspension and revocation of all licenses granted under this chapter.

4. COMMENCEMENT OF PROCEEDINGS. Suspension or revocation proceedings may be instituted by the licensing committee of the common council upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police or upon a sworn written complaint filed with the city clerk by any city resident.

5. PROCEDURES FOR REVOCATION OR SUSPENSION. a. Complaint; Summons; Report.

a-1. Whenever either sworn written charges or a sworn written complaint are filed with the city clerk setting forth specific charges against a licensee involving conduct which would violate statutes or ordinances that are grounds for revocation or suspension of a license, the city clerk shall issue a summons, as authorized by Wisconsin statutes, demanding that the licensee appear before the licensing committee, not less than 3 days nor more than 10 days from the date of issuance, to show cause why the license should not be revoked or suspended.

a-2. A police officer shall serve the summons upon a licensee in accordance with Wisconsin statutes, and shall also serve a copy of the complaint with a copy of this subsection upon the licensee.

a-3. The chief of police shall prepare a report with information relating to the allegations contained in the written charges or complaint. The report shall first state whether the chief of police has information relating to the allegations contained in the written charges or complaint. The report may be offered and made part of the permanent record of the hearing without motion. Information contained in the report shall be admissible and may be considered by the committee as a public record to the extent that the information in the report sets forth the activities of department personnel, or provides information about matters observed by police personnel under a duty imposed by law, or contains factual findings resulting from an investigation made under authority of law, unless the sources of information or other circumstances indicate lack of trustworthiness. A copy of the report shall be provided to the licensee at least 7 days prior to the time scheduled for appearance upon the summons and complaint.

b. Committee Hearing. b-1. Upon receipt of evidence that the summons has been served, the licensing committee shall convene at the date and time designated in the summons for the purpose of taking evidence and making findings of fact and conclusions of law and a recommendation to the full common council in connection with the proposed revocation or suspension.

b-2. If the licensee appears before the committee at the time designated in the summons and denies the charges contained in

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the complaint, an evidentiary hearing in connection with the revocation or suspension shall be conducted by the committee at that time. If the licensee does not appear, or appears but does not deny the charges contained in the complaint, the complaint shall be taken as true and the committee shall hear the arguments of the city attorney and the licensee in connection with the revocation or suspension.

b-3. The procedure at evidentiary hearing shall be as follows:

b-3-a. The chief of police or complainant shall first present evidence in support of the complaint. The chief of police or complainant may offer the report prepared under par. a-3.

b-3-b. After the chief of police or complainant rests, the licensee may present evidence in opposition to the written charges or complaint.

b-3-c. The chief of police or complainant and the licensee may subpoena and present witnesses. All witnesses shall testify under oath and shall be subject to cross-examination.

b-3-d. The chief of police or complainant and the licensee shall each be limited to 30 minutes for testimony and oral presentation unless the chair, subject to approval of the committee, extends the time to assure a full and fair presentation.

b-3-e. Questions by committee members and responses to members' questions shall not be counted against the time limitations.

b-3-f. At the close of the testimony, the chief of police or complainant and the licensee shall be given a reasonable time to make arguments upon the evidence produced at the hearing.

b-4. The chair of the licensing committee shall be the presiding officer. The chair shall direct that oaths be administered and subpoenas issued upon request of either side. The chair shall ensure that an orderly hearing is conducted in accordance with the requirements of this subsection. The chair shall rule on objections to the admissibility of evidence. Any ruling of the chair shall be final unless appealed to the committee, and the committee shall reverse such ruling only upon the vote of a majority of its members present and voting.

b-5. At all stages of the proceedings before the committee or before the common council, the licensee shall be entitled to appear both in person and by an attorney.

b-6. A record shall be made of all licensing proceedings before the committee and before the common council as provided in s. 85-4-3.

c. Committee Report. c-1. Within 10 working days after it reaches a decision, the committee shall prepare and serve a report and recommendation on the licensee and transmit a copy thereof to the city attorney. The report and recommendations shall include specific findings of fact and conclusions of law made by the committee. The report shall be distributed to each member of the common council.

c-2. The committee shall provide the licensee, and the complainant, if any, with a copy of the report. The licensee and complainant may file a written statement or response including objections, exceptions and arguments of law and fact to the report to the common council. A written statement or response must be filed with the city clerk before the close of business on a day that is at least 3 working days prior to the date set for hearing by the common council.

c-3. Any written statement or response to the report and recommendations of the committee shall be filed by the close of business on the day that is 3 working days prior to the date on which the matter is to be heard by the common council. Copies of written statements shall be provided to each member of the common council at least 24 hours before any vote on the question is scheduled before the common council.

d. Council Action. d-1. At a meeting of the common council following the receipt of the report and recommendations of the committee, the common council shall consider the report and recommendations. Not less than 5 working days prior to the hearing before the common council, the city clerk shall notify the licensee and complainant by United States first class mail, postage prepaid, sent to the last known address of the licensee and complainant, and shall also notify the city attorney, of the time and place that the common council will convene. Each member of the common council shall be asked to affirm that he or she has read the report and recommendations of the committee. When written statements or responses are timely filed to a committee report and recommendations that the license be suspended or revoked, each member of the common council shall be asked to affirm that he or she has read the statements or responses. If

members of the council have not read the recommendations and report of the committee and any statements or responses that have been filed, the chair shall allocate time for the members to do so. Oral argument in support of the report and recommendations presented by the city attorney, oral argument on behalf of the licensee in opposition to the report and recommendations and oral argument by the complainant objecting to the report and recommendations shall be permitted where written statements or responses have been timely filed. Argument shall be limited to 5 minutes and the arguments shall be limited to the subject matter of the report and recommendations and the written exceptions. Licensees shall appear only in person or by counsel. Corporate licensees shall appear only by the agent or by counsel. Partnerships shall be represented only by a partner or by counsel. Limited liability companies shall be represented only by the agent or by counsel. Complainants shall appear only in person or by counsel. Any person making an appearance before the council pursuant to this subsection and who requires the services of an interpreter shall obtain one at his or her own expense.

d-2. The common council shall determine by a majority vote of those in attendance and voting whether to adopt the recommendation of the committee. Such vote shall be a roll call vote. If the common council finds the complaint to be true, or if there is no objection to a report recommending suspension or revocation with the committee's report and recommendation and in accordance with Wisconsin statutes, the city clerk shall give notice of each suspension or revocation to the person whose license is suspended or revoked. If the common council finds the complaint to be untrue, the proceedings shall be dismissed without cost to the accused.

7. REQUEST TO SURRENDER A LICENSE. See s. 85-17 for provisions relating to the surrender of licenses and the return of surrendered licenses.

90-13. Alterations to Premises. Except as provided in s. 200-26-6-b, any alteration, change or addition resulting in expansion of a licensed premises shall be approved by the licensing committee prior to issuance of a permit pursuant to s. 200-24 by the department of neighborhood

services. An applicant whose license application has been denied by the committee may appeal the decision to the common council.

90-14. Restrictions as to Location of Premises.

1. 300 FEET RESTRICTION. No "Class A" or "Class B" license for the sale of intoxicating liquor may be issued for premises the main entrance of which is less than 300 feet from the main entrance of any church, school, day care center or hospital, except that this prohibition may be waived by a majority vote of the common council. The distance shall be measured by the shortest route along the highway from the main entrance of the school, church, day care center or hospital to the main entrance of the premises covered by the license.

2. EXCEPTIONS. The prohibition in sub. 1 does not apply to any of the following:

a. Premises covered by a "Class A" or "Class B" license on June 30, 1947.

b. Premises covered by a "Class A" or "Class B" license prior to the occupation of real property within 300 feet thereof by a school, day care center, hospital or church building.

c. A restaurant located within 300 feet of a church, day care center or school. This paragraph applies only to restaurants in which the sale of alcohol beverages accounts for less than 50% of its gross receipts.

90-15. Hours of Operation. 1. "CLASS A" RETAILER'S INTOXICATING LIQUOR LICENSE. No premises for which a "Class A" retailer's intoxicating liquor license has been issued shall be permitted to remain open for the sale of intoxicating liquor between the hours of 9:00 p.m. and 8:00 a.m.

2. CLASS "A" FERMENTED MALT BEVERAGE RETAILER'S LICENSE. No holder of such a license shall sell fermented malt beverages between the hours of 9:00 p.m. and 8:00 a.m., except a brewery that operates a bonafide 3rd shift for at least 9 months of a previous year may sell fermented malt beverages to its employees in a designated employee shopping area on brewery premises between the hours of 8:00 a.m. to 11:00 p.m.

3. CLASS "B" FERMENTED MALT BEVERAGE AND "CLASS B" TAVERN LICENSES. a. Closing Hours - Prohibited Hours. a-1. No person holding such licenses shall permit a patron to enter or remain on the

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licensed premises between the hours of 2 a.m. and 6 a.m., except as otherwise provided in his subdivision and subd. 2. On January 1, premises operating under such licenses are not required to close. On Saturday and Sunday, no premises may remain open between 2:30 a.m. and 6 a.m., except that, on the Sunday that daylight saving time begins as specified in s. 175.095(2), Wis. Stats., no premises shall remain open between 3:30 a.m. and 6 a.m.

a-2. Hotels and restaurants the principal business of which is the furnishing of food and lodging to patrons, bowling centers, movie theaters, painting studios, indoor golf and baseball facilities, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but may not sell intoxicating liquor or fermented malt beverages during the prohibited hours under subd. 1.

a-3. No patron shall enter or remain on the licensed premises during the hours specified in subd. 1.

b. Special Hours for Sale in Original Packages. Between 9:00 p.m. and 8:00 a.m. no person may sell any intoxicating liquor or fermented malt beverages on any Class "B" licensed premises in an original unopened package, container, or bottle or for consumption away from the premises, except as provided in s. 90-4-2-c-3.

4. HOURS FOR MUSIC. See s. 108-23 for the applicable regulations.

5. PENALTY. A patron who is convicted of violating sub. 3-a-3 shall be subject to a forfeiture of not more than \$250 and in default thereof, shall be imprisoned in the county jail or house of correction for a period not to exceed 10 days.

90-16. Display of License. 1. POSTING. Every person licensed under this chapter shall post the license and maintain it posted while in force in a conspicuous place in the room or place where alcohol beverages are drawn or removed for service or sale. It shall be unlawful for any person to post the license or to permit another person to post the license upon premises other than those identified in the application, or knowingly to deface or destroy the license.

2. CARRYING BY OPERATORS. A Class "D" operator licensed under s. 90-4-10 to 12 may carry the license on his or her person while engaged in activities related to drawing, removing for service or serving alcohol beverages and, if carried, shall present the license for inspection upon request made by any person. A license carried as provided in this subsection need not be posted as required in sub. 1.

90-17. Tavern Charges to be Posted. All entertainment, admission, cover and minimum charges shall be posted by the tavern licensee in a conspicuous place near the main entrance in the room where the patron or patrons are served. Said charges shall be uniformly displayed in letters and figures of the same size.

90-18. Sale to an Underaged Person Prohibited. 1. SALES OF ALCOHOL BEVERAGES TO UNDERAGED PERSONS.

a. Restrictions. a-1. No person may procure for, sell, dispense or give away any alcohol beverages to any underaged person not accompanied by his or her parent, guardian or spouse who has attained the drinking age.

a-2. No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with any underaged person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.

a-3. No person may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the person or under the person's control. This subdivision does not apply to alcohol beverages used exclusively as part of a religious service.

a-4. No person may intentionally encourage or contribute to a violation of subds. 1, 2 or 3 with respect to an underage person.

b. Penalties and License Suspension for Sale to Underage Person. b-1. In this paragraph, violation means a violation of sub. 1. For the purpose of determining whether or not a previous violation has occurred, if more than one violation occurs at the same time all those violations shall be counted as one.

b-2. A person who commits a violation is subject to a forfeiture of:

b-2-a. Not more than \$500 if the person has not committed a previous violation within 12 months of the violation.

b-2-b. Not less than \$200 nor more than \$500 if the person has committed a previous violation within 12 months of the violation.

b-2-c. Not less than \$500 nor more than \$1,000 if the person has committed 2 previous violations within 12 months of the violation.

b-2-d. Not less than \$1,000 nor more than \$5,000 if the person has committed 3 or more previous violations within 12 months of the violation.

b-3. A court shall suspend any license or permit issued under this chapter to a person and shall revoke the person's right to purchase stamps from the Wisconsin department of revenue for:

b-3-a. Not more than 3 days, if the court finds that the person committed a violation within 12 months after committing one previous violation.

b-3-b. Not less than 3 days nor more than 10 days, if the court finds that the person committed a violation within 12 months after committing 2 other violations; or

b-3-c. Not less than 15 days nor more than 30 days, if the court finds that the person committed the violation within 12 months after committing 3 other violations.

b-4. The court shall promptly mail notice of a suspension under this paragraph to the department of revenue and to the clerk of each municipality which has issued a license or permit to the person.

c. **Penalty; Underage Persons.** Any underage person who procures or attempts to procure alcohol beverages is subject to the penalties provided by s. 125.07(4) Wis. Stats.

2. POSSESSION OF ALCOHOL BEVERAGES BY UNDERAGE PERSONS; PROHIBITIONS; PENALTY. Any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, who knowingly possesses or who consumes any alcohol beverages is subject to the penalties provided by s. 125.07(4) Wis Stats. This subsection does not apply to an underage person processing alcohol beverage in the course of employment during his or her working hours if he or she is employed by a brewer, a fermented malt beverage wholesaler, a permittee other than a Class "B" fermented malt beverage or "Class B" intoxicating liquor

permittee, a facility for the production of alcohol fuel, a retail licensee under conditions specified in s. 90-19-1-i or for the delivery of unopened containers to the home or vehicle of a customer, or a campus, if the underage person is at least 18 years of age, and is under the immediate supervision of a person who has attained the legal drinking age.

3. MISREPRESENTATION OF AGE; PENALTY. Any person who falsely represents that he or she is of legal drinking age or over for the purpose of receiving alcohol beverages from a licensee or permittee is subject to the penalties provided by s. 125.07(4) Wis. Stats.

90-19. Presence of Underage Persons in Places of Sale; Penalty. 1. RESTRICTIONS.

No underage person, not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, may enter, knowingly attempt to enter, or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued, for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or his or her employee. The business may not be amusement or the purchase, receiving or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises. This subsection does not apply to:

a. An underage person who is a resident, employee, lodger or boarder on the premises controlled by the proprietor, licensee or permittee of which the licensed premises consists or is a part.

b. An underage person who enters or is on a Class "A" or "Class A" premises for the purpose of purchasing items other than alcohol beverages. Any underage person so entering the premises may not remain on the premises after the purchase.

c. Hotels, drug stores, grocery stores, bowling centers, movie theaters, painting studios, billiards centers having on the premises 12 or more billiards tables that are not designed for coin operation and that are 8 feet or longer in length, indoor golf simulator facilities, indoor golf and baseball facilities on premises for which the only alcohol beverage license issued is a Class "B" fermented malt beverage license, service stations, vessels, cars operated by any railroad, regularly established athletic fields, outdoor volleyball courts that are contiguous to a

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licensed premises, stadiums, public facilities as defined in s. 125.51(5)(b)1.d., Wis. Stats., which are owned by a county or municipality, or centers for the visual or performing arts.

d. Premises in the state fair park, concessions authorized on state-owned premises in the state parks and state forests as defined or designated in chs. 27 and 28, Wis. Stats., and parks owned or operated by agricultural societies.

e. Ski chalets, golf courses and golf clubhouses, curling clubs, private soccer clubs and private tennis clubs.

f. Premises operated under both a Class "B" or "Class B" license or permit and a restaurant permit where the principal business conducted is that of a restaurant. If the premises are operated under both a Class "B" or "Class B" license or permit and a restaurant permit, the principal business conducted is presumed to be the sale of alcohol beverages, but the presumption may be rebutted by competent evidence.

g. An underage person who enters or remains on a Class "B" premises for the purpose of transacting business at an auction or market if the person does not enter or remain in a room where alcohol beverages are sold, furnished or possessed.

h. A person who is at least 18 years of age who serves alcohol beverages on a licensed premises under the immediate supervision of the licensee, agent or person holding an operator's license, who is on the premises at the time of the service.

i. A person who is at least 18 years of age and who is working under a contract with the licensee or agent to provide entertainment for customers on the premises.

j. An underage person who enters or remains on Class "B" or "Class B" licensed premises on a date specified by the licensee during times when no alcohol beverages are consumed, sold or given away. See s. 90-19.5 for regulations with respect to the operation of a licensed premises under this paragraph.

k. An underage person who enters or remains in a dance hall or banquet or hospitality room attached to Class "B" or "Class B" licensed premises for the purposes of attending a banquet, reception, dance or other similar event.

L. An underage person who enters or remains in a banquet or hospitality room on brewery premises operated under a Class "B" or

"Class B" license for the purpose of attending a brewery tour.

2. PENALTIES. a. Licenses, etc.

a-1. A licensee or permittee who directly or indirectly permits an underage person to enter or be on a licensed premises in violation of sub. 1 is subject to a forfeiture of not more than \$500.

a-2. No person may intentionally encourage or contribute to a violation of sub. 1. Any person violating sub. 1 is subject to the penalty provided by subd. 1.

b. Underage Person. An underage person who enters or is on a premises licensed for the sale of alcohol beverages in violation of sub. 1 is subject to the penalties provided by s. 125.07(4) Wis. Stats.

90-19.5. Presence of Underage Persons During Times When No Alcohol Beverages Are Sold.

Underage persons may enter or remain on a Class "B" or "Class B" licensed premises pursuant to s. 90-19-1-k under the following conditions:

1. NOTIFICATION OF TIMES. a. The

licensee or agent shall notify the police chief at least 7 days prior to any date on which underage persons will be permitted to enter and remain on the premises. The time period may be waived by the police chief or a designee upon determination of good cause or special circumstances.

b. Each event shall require separate notification. Notification shall be in writing and contain the following information:

b-1. Dates and times of the event.

b-2. Specific nature of the event, including description of entertainment.

b-3. Number of persons expected on the premises.

2. REGULATIONS. The operation of a licensed premises during those times when underage persons are on the premises under this section shall be subject to the following regulations:

a. There shall be at least a one hour period between the serving of the last alcohol beverage and the commencement of operations under this section.

b. No alcohol beverages may be consumed, sold or given away in any part of the licensed premises.

c. All alcohol beverages on tables shall be removed.

d. The licensee, the agent named in the license if the licensee is a corporation, or a person who has an operator's license shall be on the premises unless all alcohol beverages are stored in a locked portion of the premises.

e. The licensee shall be responsible for the adequate supervision of the premises, and such supervision shall consist of adult persons 21 years of age or older.

f. Closing hours shall be no later than 1 a.m. on weekdays and 1:30 a.m. on Sundays.

g. An announcement shall be made 20 minutes prior to the beginning of curfew hours specified in s. 106-23 to provide for the exit of those underage persons subject to s. 106-23. All entertainment shall cease for the 20 minute period before the curfew.

h. All underage persons must be off the licensed premises at least 1/2 hour prior to the resumption of alcohol beverage sales.

90-20. Sale to Intoxicated Person Prohibited.

It shall be unlawful for any licensee under this chapter, or any of his employees, to sell, serve or give away intoxicating liquor or fermented malt beverages to any intoxicated person or person bordering on a state of intoxication.

90-20.5. Theft of Cable Service and Tampering Prohibited. 1. THEFT OF CABLE SERVICES AND TAMPERING.

No licensee, employee or patron of a Class "B" licensed premises whether or not a subscriber to the Milwaukee cable television and communications system may intentionally or knowingly damage or cause to be damaged any wire, cable, conduit, equipment or apparatus of the grantee of the Milwaukee city cable communications franchise, or commit any act with intent to cause such damage, or to tap, tamper with or otherwise connect any wire or device to a wire, cable, conduit, equipment and apparatus or appurtenances of the grantee with the intent to obtain a signal or impulse from the cable system without authorization from or compensation to the grantee, or to obtain cable television or other communications service with intent to cheat or defraud the grantee of any lawful charge to which it is entitled.

2. PENALTIES. a. Forfeiture. A person who commits a violation of this section is subject to a forfeiture of not less than \$500 nor more than \$1,000.

b. License Suspension. A court shall suspend any license or permit issued under this chapter to a person and shall revoke the person's right to purchase stamps from the Wisconsin department of revenue for:

b-1. Not more than 3 days, if the court finds that the person committed a violation of this section.

b-2. Not less than 3 days nor more than 10 days, if the court finds that the person committed a second or subsequent violation of this section.

90-21. Disorderly Premises Prohibited. It shall be unlawful to suffer or permit any gambling or gaming for money or other valuable thing, drunkenness, or disorderly conduct as defined in s. 106-1 or upon any licensed premises where intoxicating liquor or fermented malt beverages are sold or kept for sale.

90-23. Solicitation Prohibited. 1.

PROHIBITION. Any employee, manager, bartender, entertainer or licensee of a Class "B" fermented malt beverage or "Class B" tavern licensed establishment shall not solicit, appeal to, ask or invite any unacquainted person of either sex to purchase for, procure for or give to such person or to a third person or party a drink of intoxicating liquor, fermented malt beverage, nonintoxicating liquor or soda water beverage in any Class "B" fermented malt beverage or "Class B" tavern licensed premises.

2. PENALTY. Any person found guilty of violating this section shall be subject to a forfeiture in a sum not less than \$50 nor more than \$200, and in default of payment thereof, shall be imprisoned in the county jail or house of correction of Milwaukee county for a period not to exceed 6 months.

90-24. Sanitary Requirements. 1. "Class B" tavern licenses are subject to rules on sanitation. The rules and regulations made by the state department of agriculture, trade and consumer protection and rules and regulations of the city of Milwaukee governing sanitation in restaurants shall apply to all "Class B" tavern licensed premises. No "Class B" tavern license shall be issued unless the premises to be licensed conforms to such rules and regulations

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2. As stated in s. 17-13 of the charter, in order to promote and secure the general health and welfare of the city whenever the commissioner of health finds unsanitary or other conditions in the operation of a food or drink service establishment, including any Class "B" fermented malt beverage or "Class B" tavern licensed premises, which in the commissioner's judgment constitutes a substantial hazard to the public health, the commissioner may without warning, notice or hearing issue a written notice to the operator of the establishment citing such condition, specifying the time period within which such action shall be taken. If deemed necessary for the health of the public, the order shall state that all food and drink service operations, including the service of all intoxicating liquor or fermented malt beverages, are to be immediately discontinued. Any person to whom such an order is issued shall immediately comply therewith, but upon written request to the commissioner of health shall be provided a hearing as stated in s. 68-67 for suspension or revocation of a food dealer's license.

90-25. Employment of Minors. 1. Minors under 14 years of age are prohibited from working in establishments selling or possessing intoxicating liquor or fermented malt beverages.

2. Minors 14 to 17 years of age may be employed in establishments where intoxicating liquor or fermented malt beverages are present so long as the minors do not sell, serve or dispense the fermented malt beverages or intoxicating liquor.

90-26. Restrictions on Unlicensed Persons Functioning as Class "D" Operators. 1. "CLASS A" INTOXICATING LIQUOR RETAILER'S LICENSE. No person other than the licensee in any place operated under a "Class A" retailer's intoxicating liquor license shall sell or serve any intoxicating liquor unless he shall be under the immediate supervision of the licensee or a person holding an operator's license who shall be at the time of said sale or service upon said premises.

2. CLASS "A" FERMENTED MALT BEVERAGE RETAILER'S LICENSE. No person other than the licensee shall sell fermented malt beverages in any place operated under a Class "A" fermented malt beverage retailer's license unless he or she possesses an operator's license, or unless he or she is under the

immediate supervision of the licensee or a person holding an operator's license who is at the time of such service upon the premises.

3. "CLASS B," CLASS "B" OR "CLASS C" RETAILER'S LICENSE. No person other than the licensee shall draw, remove or serve fermented malt beverages or intoxicating liquor in any place operated under a "Class B," Class "B" or "Class C" retailer's license to a customer for consumption on or off the premises where sold, unless he or she shall possess a Class "D" operator's license or a Class "B" manager's license, or unless he or she shall be under the immediate supervision of the licensee, or a person holding an operator's or manager's license who shall be at the time of such service upon said premises.

90-27. Licensed Premises Accessible and Lighted.

1. OPEN ENTRY. The entrance doors to any such licensed premises and serving rooms shall at all times remain unlocked during the conduct of business on such licensed premises, provided, however, a licensee may apply to the common council for an annual permit to be granted by the common council to said licensee permitting that the entrance doors to certain licensed premises and serving rooms be locked or so controlled as to allow only members and guests to gain entry into said premises provided that:

a. The licensee be an organization which is the owner, lessee or occupant of a building used exclusively for club purposes and operated solely for fraternal, social, patriotic, benevolent or athletic purposes, and not for pecuniary gain. Said organization must have been issued a certificate of incorporation as a fraternal society under the provisions of ch. 188, Wis. Stats. for at least 5 years before such entrance doors may be locked.

b. The trafficking in intoxicating liquors shall be incidental only and not the object of the existence or operation of the structure.

c. The licensee must, upon request, issue to the police department, local and state authorities, means to gain immediate entry to the locked premises equal to that offered to any member of the organization.

d. All entrance doors to said licensed premises and serving rooms may not be so locked or controlled so as to prevent or interfere with the safe egress of occupants in case of fire or other emergency, and, in regard thereto,

there must be compliance with ch. 254 and with all other local and state rules, regulations and laws.

2. DOORS KEPT CLOSED. All doors used for the admission of patrons to any Class "B" tavern premises shall, except when used for ingress and egress, be kept closed after 10 p.m. during the conduct of business on the premises.

3. ADJACENT ROOMS. All separate rooms adjacent to the licensed tavern area of premises licensed for the sale of soda water where malt beverages, intoxicating liquor or soft drinks are served, shall be on the same floor with the licensed tavern area and shall abut and open directly upon a street or alley, and shall be further provided with doorless openings to the tavern area at least 2 feet 6 inches in width and at least 6 feet 8 inches in height and doorless openings between rooms 7 feet square in width and height. All other such rooms not abutting a street or alley shall have doorless openings to the tavern area and between rooms at least 7 feet square in width and height.

4. TAVERN PREMISES. All rooms where such beverages are to be served shall be designated in the application for the tavern license as part of the tavern premises, and said application shall be investigated as provided by s. 90-5, and only such rooms shall be so used for tavern purposes, and no alterations, changes or additions shall be made to such designated licensed premises without first securing a permit for such alterations, changes or additions from the commissioner of city development.

5. HOTELS; CLUBS. Nothing in this section shall prohibit the serving of intoxicating liquors or fermented malt beverages to registered guests in their rooms at hotels and clubs having a hotel license and having a license to sell such beverages; and provided, further, that nothing contained in this section shall prohibit the serving of such intoxicating liquors or fermented malt beverages to guests in private dining rooms in hotels and restaurants which are licensed to sell such beverages if such guests in any one such room be 4 or more in number or, if less than 4 in number, if they be of the same sex; and provided, further, that such license shall entitle the holder thereof to serve intoxicating liquors or fermented malt beverages in separate rooms maintained solely for public banquet or dinner functions or in regularly

maintained public dining rooms where such beverages are served only with meals or food.

6. ILLUMINATION. All areas of taverns which are accessible to the public and which are licensed under this chapter shall be illuminated at all times during the conduct of business to a minimum intensity of not less than 1.5 foot candles. This designated illumination intensity shall be maintained on a horizontal plane not higher than 32 inches above the floor and all illumination measurements taken for the purpose of this section shall be taken while the sensitive element of the light target is in a horizontal position.

90-28. Misleading Advertising Prohibited in Class "B" Taverns. The following regulations are enacted to govern the conduct of business under Class "B" tavern licenses in the city:

1. No person, firm or corporation conducting a business under a Class "B" tavern license shall use the words, "super bar" or "value bar" in connection with the name of such business in any manner whatsoever, either on or off the premises so licensed.

2. There shall be no misleading, fraudulent or illegal advertising.

3. There shall be no advertising of prices of individual drinks of intoxicating liquor or fermented malt beverages displayed in the exterior windows of the licensed premises.

4. There shall be no advertising of prices either in the windows or on the outside of the licensed premises, or in newspapers or flyers, or in any other manner, by which advertising the licensee holds himself out as selling, dealing or trafficking in intoxicating liquor in the original package or container in quantities of more than 4 liters at any one time, to be consumed off premises so licensed or as selling fermented malt beverages at wholesale.

5. There shall be no indication either in or about the licensed premises or in the method of conduct of operation of the Class "B" tavern business by which indication the licensee holds himself out as selling, dealing or trafficking in intoxicating liquor in the original package or container in quantities of more than 4 liters at any one time, to be consumed off premises so licensed or as selling fermented malt beverages in quantities of more than 4-1/2 gallons or at wholesale.

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90-28.5. Advertising in Class "A" Fermented Malt Beverage Premises. No person may advertise the price of fermented malt beverages by display on the exterior walls or windows whether on the interior or exterior of those windows of a Class "A" fermented malt beverage retailer premises.

90-29. Alcohol Content to Show on Label. No fermented malt beverages or intoxicating liquors shall be sold unless the barrel, keg, cask, bottle or other container containing the same shall have thereupon at the time of a sale a label of the kind and character required by statute. Every bottle shall contain upon the label thereof a statement of the contents in fluid ounces in plain and legible form. No bottle or other container shall be refilled as permitted in s. 90-31-1-b, unless there is a label or other identification on the container bearing a statement of its contents in fluid ounces in plain legible type.

90-30. Selling of Illegal Beverages Prohibited. No beverages of an alcoholic content prohibited by the laws of the United States shall be kept in or about licensed premises.

90-30.5. Single-Use, Plastic Straws Prohibited. 1. PROHIBITED. Effective April 14, 2020, no alcohol beverage establishment may provide any customer with a single-use, plastic straw, where "single-use" means a product that is designed and intended to be used only once and is generally recognized by the public as an item that is to be discarded after one use.

2. EXEMPTIONS. Subsection 1 shall not prohibit:

a. Prepackaged individual serving beverages where a small plastic straw is included in the packaging.

b. The provision of a plastic beverage straw to a customer upon request of a plastic beverage straw by the customer.

c. The provision of a plastic beverage straw to a customer receiving a viscous beverage, such as a milkshake or smoothie, that requires a large, durable straw, for which a non-plastic straw would not be suitable.

d. The provision of any other approved compostable straw as determined by the environmental sustainability director. The environmental sustainability director shall maintain a list of acceptable compostable straws.

90-31. Refilling Bottles or Substitution of Brands Prohibited. 1. RETAILER MAY NOT BOTTLE OR REFILL. a. Prohibited. No person licensed under this chapter may bottle any intoxicating liquor or fermented malt beverage or refill any bottle or add to the contents of any bottle or container from any other bottle or container.

b. Exception. A "Class B" tavern or Class "B" retail licensee authorized to sell fermented malt beverages may dispense and sell fermented malt beverages in refillable bottles or containers labeled and identified as provided in s. 90-29 and not exceeding one gallon capacity.

2. SERVE NO SUBSTITUTE. No licensee or his employee selling intoxicating liquors or fermented malt beverages by the drink, when requested to serve a particular brand or type of intoxicating liquor or fermented malt beverage shall substitute another brand or type of intoxicating liquor or fermented malt beverage without telling the patron of the substitution.

90-32. Fraud on Tavern Keepers Prohibited.

1. PROHIBITED. It shall be unlawful for any person: a. Having obtained any food, lodging or beverages of any kind or other services at any tavern, to intentionally abscond without paying for it.

b. While a patron at any tavern, to intentionally defraud the keeper thereof in any transaction arising out of such relationship as a patron.

2. EVIDENCE. Under this section, prima facie evidence of an intent to defraud is shown by:

a. The refusal of payment upon presentation when due, and the return unpaid of any bank check or order for the payment of money, given by any patron to any tavern, in payment of any obligation arising out of such relationship as patron. Such facts shall also be deemed prima facie evidence of an intent to abscond without payment.

b. The failure or refusal of any patron at a tavern, to pay, upon written demand, the established charge for food, beverages of any kind or other services actually rendered.

c. The giving of false information or the presenting of false or fictitious credentials for the purpose of obtaining credit, food, beverages or other services.

d. The drawing, endorsing, issuing or delivering to any tavern, of any check, draft or order for payment of money upon any bank or

other depository, in payment of established charges for food, beverages of any kind, or other service, knowing at the time that there is not sufficient credit with the drawee bank or other depository for payment in full of the instrument drawn.

90-37. Centers for the Visual and Performing Arts.

1. FINDINGS. The Wisconsin state statutes create the designation "centers for the visual and performing arts" and exempt them from certain restrictions relating to the presence of underage persons on licensed Class "B" alcohol beverage premises. The state statutes do not, however, provide a definition for "centers for the visual and performing arts." The prevention of the underage consumption of alcohol and the regulation of alcohol beverage premises where underage persons congregate is a primary concern of the common council, given its responsibility to protect its most vulnerable residents. The common council finds, therefore, that it is essential to define and license "centers for the visual and performing arts" to help ensure the health, safety and welfare of the people of the city of Milwaukee and, in this light, to grant this license infrequently and only after careful consideration, review and deliberation.

2. LICENSE REQUIRED. No premise shall be deemed a center for the visual and performing arts without first obtaining a license as required in this section, except that no license shall be required of centers for the visual and performing arts operated by nonprofit organizations which, for the purposes of this provision, shall mean a federal, state or local unit of government or agency thereof, a public or private elementary, secondary or post-secondary school, or an organization that is described in s. 501(c)(3) of the internal revenue code of the United States of America and is exempt from taxation under s. 501(a) of this code.

3. MINIMUM QUALIFICATIONS. No premise shall be licensed as a center for the visual and performing arts unless it fulfills all the relevant criteria of pars. a to d.

a. The operator of the premises shall hold a valid public entertainment premises license for the same premises issued under ch. 108.

b. A center for the visual and performing arts shall have either of the following:

b-1. At least one stage or designated performance space.

b-2. A collection of recognized works of art placed on regular public display, as testified to before the licensing committee of the common council by recognized experts or art critics.

c. At a center for the visual and performing arts that is also a theater, the service of alcohol beverages shall be incidental to the main function of the licensed premise as evidenced by the service of alcohol beverages no earlier than 2 hours before a given day's scheduled performance, no later than 2 hours after a given day's scheduled performance and only in a designated lobby area.

d. At a center for the visual and performing arts that provides live music performances on a stage or designated performance space less than 1200 square feet in size to an all-ages audience, which is subject to the curfew limitations set forth in s. 106-23 and the employment limitations of minors set forth in s. 103.78, Wis. Stats., underage patrons shall enter the premises no earlier than one hour before a scheduled performance and shall leave the premises no later than one half hour after completion of the performance.

4. APPLICATION. a. Application for a center for the visual and performing arts license shall be filed with the city clerk on a form provided therefor.

b. The application shall require:

b-1. The name and permanent address of the applicant.

b-2. The name and address of the premise for which the license is to be granted, including the aldermanic district in which it is situated.

b-3. If the applicant is a corporation, the name of the corporation shall be set forth exactly as it is set forth in its articles of incorporation, together with the names and address of each of its officers, directors and designated managers, if any; the application shall be verified by an officer of the corporation.

b-4. If the applicant is a partnership, the application shall set forth the name and resident address of each of the partners, including limited partners, and the application shall be verified by each partner. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the corporate partners.

b-5. If the applicant is a club, association or other organization which is neither a corporation or partnership, the application shall set forth the exact name of the entity together with the names and resident

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addresses of all officers and be verified by an officer of the club, association, or organization.

b-6. The date of birth of the applicant.

b-7. A completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall require:

b-7-a. The planned hours of operation for the premises.

b-7-b. The number of patrons expected on a daily basis at the premises.

b-7-c. The legal occupancy limit of the premises.

b-7-d. What plans, if any, the applicant has to insure underage persons are not served alcohol beverages at the premise and that alcohol beverages are not consumed by underage persons at the premise.

b-7-e. What plans, if any, the applicant has to insure that underage persons are not on the premise in violation of the city's curfew ordinance as set forth in s. 106-23.

b-7-f. The number of off-street parking spaces available at the premises.

b-7-g. Whether or not the premises will make use of sound amplification equipment and, if so, what kind.

b-7-h. What plans, if any, the applicant has to provide security for the premises.

b-7-i. What plans, if any, the applicant has to insure the orderly appearance and operation of the premises with respect to litter and noise.

b-8. Any other licenses held by the applicant or attached to the premises.

b-9. Such other reasonable and pertinent information the common council or the proper licensing committee may from time to time require.

5. ISSUANCE. a. An application shall be referred to the chief of police and the commissioner of neighborhood services, each of whom shall cause an investigation to be made and report their findings to the licensing committee in accordance with the provisions of s. 85-2.5 and 85-2.7.

b. The licensing committee shall hold a hearing on whether or not to issue each new license. If there is a possibility of denial, no hearing shall be heard unless the city clerk's office has provided written notice to the applicant. The notice shall be served upon the applicant so that the applicant has at least 7 days' notice of the hearing. The notice shall contain:

b-1. The date, time and place of the hearing.

b-2. A statement to the effect that the

possibility of denial of the license application exists and the reasons for possible denial.

b-3. A statement that an opportunity will be given to the applicant to respond to and challenge any reason for denial and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

b-4. A statement that the applicant may be represented by an attorney of the applicant's choice at the applicant's expense, if the applicant so wishes.

c. If there is a possibility of denial, at the hearing the committee chair shall open the meeting by stating that a notice was sent and read the notice into the record unless the applicant admits notice. The chair shall advise the applicant that the applicant has an option to proceed with a due process hearing, represented by counsel, with all testimony both direct and cross-examination under oath, or that the applicant may simply make a statement to the committee.

d. A due process hearing shall be conducted in the following manner:

d-1. All witnesses will be sworn in.

d-2. The chair shall ask those opposed to the granting of the license to proceed first.

d-3. The applicant shall be permitted an opportunity to cross-examine.

d-4. After the conclusion of the opponent's testimony, the applicant shall be permitted to present the applicant's own witnesses, subject to cross-examination.

d-5. Committee members may ask questions of witnesses.

d-6. Both proponents and opponents shall be permitted a brief summary statement.

e. The recommendations of the committee regarding the applicant shall be based on the preponderance of evidence presented at the hearing. Probative evidence concerning whether or not the license should be granted may be presented on the following subjects:

e-1. Whether or not the applicant meets the municipal requirements, including those in sub. 3.

e-2. The appropriateness of the location and premises where the center for the visual and performing arts is to be located and whether the location will create undesirable neighborhood problems. Probative evidence relating to these matters may be taken from the plan of operation submitted pursuant to sub. 4-b-8. but not the content of any performance.

e-3. The applicant's record in operating similarly licensed premises.

e-4. Whether or not the applicant has been charged with or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the licensed activity.

e-5. Any other factors which reasonably relate to the public health, safety and welfare.

f. The committee may make a recommendation immediately following the hearing or at a later date. This recommendation may include such revisions to the plan of operation submitted pursuant to sub 4-b-8 as the committee may deem necessary and which are agreed to by the applicant. Written notice of the committee's decision will be provided if the decision is made at a later date or if the applicant was not present or represented. The committee shall forward its recommendation in writing to the common council for vote at the next meeting at which such matter will be considered.

6. DEPOSIT OF FEE; REFUND.

a. Prior to issuance of a license, each applicant shall deposit with the city treasurer the full amount of the fee required in s. 81-17.7 for the license or permit applied for.

b. It shall be the duty of the city treasurer to accept the deposit, issue a receipt therefor, and cause a record to be kept thereof. When a license or permit is granted by the common council, it shall be the duty of the city treasurer to apply such deposit as full payment of the license or permit fee, upon receipt of certification thereof by the city clerk.

c. It shall be the duty of the city clerk to enter on all applications filed with him or her the amount deposited with the city treasurer, the date of the deposit and the number of the treasurer's receipt.

d. Upon the withdrawal or the common council's denial of a center for the visual and performing arts license application, the amount of \$50 of the application fee shall be retained by the city treasurer to defray the cost of investigation of facts and administration thereof. The remainder of the application fee and deposits on all applications denied by the common council shall be refunded by the city treasurer upon surrender of the deposit receipt certified by the city clerk, provided that the certified deposit receipt is surrendered no later than one year after the date of the license denial.

7. FEES. See s. 81-17.7 for the required permit fees and terms.

8. CHANGE IN PLAN OF OPERATION. If, after the license has been granted or issued, the licensee wishes to substantially deviate from the plan of operation as submitted with the original application, the licensee shall file a written request with the city clerk which states the nature of the change. No change shall take place until the request has been approved by the common council. The common council's approval shall be given only if it determines, in the manner set forth in sub. 5-e-2, that the change is compatible with the normal activity of the neighborhood in which the premises is located.

9. RENEWAL OF LICENSES.

a. Procedure for Renewal. Applications for the renewal of a center for the visual and performing arts license shall be made to the city clerk. The clerk shall refer the application for license renewal to the chief of police, the commissioner of neighborhood services and the commissioner of health for review. If the chief of police, the commissioner of neighborhood services and the commissioner of health indicate that the applicant still meets the licensing qualifications, the application shall be referred to the common council for approval unless a written objection has been filed with the city clerk at least 45 days prior to the date on which the license expires. This objection may be filed by any interested person. If a written objection is filed, or if a determination is made that the applicant no longer meets the licensing qualifications, the application shall be forwarded to the licensing committee for its recommendation to the common council.

b. Procedure for Non-Renewal.

b-1. If there is a possibility that the committee will not renew a license, a motion should be entertained to hold the application in committee and instruct the city clerk to forward proper notice to the applicant, unless such proper notice has already been sent, in which case the hearing shall proceed.

b-2. Prior to the date set for the hearing, the city clerk's office shall forward notice to the applicant which shall contain:

b-2-a. The date, time and place of the hearing.

b-2-b. A statement of the common council's intention not to renew the license in the event any objections to renewal are found to be true.

b-2-c. A statement of the reasons for non-renewal.

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b-2-d. A statement that an opportunity will be given to respond to and challenge such reasons for non-renewal and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

b-2-e. A statement that the applicant may be represented by an attorney of the applicant's choice at the applicant's expense, if the applicant so wishes.

c. Hearings. All hearings held and committee recommendations prepared pursuant to this subsection shall be conducted as set forth in sub. 11.

10. REVOCATION. a. Any license issued under this section may be revoked for cause by the common council after notice to the licensee and a hearing.

b. Revocation proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police or upon a sworn written complaint filed with the city clerk by any city resident.

c. Whenever either sworn written charges or a sworn written complaint are filed with the city clerk setting forth specific charges against a licensee involving conduct which would violate ordinances that are grounds for revocation of a license, the city clerk shall issue notice to the licensee of the licensing committee's intention to hear the matter. The notice shall be served upon the licensee so that the licensee has at least 10 working days' notice of the hearing. The notice shall contain:

c-1. The date, time and place of the hearing.

c-2. A statement to the effect that the possibility of revocation of the license exists and the reasons for possible revocation.

c-3. A statement that an opportunity will be given to the applicant to respond to and challenge any reason for revocation and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

c-4. A statement that the licensee may be represented by an attorney of the licensee's choice at the licensee's expense, if the licensee so wishes.

d. The licensing committee shall convene at the date and time designated in the notice for the purpose of taking the preponderance of evidence and making findings of fact and conclusions of law

and a recommendation to the common council in connection with the proposed revocation.

e. If the licensee appears before the committee at the time designated in the summons and denies the charges contained in the complaint, an evidentiary hearing in connection with the revocation shall be conducted by the committee at that time. If the licensee does not appear, or appears but does not deny the charges contained in the complaint, the complaint shall be taken as true and the committee shall hear the arguments of the complaints and the licensee in connection with the revocation.

f. All hearings held and committee recommendations prepared pursuant to this subsection shall be conducted as set forth in sub 11.

11. HEARING PROCEDURE.

a. Authority of Licensing Committee. The licensing committee shall conduct hearings with respect to the non-renewal or revocation of a center for the visual and performing arts license pursuant to this subsection. The chair of the licensing committee shall be the presiding officer.

b. Committee Hearing Procedure.

b-1. The chair shall direct that oaths be administered and subpoenas issued upon request of either side.

b-2. The chair shall ensure that an orderly hearing is conducted in accordance with the requirements of this subsection.

b-3. The chair shall rule on objections to the admissibility of evidence. Any ruling of the chair shall be final unless appealed to the committee, and the committee shall reverse such ruling only upon the vote of a majority of its members.

b-4. At all stages of the proceedings before the committee or before the common council, the licensee shall be entitled to appear both in person and by an attorney.

c. Record. A record shall be made of all licensing proceedings before the committee and before the common council as provided in s. 85-4-3.

d. Grounds for Non-Renewal or Revocation. The recommendation of the committee regarding the licensee must be based on evidence presented at the hearing. Probative evidence concerning non-renewal or revocation may include evidence of:

d-1. Failure of the licensee to meet the municipal qualifications.

d-2. Failure of the licensee to operate the premise in accordance with the plan of operation submitted pursuant to sub. 4-b-8.

d-3. Pending charges against or the conviction of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the circumstances of the particular licensed activity, by the licensee, his or her employees, or patrons.

d-4. Neighborhood problems due to management or location.

d-5. Any other factor or factors which reasonably relate to the public health, safety and welfare.

e. Committee Report. The committee may make a recommendation immediately following the hearing or at a later date. The committee may recommend that the license be renewed, not renewed or revoked. All non-renewals and revocations shall be effective upon service of notice of the non-renewal or revocation upon the licensee or person in charge of the premises at the time of service.

f. Council Action. f-1. Within 10 working days after it reaches a decision, the committee shall prepare and serve a report and recommendation on the licensee. The report and recommendations shall include specific findings of fact and conclusions of law made by the committee. The report shall be distributed to each member of the common council.

f-2. If the committee recommends that the license not be renewed or be revoked then within 7 days of the receipt of the report and recommendation of the committee, the licensee may file written exceptions to the report and recommendations of the committee.

f-3. Any exceptions filed by the licensee to the report and recommendations of the committee shall be provided to each member of the common council at least 24 hours before any vote on the question is scheduled before the full common council.

f-4. At a meeting of the common council following the receipt of the report and recommendations of the committee, the common council shall consider the report and recommendation. Not less than 5 days prior to the hearing before the common council, the city clerk shall notify the licensee and complainant

by certified mail and also notify the city attorney that the common council will convene. Each member of the common council shall be asked to affirm that he or she has read the report and recommendation of the committee. When written exceptions are filed to a committee report and recommendation that the license be revoked or not renewed, each member of the common council shall be asked to affirm that he or she has read the exceptions. If members of the council have not read the recommendation and report of the committee and any exceptions that have been filed thereto, the chair shall allocate time for the members to do so. Oral argument in support of the report and recommendation presented by the city attorney, oral argument on behalf of the licensee in opposition to the report and recommendation and oral argument by the complainant objecting to the report and recommendation shall be permitted only at the discretion of the chair. If argument is permitted by the chair, argument shall be limited to 5 minutes and the arguments shall be limited to the subject matter of the report and recommendation and the written exceptions. Licensees shall appear only in person or by counsel. Corporate licensees shall appear only by the agent or by counsel. Partnerships shall be represented only by a partner or by counsel. Limited liability companies shall be represented only by the agent or by counsel. Complainants shall appear only in person or by counsel. Any person making an appearance before the council pursuant to this subsection and who requires the services of an interpreter shall obtain one at his or her own expense.

f-5. The common council shall determine by a majority vote of those in attendance and voting whether to adopt the recommendation of the committee. The vote shall be a roll call vote. If the common council finds the complaint to be true, or if there is no objection to a report recommending non-renewal or revocation with the committee's report and recommendation, the city clerk shall give notice of each nonrenewal or revocation to the person whose license is not renewed or revoked. If the common council finds the complaint to be untrue, the proceedings shall be dismissed without cost to the accused. If the common council finds the complaint to be malicious and without probable cause, the cost shall be paid by the complainant upon invoice from the city.

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12. REQUEST TO SURRENDER A LICENSE. See s. 85-17 for provisions relating to the surrender of licenses and the return of surrendered licenses.

13. ALTERATION TO PREMISES. Any alteration, change or addition resulting in expansion of a licensed premises shall be approved by the licensing committee prior to issuance of a license, pursuant to s. 200-24, by the department of city development. An applicant whose application has been denied by the committee may appeal the decision to the common council.

14. PENALTY. Any person convicted of violating this section shall be fined not less than \$500 nor more than \$2,000 for each violation, plus costs of prosecution, and, in default thereof, be imprisoned for a period not to exceed 80 days, or until forfeiture costs are paid.

90-39. Alcoholic Beverages on School Premises Prohibited. **1. LIQUOR OR FERMENTED MALT BEVERAGES.** It shall be unlawful for any person to possess or consume intoxicating liquor or fermented malt beverages in any school or on any school premises in the city; in a motor vehicle, if a pupil attending the school is in a motor vehicle; or while participating in a school-sponsored activity; provided, however, that alcohol beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities, if specifically permitted in writing by the school administrator consistent with applicable laws, ordinances and Milwaukee school board policies. For purposes of this subsection, "school" means a public, parochial or private school which provides an educational program for one or more grades between grades one and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school; "school premises" means premises owned, rented or under the control of a school; and "motor vehicle" means a motor vehicle owned, rented or consigned to a school.

2. PENALTY. a. Persons Who Have Attained the Legal drinking Age. Any person who has attained the legal drinking age and is found guilty of violating this section shall be subject to a forfeiture not to exceed \$200, and in default of payment thereof, shall be imprisoned in the county jail or house of correction of Milwaukee County for a period not to exceed 30 days.

b. Underaged Persons. Any underaged person found guilty of violating this section shall be subject to the penalties provided in s. 125.07(4) Wis. Stats.

90-40. Penalty, General. Any person who violates any of the provisions of this chapter shall, where no other provisions are expressly made for the enforcement of any forfeitures or penalties under this chapter, upon conviction be subject to a forfeiture of not more than \$1,000 and in default thereof, shall be imprisoned in the county jail or house of correction for a period not to exceed 40 days.

"For legislative history of chapter 90, contact the Legislative Reference Bureau."

[Pages 395 to 398 are blank]

CHAPTER 92 MOBILE AND SECONDHAND SALES

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92-1. Definitions. In this subchapter:

1. DIRECT SELLER means any person who sells goods or takes sales orders for the later delivery of goods on any public way or other public premises, and includes solicitors.

2. GOODS means personal property of any kind and includes goods provided incidental to services offered or sold.

3. OTHER PUBLIC PREMISES means any premises controlled by the city, county, state, or any board or other instrumentality or agency thereof, and dedicated for use by the public generally. This term includes public buildings and premises appurtenant thereto.

4. PERMANENT MERCHANT means any person who operates a fixed place of business in the city for which a final certificate of occupancy has been issued.

5. PERSON means a natural person.

6. PUBLIC WAY means any public thoroughfare dedicated, condemned, acquired or created in accordance with state statutes and city code for street, alley or pedestrian-way purposes.

7. PUSH CART means any apparatus on wheels whose primary manufacture, design and purpose is for vending.

8. SOLICITOR means any person who goes from house to house, from place to place or from street to street selling or taking orders for, or offering to sell or take orders for goods, wares or merchandise, including books, periodicals, magazines or personal property of any nature for future delivery.

9. STREET FESTIVAL means any celebration taking place on any public way or other public premises and permitted by the city as a special event. This definition does not include a parade, procession, or bicycle or foot race.

10. TRADE SHOW OR CONVENTION means a temporary exhibition, show or meeting held by persons or organizations who are engaged in a particular business, occupation, profession or activity.

11. TRANSIENT MERCHANT means any person who engages in the business of selling merchandise at any fixed place in the city temporarily, and is not a permanent merchant of the city of Milwaukee.

92-3 Mobile and Secondhand Sales

92-3. License Required; Exceptions.

1. **LICENSE REQUIRED.** No person may engage in the business of a direct seller, transient merchant or solicitor within the limits of the city without first obtaining a mobile seller's license under this subchapter.

2. **EXCEPTIONS.** The following shall be exempt from licensure, but shall not be exempt from the regulations provided in ss. 92-13-4 and 5-a to k:

a. Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.

b. Any person selling goods at wholesale to dealers in such goods.

c. Any person solely selling food and licensed under ch. 68, or exempted from licensing under ch. 68.

d. Any permanent merchant or employee thereof who sells or takes orders away from the established place of business for goods regularly offered for sale by such merchants within the city.

e. Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods.

f. Any person holding a sale required by statute or by order of any court, any person conducting a bona fide auction sale pursuant to law, or any person registered as an auctioneer under ch. 480, Wis. Stats.

g. Any home improvement salesperson licensed under s. 95-14 or any alarm sales personnel registered under s. 105-75-14.

h. Any person engaged in political or fundraising activities for a campaign committee or political organization duly registered with a federal, state, county or city election board.

i. Any person who sells goods or takes orders for the later delivery of goods, including any solicitor, within the barricaded area of any city-permitted street festival, provided the person is registered and operating with the permission of the respective festival organization.

j. Any person reselling tickets to entertainment or sporting events at or below face value.

k. Any person who purchases or sells comic books or collectible toys.

L. Any farmer or gardener who sells or disposes of, or offers to sell or dispose of, the products of the farm or garden occupied and cultivated by the farmer or gardener.

m. Any artist who offers for sale creations of art or craft, whether paintings,

drawings, photographs, pottery, leather goods or similar works of art, provided that such creations may be sold only by the creating artist.

n. Any member of an event being held at any venue owned or operated by the Wisconsin center district.

o. Any person, firm or corporation that is selling goods or taking orders on the premises of the Henry W. Maier festival park grounds with the express written consent of the custodian of such premises.

p. Any permanent merchant conducting a temporary sidewalk sale.

q. Any person operating under the immediate supervision of a licensed seller or solicitor.

3. NONPROFIT ORGANIZATIONS.

a. An employee, officer, or agent of a nonprofit organization, as defined in s. 101-23.7-1-c, applying for a license under this subchapter shall be exempt from the requirements of ss. 92-5-2 and 3, provided both of the following requirements are met:

a-1. There is submitted to the city clerk proof that the nonprofit organization is registered under s. 181.0501, Wis. Stats., or proof that the nonprofit organization is exempt from registration as a nonprofit organization under this statute.

a-2. All sales are performed by persons who are unpaid for their services and who remit all proceeds from sales to the organization to be used for the purposes of the organization.

b. Any employee, officer, or agent of a nonprofit organization licensed under this subchapter who does not meet both requirements in par. a shall be subject to all provisions of this subchapter in the same manner as any other licensee.

92-5. Application.

1. **CONTENTS.** Application for a mobile seller's license shall be filed with the city clerk on forms provided therefor. In addition to the information specified in s. 85-12, the application shall require the following information:

a. Name, permanent address and telephone number, and temporary address, if any.

b. Name, address and telephone number of the person that the applicant represents or is employed by, whose merchandise or services are being sold or offered, or for whom merchandise is being purchased.

c. Nature of business to be conducted, including a brief description of the goods or services intended to be bought, sold, offered, disposed of or contracted for.

d. Make, model and license number of any vehicle to be used by the applicant in the conduct of the business.

2. PHOTOGRAPH OF APPLICANT.

Every applicant shall file with the application one recent photograph suitable to the city clerk for inclusion on the applicant's official license, except as provided in s. 92-3-3.

3. FINGERPRINTING. Every applicant for a mobile seller's license shall be fingerprinted as provided in s. 85-21-1, except as provided in s. 92-3-3.

4. FEE. Each license application shall be accompanied by the fee specified in s. 81-74.5.

92-7. Investigation; Issuance.

1. Each application for a license shall be referred to the chief of police, who shall make and complete an investigation of the applicant's criminal history in accordance with s. 85-21-2. If the chief of police files no written report summarizing the arrest and convictions of the applicant which could form the basis for denial of the application, the city clerk shall issue the license.

2. If the chief of police files a written report summarizing the arrest and convictions of the applicant which could form the basis for denial of the application, except as provided in sub. 3, the application shall be forwarded to the licensing committee for its recommendation as to whether or not a license should be issued. The committee shall forward its recommendation in writing to the common council for vote at the next meeting at which such matter will be considered.

3. If the chief of police files a written report summarizing the arrest and convictions of the applicant which could form the basis for denial of the application, the city clerk shall, in lieu of forwarding the application to the licensing committee for a hearing under sub. 2, issue the license with a warning letter to the applicant whenever all of the following are true:

a. The applicant has no more than one pending charge for a misdemeanor offense, and the pending charge is related to a nonviolent offense.

b. The applicant has not, within 12 months of the date of application, been convicted of any misdemeanor offense related to a violent offense.

c. The applicant has not, within 12 months of the date of application, been convicted of more than one misdemeanor offense or municipal code violation.

d. The applicant has not, within 3 years of the date of application, been convicted of more than 3 misdemeanor offenses and municipal ordinance violations.

e. The applicant has not, within 5 years of the date of application, been convicted of more than one felony offense and has not within 5 years of the date of application served probation or been imprisoned for any felony conviction.

f. The applicant has not, within 10 years of the date of application, been convicted of a second or subsequent offense related to operating a motor vehicle while intoxicated.

4. In determining the eligibility of the applicant to be issued a warning letter under sub. 3, the city clerk shall not consider either of the following:

a. Any pending charges or convictions of any misdemeanor or felony offenses related to failure to pay child support.

b. Any one conviction of a misdemeanor offense or municipal ordinance violation related to retail theft for which the applicant was not imprisoned.

5. In determining the number of pending charges under par. 3-a and convictions under par. 3-b to f, any pending charges or convictions arising out of the same incident or occurrence shall be counted as one pending charge or conviction.

6. Notwithstanding the provisions of subs. 3 and 4, an applicant who meets the criteria of those subsections shall have his or her application forwarded to the licensing committee if a written objection to the application is filed by any interested party.

92-9. Transfers and Changes. See ss. 85-19 and 85-35 for provisions relating to the transfer of licenses and changes to applications.

92-11. Renewal, Non-renewal, Suspension or Revocation.

1. RENEWAL. The application and proceedings for a renewal application shall be made in the same form and manner as the original application.

2. NON-RENEWAL, SUSPENSION OR REVOCATION. Any license issued under this section may be not renewed, suspended or revoked for cause by the common council.

92-13 Mobile and Secondhand Sales

Nonrenewal, suspension or revocation proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police, or upon a sworn written complaint filed with the city clerk by any interested person.

3. DISQUALIFICATION. Whenever any application is denied, or a license is not renewed, revoked or surrendered, the procedures provided in ss. 85-13, 85-15 and 85-17 shall apply.

92-13. Regulations.

1. LICENSE TO BE CARRIED. Any license issued under this subchapter shall be carried on the person of the licensee and shall be exhibited to any person requesting to see the same at any time while the person is engaged in selling or soliciting business.

2. TRANSACTION REQUIREMENTS.

a. Every licensee shall expressly disclose his or her name and the name of the company or organization he or she is affiliated with, if any.

b. If any sale of goods is made by a licensee, or any sales order for the later delivery of goods is taken by the seller, the buyer shall have the right to cancel the transaction in accordance with the procedure as set forth in s. 423.203, Wis. Stats.

c. Every order taken by a licensee for the later delivery of goods shall be in writing and shall be given to the purchaser at the time the deposit of money is paid to the licensee. The sales order shall contain:

c-1. A statement containing the terms of the agreement.

c-2. The amount paid in advance, whether full, partial or no advance payment is made.

c-3. The name, address and telephone number of the seller.

c-4. The delivery or performance date.

c-5. Whether a guaranty or warranty is provided and, if so, the terms thereof.

3. SIGNAGE. Each side of a vehicle used in the transaction of business shall display the name of the person to whom the license is issued and local telephone number in lettering not less than 4 inches high.

4. PUSH CART SPECIFICATIONS. Whenever operating on public property, the following requirements shall apply:

a. Pushcart dimensions shall not exceed 7 feet in length and 3.5 feet in width.

b. The vertical height of a pushcart shall not exceed 10 feet measured from ground level to the highest point on the pushcart, including signage, canopy, awning or umbrella, if any.

c. The use of canopies, awnings or umbrellas on a pushcart shall be such as to maintain a vertical clear space of 7 feet measured from ground level to the lowest point of the canopy, awning or umbrella.

d. Signs or other items of equipment attached to a pushcart shall not exceed the greatest dimensions of the pushcart in both directions and shall be securely fastened.

e. Every pushcart shall be moved manually onto, about and off of public sidewalks. The use of a motor vehicle on a public sidewalk to deposit or remove a pushcart is prohibited.

5. PROHIBITED PRACTICES. a. No person shall misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods or services offered for sale.

b. No person shall impede the free use of sidewalks and streets by pedestrians and vehicles. Persons shall at all times afford any pedestrian a minimum 5-foot clearance. Where sales are made from vehicles, all traffic and parking regulations shall be observed.

c. Except for a person who makes sales from a legally-parked motor vehicle, no person may occupy more than 7 linear feet of public space parallel to the curb in the operation of a business and, in addition, occupy more than 3.5 linear feet to be measured from the curb toward the property line.

d. No pushcart, goods, signage or any other item related to the operation of a direct seller, transient merchant or solicitor may touch, lean against or be affixed permanently or temporarily to any building, structure or street landscape item, including, but not limited to, street lighting poles, parking meters, space markers, newspaper vending boxes, trash containers, traffic signal standards, fire hydrants, tree guards, benches or traffic barriers. Freestanding signage is prohibited.

e. No pushcart or goods may be located against display windows of a fixed-location business, nor shall they be within 20 feet of an entrance to any building, store, theater, movie house, sports arena or other place of public assembly.

f. No pushcart or goods may be located within 10 feet of a fire hydrant, in or within 10 feet of any bus stop no parking zone, or within 20 feet of any driveway or any cross walk at any intersection.

g. No person shall make any loud noise or use any sound-amplifying device, horn, bell or other noisy device to attract attention to the business if the noise produced is capable of being plainly heard outside a 100-foot radius of the source.

h. No person selling goods from a pushcart, stand, table, container or other stationary apparatus shall allow rubbish or litter to accumulate in or around the area in which the seller is conducting business, whether generated by the business or the public at large. A clean, plastic-lined trash container clearly marked for litter shall be kept and maintained in the area by the seller. The seller shall remove the container from the site for emptying on a daily basis or more frequently as conditions warrant.

i. Stands, tables, containers or stationary apparatuses other than pushcarts may not be used to sell goods on the public way or other public premises in an area with downtown zoning as established under the zoning code.

j. No person shall violate any provision of ch. 101 or ss. 105-56, 105-57 or 115-45.

k. No person shall sell or offer for sale any item while the person is on a roadway median or safety island, except when the roadway has been legally closed to traffic for a parade, festival or other civic or special event and the seller is otherwise in compliance with this section.

L. No person may conduct business within 300 linear feet of any currency exchange.

92-15. Door-to-Door Solicitation.

1. REGISTRATION REQUIRED.

a. No later than 5 days prior to any solicitation within the city, each solicitor shall register with the district police station in the area in which he or she intends to solicit. This registration shall contain the solicitor's name, home address and date of birth and the name and address of the person, firm, corporation or organization which the solicitor represents.

b. In lieu of the requirement in par. a, any person, firm, corporation or organization soliciting with a number of solicitors may, no later than 5 days prior to any solicitation, provide a current list of solicitors representing the person, firm, corporation or organization to the applicable district police station. The list shall include the names and addresses of the persons, firms, corporations or organizations and the names, home addresses and dates of birth of all solicitors.

2. SIGN PROHIBITING SOLICITATION. Any person who wishes to exclude solicitors from that person's premises may place upon or near the usual entrance to the premises a printed placard or sign bearing the notice "Solicitors Prohibited" or similar restriction. If such a sign is posted, no solicitor may ring the doorbell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence, but shall immediately and peacefully depart from the premises. No solicitor may enter or attempt to enter in or upon any premises where such a placard or sign is placed or maintained. This subsection shall not apply to any person exempted under s. 92-3-1.

3. SOLICITATION PROHIBITED DURING NIGHT-TIME HOURS. No person may engage in door-to-door in-person solicitation of any residential occupant for any commercial or fundraising purpose between the hours of 9:00 p.m. and 8:00 a.m.

92-17. Penalty. Any person violating any provision of this subchapter shall be fined not less than \$50 nor more than \$500 for each violation, plus costs of prosecution. Each day's violation shall constitute a separate offense.

92-21 Mobile and Secondhand Sales

SUBCHAPTER 2 SECONDHAND DEALERS

92-21. Definitions. In this subchapter:

1. AUDIO AND VIDEO MEDIA means any compact disc, DVD, cassette tape, 8-track cartridge, VHS tape, vinyl record, or other device intended to store audio or video, whether digital or analog.

2. AUTOMATED RECYCLING KIOSK means an interactive device that meets all of the following requirements:

a. Is installed in a secure retail space.
b. Has the following technological functions:

b-1. Verification of a seller's identity by remote examination of a government-issued identification card by a live representative during all hours of operation.

b-2. Secure storage of articles accepted by the kiosk for recycling.

b-3. Capture and storage of images of the seller and the article purchased during the transaction.

b-4. Electronic reporting of all transactions to law enforcement.

3. BICYCLE means any vehicle propelled by the feet acting upon pedals and having wheels, any 2 of which are not less than 14 inches in diameter.

4. BUSINESS means engaging in activities for the purpose of earning a livelihood or a profit therefrom on a full- or part-time basis.

5. JEWELRY means any tangible article of personal property ordinarily wearable on the person, consisting in whole or in part of gold, silver, platinum, aluminum, lead, brass, copper, pewter, alexandrite, diamond, emerald, garnet, opal, ruby, pearl, jade, and other such metal, mineral, or gem customarily regarded as precious or semiprecious.

6. LARGE APPLIANCE AND FURNITURE means any bed, mattress, table, chair, bureau, dresser, desk, bookcase, refrigerator, freezer, and any other household furnishing or appliance occupying a space greater than 8 cubic feet.

7. PAWNBROKER means a person, firm, or corporation engaged in the business of lending money on personal property or goods that are pledged as security for loans on the condition that, if the loans are not repaid within specified periods of time, the goods used as security may be sold to compensate for nonpayment.

8. PRECIOUS METAL AND GEM DEALER means any person, corporation, partnership, or association which engages in any transaction of buying, selling, or receiving secondhand jewelry, sterling silverware, or gold or silver coins or bullion to and from the public. "Precious metal and gem dealer" does not include a business which smelts, refines, assays, or manufactures precious metals, gems, or valuable articles and has no retail operation open to the public.

9. SECONDHAND means previously owned, sold, traded, or used by a member of the general public immediately prior to the transaction at hand. It does not mean previously owned by a wholesaler, retailer, or another secondhand dealer.

10. SECONDHAND DEALER means any person, firm, partnership, corporation, or association operating, owning, or leasing a fixed place of business or automated recycling kiosk for the purchase, sale, or exchange of any secondhand article of personal property.

11. SECONDHAND DEALER MALL means a fixed location where 2 or more secondhand dealers conduct their business as provided in s. 92-23-2.

92-23. License Required; Exception.

1. LICENSE REQUIRED. It shall be unlawful to carry on, engage, or operate the business of pawnbroker, secondhand dealer, or precious metal and gem dealer without having first obtained a secondhand dealer's license in accordance with the provisions of this subchapter.

2. SECONDHAND DEALER MALLS. The owner of a business at which 2 or more secondhand dealers are engaged in business by maintaining separate sales space and identifying themselves to the public as individual dealers may obtain a single license for that location. No individual licenses are required of the tenant occupants of such premises. No license shall be issued to the secondhand dealer mall unless each of the following requirements is met:

a. The business has a single name and address.

b. The business is under the unified control of one person, who shall hold the license.

c. All sales are consummated at a central point or register operated by the owner of the business, and the owner maintains a comprehensive account of all sales.

3. EXCEPTION. The requirements of this section shall not apply to the following:

a. Any party dealing exclusively in motor vehicles, stamps, audio and video media, baseball cards, books and magazines, works of fine art, or industrial machinery and equipment.

b. Any individual registered as an auctioneer under ch. 480, Wis. Stats.

c. Any transaction at an occasional garage or yard sale; estate sale; coin, gem, stamp or antique show; gun or knife show; convention; or auction.

d. Any nonprofit organization or any person conducting a sale from which the proceeds are donated to a nonprofit organization.

e. Any transaction between a buyer of new jewelry and the person who sold the jewelry when new which involves the return of the jewelry or the exchange of the jewelry for different, new jewelry.

92-25. Application.

1. CONTENT. Application for a secondhand dealer's license shall be made to the city clerk on forms provided by the city clerk for such purpose and shall contain the information specified in s. 85-12.

2. PLAN OF OPERATION. In addition to the information required under s. 85-12, an application shall contain a completed plan of operation on a form provided by the city clerk. The plan of operation shall include:

a. Plans the applicant has to ensure that business is not conducted with minors, except as provided in s. 92-33-5.

b. The principal location of the applicant's business within the city at which all records required under s. 92-33-9 are kept and available for inspection.

c. The location or locations at which the applicant will conduct business within the city.

d. If transactions are conducted at locations in addition to the identified business premises, a description of the manner in which such transactions shall be conducted, including whether transactions will occur at temporary locations, door-to-door, or otherwise.

e. Plans the applicant has to provide security for the business premises, for business records, and for transactions conducted at locations other than identified business premises.

f. A description of the anticipated proportion of the business, in volume of sales or monetary value, that will involve transactions in precious metals and gems during the license period, and the proportion of any transactions by percentage that will constitute sales, purchase, or other exchanges of gold.

3. FINGERPRINTING. Except for an applicant dealing exclusively in bicycles, every applicant shall be fingerprinted as provided in s. 85-21-1.

4. FEE. Each license application shall be accompanied by the fee specified in s. 81-104.

92-27. Investigation; Issuance.

1. INVESTIGATION. Each application for a new license shall be referred to the chief of police and the commissioner of neighborhood services, each of whom shall cause an investigation to be made and report their findings to the licenses committee in accordance with s. 85-21-2.

2. APPROVAL. Each application for a new license shall be referred to the licenses committee for a hearing in accordance with s. 85-2.7.

3. STATE RESIDENCY. No license shall be granted to any person who has not resided in the state of Wisconsin continuously for a period of at least 90 days prior to the filing of his or her application.

92-29. Transfers and Changes. See s. 85-19 and ss. 85-35 to 85-39 for provisions relating to the transfer of licenses and changes to applications.

92-31. Renewal, Non-renewal, Suspension or Revocation.

1. RENEWAL. a. Application for the renewal of a license shall be made to the city clerk. The clerk shall refer the application to the chief of police and the commissioner of neighborhood services for review.

b. If the chief of police and the commissioner of neighborhood services indicate that the applicant still meets the licensing qualifications, the application shall be referred to the common council for approval unless a written objection, as defined in 85-2-4, has been filed in accordance with s. 85-3-3.

92-33 Mobile and Secondhand Sales

c. If an objection is filed, or if a determination is made that the applicant no longer meets the licensing qualifications, the application shall be forwarded to the licensing committee for a hearing on whether the application should be recommended to the common council for renewal or non-renewal.

2. NON-RENEWAL, REVOCATION OR SUSPENSION.

a. Any license issued under this subchapter may be not renewed, suspended or revoked for cause by the common council after notice to the licensee and a hearing. If there is a possibility that the licensing committee will not recommend renewal of the license, or if suspension or revocation proceedings are initiated, the procedures for notice and committee hearing and for the committee report, recommendations and common council consideration provided in ss. 85-3 to 85-5 shall apply.

b. Suspension or revocation proceedings may be initiated by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police or upon a sworn written complaint filed with the city clerk by any interested party.

3. DISQUALIFICATION; CHANGE OF CIRCUMSTANCES. Whenever any application is denied, or license is revoked, surrendered or not renewed, the procedures provided in ss. 85-13, 85-15 and 85-17 shall apply.

4. TRUTH OF STATEMENTS AND AFFIDAVITS. See s. 85-34 for matters relating to truth of statements and affidavits.

92-33. Regulations.

1. ALTERED OR OBLITERATED SERIAL NUMBER. No licensee shall receive any item or property with an altered or obliterated serial number, or from which a serial number has been removed.

2. INSPECTION. Every item pawned, pledged, exchanged, purchased, or accepted on consignment by a licensee shall be open for inspection by the chief of police, or the chief's designee, at any reasonable time.

3. HOLDING PERIOD. A licensee shall hold every item not otherwise exempt from licensure under this subchapter separate and apart from any other items, unchanged and unaltered from the form it was received, for inspection by the chief of police, in accordance with the following:

a. **30-Day Holding Period.** All items pawned or pledged for security on a loan by a pawnbroker, and all items purchased or exchanged by a precious metal and gem dealer, except for gold coins or bullion, or silver coins or bullion.

b. **10-Day Holding Period.** All items purchased, exchanged, or accepted in consignment, except for clothing, clothing accessories, and large furniture and appliances.

c. **Additional Holding Period.** The chief of police may, at the chief's sole discretion, cause any item pawned, pledged, purchased, or exchanged, which the police chief has reason to believe was not pawned, pledged, disposed of, sold, or exchanged by the lawful owner, to be held for an additional holding period deemed reasonable by the chief of police after the elapse of the initial holding period, for identification by the lawful owner.

4. AUTOMATED RECYCLING KIOSKS. A secondhand dealer operating an automated recycling kiosk may store items acquired at the kiosk in a secure off-site location. The dealer shall retain an item stored under this subsection for 30 days and, upon request, return that item to a law enforcement officer of this state within 3 business days without cost.

5. MINORS. No licensee shall have any business dealings with any person less than 18 years of age, unless that person is with a parent or guardian. A parent or guardian appearing with a minor may file a signed consent form granting permission for that minor to conduct business with the dealer at a future date without the presence of a parent or guardian. The written consent shall be retained by the dealer.

6. INTOXICATED PERSONS. No licensee shall bargain for, take, purchase, or receive in pawn any item from any intoxicated person, including any bond, note, or security.

7. STOLEN GOODS. Every licensee shall report to the police any item presented to the licensee during the course of business the licensee has reason to believe was stolen, either by the person presenting the item or another party.

8. IDENTIFICATION.

a. **Identification Required.** No licensee shall purchase, pledge, exchange, accept for consignment, pawn, or sell any item without first securing adequate identification from the seller as provided in this subsection.

b. Forms of Identification. Identification obtained by a licensee shall be limited to one of the following current and unexpired forms of identification:

b-1. A city of Milwaukee municipal identification card issued under Chapter 83.

b-2. A Milwaukee county identification card.

b-3. A state identification card.

b-4. A valid state motor vehicle operator's license, containing a picture.

b-5. A military identification card.

b-6. A valid passport.

b-7. An alien registration card.

b-8. A non-picture identification document issued by a state or the federal government, if the dealer also obtains a clear imprint of the seller's right index finger.

b-9. A senior citizen's identification card containing a photograph.

c. False Identification Prohibited. No person pawning, pledging, exchanging, consigning, leaving for deposit, or selling any property with any licensee shall give a false or fictitious name, present false or altered identification documents, give a false date of birth or give a false address of residence or telephone number to the licensee gathering information for the transaction description record.

9. RECORDKEEPING.

a. Form of Records. Transaction description records shall be kept either as computer files or in a written document approved by the chief of police, or the chief's designee. In addition:

a-1. Written transaction description record documents shall be legible and in ink, and no entry made shall be erased, obliterated or defaced.

a-2. A licensed precious metal and gem dealer may keep transaction description records as sequentially numbered invoices. Blank or voided invoices kept by a precious metal and gem dealer as transaction description records shall be kept in sequence.

a-3. Computerized files, written documents and invoices of transaction description records shall be open to inspection by the chief of police, or the chief's designee, at any reasonable time. Computerized files, written documents and invoices of transaction description records shall be maintained and retained for one year.

b. Contents of Records. Transaction description records shall include all of the following:

b-1. The date and time of the transaction.

b-2. A complete description in English of the item or property pawned, pledged, consigned, exchanged or purchased. The description shall include:

b-2-a. Any trademark or brand name.

b-2-b. Any identification number, serial number, model number, or other identifying number, word or initial engraved or otherwise marked on the item.

b-2-c. A description of any settings.

b-2-d. A description by weight and design of the property.

b-2-e. Other identification marks and inscriptions of a personal nature.

b-3. The amount of money loaned or paid.

b-4. The name, address and date of birth of the person pawning, pledging, exchanging, consigning or selling the item or property.

b-5. The identification number from and a photocopy of the identification obtained as stipulated s. 92-33-8.

b-6. A signed, written declaration of ownership from the person pawning, pledging, exchanging, consigning or selling the item or property, separate and apart from any computerized records maintained and on a form approved by the chief of police, or the chief's designee, stating whether the person owns the item or property, how long the person has owned the item or property, whether the person or another found the item or property, and if found, the details of its finding.

c. Photographs; Video Recordings.

c-1. Each transaction description shall include a color photograph or color video recording of:

c-1-a. Each customer pawning, pledging, consigning, exchanging or selling an item or property.

c-1-b. Every item or property pawned, pledged, consigned, exchanged or sold without a unique serial or identification number permanently engraved or affixed.

c-1-c. Every item or property received by a secondhand dealer, except clothing and clothing accessories, to be placed on sale at a price of \$10 or greater and including but not limited to tools, electronic devices and musical instruments, with or without unique serial or identification numbers permanently engraved or affixed thereto.

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c-2. Each photograph shall be at least 2 inches square. A photograph or video recording shall be time- and date-stamped and maintained so it can be readily matched and correlated with all other records of the transaction. The photograph or video recording shall be available to the chief of police, or the chief's designee, upon request. The major portion of the photograph or video recording of a person shall include an identifiable facial image. Property photographed or video recorded shall be accurately depicted.

c-3. The licensee shall inform the person that he or she is being photographed or video-recorded by displaying a sign of sufficient size in a conspicuous place on the premises.

c-4. The licensee shall keep the photograph or video recording for 3 months.

d. Signature Required. The person pawning, pledging, consigning, exchanging or selling the item or property shall electronically sign the computerized record, or sign an alternate form approved by the chief of police, or the chief's designee, if computerized records are maintained, or sign the written document transaction descriptions record or the invoice.

e. Bicycle Records. A licensee shall record, as part of the required transaction description record, the serial number of any bicycle, bicycle frame, or part of a bicycle that is received in the course of business to the extent that all or a portion of the serial number remains visible.

f. Website Reporting.

f-1. Procedures.

f-1-a. All transaction description records, except for signed declarations of ownership and patron signatures on transaction description records, shall be reported not later than the close of each business day by posting and uploading all transaction description records to the Internet website approved by the chief of police, or the chief's designee, according to the protocols of the website. All transaction description record postings and uploads shall be complete and accurate.

f-1-b. Each licensee shall display a sign, provided by the police department, of sufficient size and in a conspicuous place on the premises informing patrons that all transactions are reported to the police department daily through website postings.

f-2. Access. The police department may allow access to transaction description records posted or uploaded to its approved Internet website or provide copies of transaction description records and provide copies of declarations of ownership to any other law enforcement agency.

f-3. Entry failures.

f-3-a. Any transaction description record which cannot be posted or uploaded to the police-approved Internet website by the close of the business day due to technical malfunction shall be posted or uploaded by 12 noon the next business day; and failing that, a hardcopy of the transaction description record including photographs or video recordings shall be delivered to the chief of police, or the chief's designee, in a format approved by the chief of police, or the chief's designee, by 12 noon the next business day following the initial post or upload failure. The licensee shall continue to deliver hardcopies of transaction description records to the police chief, or the chief's designee, so long as website record post or upload failures persist.

f-3-b. If website post or upload failures are determined to be due to the licensee's system or Internet connection, a licensee shall be charged a \$100 daily penalty beginning on the fourth business day following the initial post or upload failure and continuing until transaction description records are again posted and uploaded to the police-approved Internet website. The police department may delay, reduce or forego daily reporting penalties for posting or uploading failures as the chief of police, or the chief's designee, sees fit without cause.

f-3-c. A licensee shall post or upload to the police-approved Internet website all transaction description records specified in par. a not later than the close of the second business day following correction of the technical malfunction. The licensee shall be charged a \$100 daily penalty beginning on the third business day following correction of the technical malfunction and continuing until all transaction description records in arrears are properly posted and uploaded to the police-approved Internet website. The police department may delay, reduce or forego daily reporting penalties for posting or uploading failures as the chief of police, or the chief's designee, sees fit without cause.

g. Other Information. Transaction records shall include any other reasonable information the chief of police may from time to time require.

10. TRANSACTIONS INVOLVING ARTICLES NOT OWNED. a. Prohibition. No person shall pawn, pledge, sell, consign, leave or deposit any article of property with or to a licensee if one or more of the following is true:

a-1. The article of property is not owned by the person.

a-2. The article of property is the property of another, regardless of whether the transaction is occurring with the permission of the owner.

a-3. Another person has a security interest in the article of property.

b. Exception. The provisions of par. a shall not apply to any person pledging, selling, consigning, leaving or depositing any article of property with or to a licensee if the person is any of the following:

b-1. A duly executed power of attorney for the owner of the property.

b-2. A personal representative of the estate to which the property belongs.

b-3. The recipient of a lawful written authorization to pledge, sell, consign, leave or deposit the property issued by the owner of the property prior to the time of the transaction.

92-35. Additional Regulations for Pawnbrokers.

1. In addition to the regulations provided in s. 92-33, every pawnbroker, at the time of each loan delivered to the person pawning or pledging any item, shall provide a pawn receipt signed by the licensee or designee, containing the following:

a. The name and business address of the pawnbroker.

b. A brief description of the item being pawned.

c. The amount of money being loaned.

d. The date and time of pawning or pledging.

2. There shall be no charge for issuing a pawn receipt. Every pawn receipt shall be numbered serially, a copy shall be retained by the pawnbroker, and the receipt shall be open to inspection by the chief of police, or the chief's designee, at any reasonable time.

92-37. Penalty.

1. FIRST OFFENSE. Any person violating this subchapter shall, upon conviction for a first offense, forfeit not less than \$50 nor more than \$1,000, together with the costs of prosecution, and, in default of payment, may be imprisoned as provided by law.

2. SECOND OFFENSE. Any person violating this chapter shall, upon conviction for a second or subsequent offense, forfeit not less than \$500 nor more than \$2,000, together with the costs of prosecution, and, in default of payment, may be imprisoned as provided by law.

92-41 Mobile and Secondhand Sales

SUBCHAPTER 3 SECONDHAND MOTOR VEHICLE DEALERS

92-41. Definitions. In this section:

1. **BUSINESS** means engaging in activities for the purpose of earning a livelihood or a profit therefrom on a full- or part-time basis.
2. **MOTOR VEHICLE** has the meaning given in s. 340.01(35), Wis. Stats., as amended.
3. **RETAIL** means the business of buying, selling, exchanging or dealing motor vehicles, including, but not exclusively, secondhand parts of motor vehicles, to the general public.
4. **SECONDHAND** means previously owned, sold, traded or used by a member of the general public on a retail basis.
5. **WHOLESALE** means the business of buying and selling, exchanging or dealing motor vehicles, including, but not exclusively, secondhand parts of motor vehicles, to a licensed retailer or to another person who holds a permit or license or to the end user, but not operating a lot licensed for that purpose.

92-43. License Required; Exceptions.

1. **LICENSE REQUIRED.** It shall be unlawful for any person, firm or corporation to engage in the business of buying, selling, exchanging or dealing in secondhand motor vehicles, including secondhand parts of motor vehicles, either retail or wholesale, without first having obtained a secondhand motor vehicle dealer's license.

2. **EXCEPTIONS.**

a. The operator of a premises used for retail sales for a period of 30 days or less shall not be required to obtain a license under this subchapter, but shall comply with the regulations established under s. 84-53.

b. Any business buying, selling, exchanging or dealing exclusively in secondhand parts of motor vehicles shall not be required to obtain a license under this subchapter, but shall obtain a recycling, salvaging or towing license as provided under ch. 93.

92-45. Application.

1. **CONTENT.** Application for a secondhand motor vehicle dealer's license shall be made to the city clerk on forms provided by the city clerk for such purpose and shall contain the information specified in s. 85-12. In addition, an application shall contain:

a. Whether the application is for wholesale or retail business operations.

b. Whether the applicant has ever had a license or permit relating to the activities licensed in this subchapter denied, not renewed, suspended or revoked, with a brief statement of the circumstances associated with the event, and the jurisdiction in which the event occurred. This information shall also include a record of any actions from the state departments of transportation and financial institutions relating to suspensions, revocations, forfeitures and warnings imposed by these departments relating to the operation of any automotive sales business by the applicant.

c. A completed plan of operation on a form provided by the city clerk. The plan of operation shall include:

c-1. The planned hours of operation of the premises.

c-2. What plans, if any, the applicant has to ensure that all motor vehicles associated with the business will be stored on the licensed premises, that all maintenance and repair work related to these vehicles will be confined to the licensed premises, and that the business will not violate any code provisions relating to littering of the public right-of-way.

2. **FINGERPRINTING.** Every applicant for a secondhand motor vehicle dealer's license shall be exempt from the fingerprinting requirement provided in s. 85-21-1.

3. **FEE.** Each license application shall be accompanied by the fee specified in s. 81-104.6.

92-47. Investigation; Issuance.

1. **INVESTIGATION.** Every license application shall be referred to the chief of police and the commissioner of neighborhood services, each of whom shall cause an investigation to be made and report their findings to the licensing committee in accordance with s. 85-21-2.

2. **HEARING.** Each application for a new license shall be referred to the licensing committee for a hearing in accordance with s. 85-2.7.

92-49. Transfers and Changes. See s. 85-19 and ss. 85-35 to 85-39 for provisions relating to the transfer of licenses and changes to applications.

92-51. Renewal, Non-renewal, Suspension or Revocation.

1. RENEWAL. a. Application for the renewal of a secondhand motor vehicle dealer's license shall be made to the city clerk. The clerk shall refer the application to the chief of police and the commissioner of neighborhood services for review.

b. If the chief of police and the commissioner of neighborhood services indicate that the applicant still meets the licensing qualifications, the application shall be referred to the common council for approval unless a written objection has been filed with the city clerk at least 45 days prior to the date on which the license expires. Any interested person may file an objection. A written objection shall meet the definition in s. 85-2-4 and shall comply with the requirements of s. 85-3-3.

c. If an objection is filed, or if a determination is made that the applicant no longer meets the licensing qualifications, the application shall be forwarded to the licensing committee for a hearing on whether the application should be recommended to the common council for renewal or non-renewal.

2. NON-RENEWAL, REVOCATION OR SUSPENSION.

a. Any license issued under this subchapter may be not renewed, suspended or revoked for cause by the common council after notice to the licensee and a hearing. If there is a possibility that the licensing committee will not recommend renewal of the license, or if suspension or revocation proceedings are initiated, the procedures for notice and committee hearing and for the committee report, recommendations and common council consideration provided in ss. 85-3 to 85-5 shall apply.

b. Suspension or revocation proceedings may be initiated by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police or upon a sworn written complaint filed with the city clerk by any interested party.

3. DISQUALIFICATION. Whenever any application is denied, or a license is revoked, surrendered or not renewed, the procedures provided in ss. 85-13, 85-15 and 85-17 shall apply.

4. TRUTH OF STATEMENTS AND AFFIDAVITS. See s. 85-34 for matters relating to truth of statements and affidavits.

92-53. Regulations.

1. RECORDS TO BE KEPT ON TRADE-INS. Any person, firm or corporation licensed under this section shall, whenever a secondhand motor vehicle is taken in trade as part of a transaction, maintain records of the transaction in accordance with ch. Trans 138, Wis. Adm. Code, as amended.

2. RECORDS TO BE KEPT ON SALES. Any person, firm or corporation licensed under this section to buy, sell or exchange or trade in secondhand motor vehicles shall furnish, upon the sale of a secondhand motor vehicle, the information required under ch. Trans 139, Wis. Adm. Code, as amended.

3. ELIGIBILITY FOR SALE CERTIFICATES. No secondhand motor vehicle dealer licensed under this chapter may apply for a certificate issued pursuant to s. 101-29 to leave a vehicle that is for sale on public property.

4. NO SALE ON SUNDAYS. It shall be unlawful for any license holder to sell, barter, exchange, demonstrate or loan any motor vehicle, whether new or secondhand, on Sunday.

5. KEY SECURITY. All keys to a used motor vehicle offered for sale at a business licensed under this section shall be placed in a secure lockbox inside the dealership building at all times when the dealership is not open for business.

6. TRANSACTIONS INVOLVING ARTICLES NOT OWNED. a. No person shall pawn, pledge, sell, consign, leave or deposit any article of property with or to a licensed secondhand motor vehicle dealer if one or more of the following is true:

a-1. The article of property is not owned by the person.

a-2. The article of property is the property of another, regardless of whether the transaction is occurring with the permission of the owner.

a-3. Another person has a security interest in the article of property.

b. The provisions of par. a shall not apply to any person pledging, selling, consigning, leaving or depositing any article of property with or to a licensed secondhand motor vehicle dealer if the person is any of the following:

b-1. A duly executed power of attorney for the owner of the property.

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b-2. A personal representative of the estate to which the property belongs.

b-3. The recipient of a lawful written authorization to pledge, sell, consign, leave or deposit the property issued by the owner of the property prior to the time of the transaction.

92-55. Penalty.

1. Any person violating this subchapter shall, upon conviction for a first offense, forfeit not less than \$50 nor more than \$1,000, together with the costs of prosecution and, in default of payment, may be imprisoned as provided by law.

2. Any person violating this subchapter shall, upon conviction for a second or subsequent offense, forfeit not less than \$500 nor more than \$2,000, together with the costs of prosecution, and, in default of payment, may be imprisoned as provided by law.

For legislative history of chapter 92, contact the Municipal Research Library.

**CHAPTER 93
RECYCLING, SALVAGING AND TOWING REGULATIONS**

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SUBCHAPTER 1
GENERAL PROVISIONS

93-1. Purpose. For the purpose of promoting and protecting the public health, safety and welfare, and for the purpose of protecting consumers from hazardous conditions, unlawful practices and the risk of harm or injury to persons or property, it is declared to be in the public interest and necessary to regulate and license the establishment, operation and maintenance of recycling, salvaging and towing businesses within the city. It is further determined and declared that regulations in this chapter relating to recording of sales are specified for purposes of suppression and prevention of crime. It is further declared and determined that the provisions of this chapter are supplemental to statutory

provisions applicable to businesses licensed in this chapter.

93-3. Definitions. In this chapter:

1. ADEQUATE IDENTIFICATION means any one of the following current and unexpired forms of identification:

- a. A Milwaukee county identification card.
- b. A state identification card, containing a photograph, issued by the state of Wisconsin or another state.
- c. A motor vehicle operator's license, containing a photograph, issued by the state of Wisconsin or another state.
- d. A military identification card.
- e. A passport.
- f. An alien registration card.
- g. A non-photograph identification document issued by a state or the federal government, if the licensee also obtains a clear imprint of the seller's right index finger.
- h. A senior citizen's identification card containing a photograph.

2. APPLICANT means any individual or partner, and any officer, director or agent of any corporate applicant.

3. APPLICATION means a formal written request filed with the city clerk for the issuance of a license, supported by a verified statement of facts.

4. BICYCLE means any vehicle propelled by the feet acting upon pedals and having wheels any 2 of which are not less than 14 inches in diameter.

5. BUSINESS means engaging in activities over time for the purpose of sustained financial gain. This definition does not include environmental clean-up activities organized by individuals or sponsored by nonprofit organizations. Also excluded from this definition are individuals engaged exclusively in the collection of aluminum cans.

6. CONSENSUAL TOWING means the towing of a motor vehicle initiated by the owner or authorized operator of the vehicle or by a person who has lawful possession, custody or control of the vehicle. This definition does not include the towing of a motor vehicle owned by the business performing the tow, but includes the towing of a motor vehicle at the direction of a law enforcement officer in an emergency.

93-3-7 Recycling, Salvaging and Towing Regulations

7. COMMERCIAL MOTOR VEHICLE has the meaning given in s. 340.01(8), Wis. Stats., as amended.

8. DROP FEE means a payment charged to the owner or authorized operator of a motor vehicle for disconnecting a tow truck under the provisions of s. 93-47-3.

9. FERROUS METAL means any metal containing a significant quantity of iron or steel.

10. FULLY HOOKED UP means a vehicle to be towed by a licensed tow truck operator is fully prepared for transport by attachment to a tow truck, lifted in tow position, with tow lights and safety chains attached and, if required, placed on a dolly in a raised position, and the only action remaining is for the tow truck operator to drive away.

11. JUNK means any secondhand materials or products recovered or diverted from solid waste, as defined in s. 79-1-12, that may be reused or converted to new materials or products, including materials or products made of wood, paper, glass, plastic, fabric, earthenware or rubber. This definition does not include valuable metal, as defined in sub. 30; recyclable material, as defined in s. 79-23-23; or secondhand articles of personal property for resale that are subject to the provisions of subch. 2 of ch. 92.

12. LICENSE means the document embodying formal permission from the city to carry on a certain activity, the conduct of which would otherwise be illegal.

13. MOTOR VEHICLE has the meaning given in s. 340.01(35), Wis. Stats., as amended.

14. NON-CONSENSUAL TOWING means the towing of a repossessed vehicle or the towing of an illegally-parked motor vehicle at the request of the property owner, the property owner's authorized agent or a parking or law enforcement officer, without the prior consent or authorization of the owner or authorized operator of the vehicle.

15. NON-FERROUS METAL means metal not containing a significant quantity of iron or steel, including copper, brass, aluminum, bronze, lead, zinc, nickel and alloys thereof.

16. OBJECTION means any information that could form the basis of a license denial, non-renewal, suspension or revocation. An objection may result from probative information provided by any resident or from the written reports summarizing the arrests and convictions of an applicant filed by the chief of police under this chapter.

17. OPERATOR means any person engaged in the activities of owning or operating any recycling, salvaging or towing business.

18. PERSON means any individual, firm, corporation, limited liability company, partnership or association acting in a fiduciary capacity.

19. PREMISES means any portion of a platted or unplatted lot, parcel or plot of land either occupied or unoccupied by any building or structure, equipment or property of any kind.

20. RECYCLING, SALVAGING OR TOWING PREMISES means any premises which is used in the business of recycling, salvaging or towing.

21. RECYCLING, SALVAGING OR TOWING VEHICLE means any motor vehicle used in the business of recycling, salvaging or towing.

22. REGULATED PROPERTY means any of the following:

a. Valuable metals stamped, engraved, stenciled or otherwise marked to identify the metal as the property of a government entity, telecommunications provider, public utility, cable operator or an entity that produces, transmits, delivers or furnishes electricity, transportation, shipbuilding or mining.

b. Copper, including conductors, bus bars, cables or wires, whether stranded or solid.

c. Aluminum conductors, cables or wires, whether stranded or solid, and aluminum or copper siding, gutters, downspouts, screens, windows, window frames and doors.

d. Metal beer kegs.

e. Manhole covers, including lids, grates and frames.

f. Metal bathtubs, sinks, water heaters and non-plastic or copper pipes.

g. Metal grave markers, sculptures, plaques, vases and other cemetery monuments.

h. Fixtures from houses of worship, including stained glass.

i. Rails, switch components, spikes, angle bars, tie plates or bolts used to construct rail tracks.

j. Non-ferrous metal items other than aluminum cans.

k. Traffic signs, guardrails and aluminum light poles.

L. Water meters.

m. Condensing or evaporator coils from heating or air conditioning units.

n. Catalytic converters.

o. Bicycles and bicycle frames.

p. Any coated metal wire that has been smelted, burned or melted, thereby removing the manufacturer's or owner's identifying marks.

q. Small engines or motors used to power home tools or equipment, including generators and lawn mowers.

23. SALVAGE VEHICLE has the meaning given in s. 340.01(55g), Wis. Stats., as amended.

24. SECONDHAND means previously owned by a member of the general public on a retail basis.

25. TIRE DISPOSER means any person who, in compliance with all applicable state, federal and local laws, rules and regulations disposes of or converts tires to another purpose including, without limitation, any person who is engaged in any of the following activities:

a. Incinerating or disposing of tires as waste or fuel.

b. Reducing tires into basic components for oil, steel, carbon black, rubber, road paving or other marketable salvage materials by shredding, grinding, chemical treatment or other means.

c. Converting tires into other useful items such as, but not limited to, doormats, pads and shoe soles.

26. TIRE REPROCESSOR means any person who regrooves, recaps, retreads or otherwise remanufactures waste tires.

27. TOWING means pulling, pushing, hauling, lifting or transporting motor vehicles from one location to another using another motor vehicle.

28. TOW TRUCK means any motor vehicle equipped with mechanical, hydraulic or other lifting devices or winches used for the recovery or transport of motor vehicles.

29. VALUABLE METAL means any ferrous or non-ferrous material or product made of metal that readily may be resold. This definition shall include motor vehicles and bicycles, or the parts thereof, but shall not include precious metals or articles of personal property for resale that are subject to the provisions of chapter 92.

30. WASTE TIRE means any tire which is worn (less than 2/32 inch tread depth anywhere along a major tread groove), defective, damaged (cut or snagged tread, exposed body

ords, bumps, knots, bulges or separated sidewall) or is not fit for use upon a public way, or any new or secondhand tire that is destined for a tire disposer or tire reprocessor.

31. WASTE TIRE GENERATOR means any person who, in the course of normal business activities, generates or removes 25 or more waste tires per calendar year, including:

a. Any person engaged in the sale or mounting of new, secondhand or remanufactured automobile, truck or equipment tires, who receives waste tires in the exchange process associated therewith.

b. Any person who requires or allows customers to take waste tires.

c. Fleet owners.

32. WASTE TIRE TRANSPORTER means any person who does any of the following:

a. Engages in the business of transporting waste tires on a public way.

b. At any one time transports more than 5 waste tires on a public way.

c. Transports waste tires for a waste tire generator, irrespective of the number of tires being transported.

33. WHOLESALE AND BULK PURCHASES means the purchase of property by weight, or in quantity, without unloading or closely inspecting individual items or property when purchased. Truckload and bulk purchases shall be at least 6 discrete items if purchased in quantity and not less than 200 pounds if purchased by weight.

93-5. License Required. 1. GENERAL REQUIREMENT. It shall be unlawful for any person, without first obtaining a city license, to engage in the business of recycling, salvaging or towing, including any of the following activities:

a. Buying, selling, exchanging, storing, transporting or otherwise dealing in junk or valuable metal.

b. Buying, selling, exchanging, storing, transporting or otherwise dealing in motor vehicles for the purpose of dismantling or dealing in the parts thereof, including secondhand tires or batteries.

c. Transporting, generating or otherwise disposing of waste tires.

d. Towing, whether consensual, non-consensual or for the purpose of repossession, salvaging or recycling.

93-7 Recycling, Salvaging and Towing Regulations

2. SEPARATE LICENSE REQUIRED. a. A separate license shall be required for each recycling, salvaging or towing premises and for each vehicle, except that:

a-1. If a valid premises license is held by a recycling, salvaging or towing premises, no separate or additional license shall be required for any motor vehicle owned and operated by the premises license holder as part of the authorized business activities for the licensed premises.

a-2. If a business owns and operates 2 or more recycling, salvaging or towing vehicles, no separate or additional license shall be required for each motor vehicle owned and operated by the business.

3. ADDITIONAL STORAGE YARD. A licensed recycling, salvaging or towing premises shall make separate application for any extension of the operation of the original recycling, salvaging or towing premises license beyond the business premises identified in the original application to an additional building or other fixed place, whether contiguous or non-contiguous with the licensed premises, provided that the additional building or other fixed place is only used for storage of junk, motor vehicles, valuable metal or other recycled, salvaged or towed materials.

4. EXCEPTIONS. a. Any business licensed and operating as a private waste collector, as provided in s. 79-9, shall not be required to obtain a license under this chapter.

b. Any business exclusively performing consensual towing shall not be required to obtain a license under this chapter.

c. Any person selling any junk, valuable metal or waste tires on 4 or fewer occasions during a 30-day period shall not be required to obtain a license under this chapter. This shall not permit the collection of junk, valuable metal or waste tires without a license.

d. Any person holding a valid license or permit to operate a business dealing in junk, valuable metal or waste tires in a Wisconsin municipality and solely selling junk, valuable metal or waste tires shall not be required to obtain a license under this chapter. This shall not permit the collection of junk, valuable metal or waste tires without a license.

e. Any business located outside the city and buying, selling, exchanging or transporting any junk, valuable metal or waste tires exclusively through the use of commercial motor vehicles shall not be required to obtain a

license under this chapter. This shall not permit the collection of junk, valuable metal or waste tires without a license.

f. Any business licensed and operating solely as a secondhand motor vehicle dealer, as provided in subch. 3 of ch. 92, shall not be required to obtain a license under this chapter. This shall not exempt secondhand motor vehicle dealers from the provisions of s. 93-49.

93-7. Penalty. 1. GENERAL. Unless otherwise provided, any person violating this chapter shall upon conviction be subject to the following forfeitures together with the costs of prosecution, and, in default of payment, may be imprisoned as provided by law:

a. A forfeiture not less than \$50 nor more than \$1,000, upon conviction for a first offense.

b. A forfeiture not less than \$500 nor more than \$2,000, upon conviction for a second or subsequent offense.

2. LICENSURE, NON-CONSENSUAL TOWING. Any person who violates any provision of s. 93-5 or s. 93-47-2-e or f shall upon conviction be subject to the following forfeitures together with the costs of prosecution, and, in default of payment, may be imprisoned as provided by law:

a. A forfeiture not less than \$1,500 nor more than \$2,500 if the person has not committed a previous violation within 24 months of the violation.

b. A forfeiture not less than \$2,500 nor more than \$4,000 if the person has committed a previous violation within 24 months of the violation.

c. A forfeiture not less than \$4,000 nor more than \$5,000 if the person has committed 2 or more previous violations within 24 months of the violation.

3. WASTE TIRES. a. Any person violating any provision of s. 93-49 or failing to comply with an order issued under s. 93-49 shall, upon conviction, be subject to a Class J penalty as provided in s. 61-16.

b. A citation may be issued for any violation of s. 93-49, with or without prior notice. The stipulation, forfeiture and court procedure set forth in s. 50-25 shall apply.

4. MULTIPLE VIOLATIONS. Multiple violations for the same offense, though occurring on the same date, may be treated as separate violations under this section.

SUBCHAPTER 2
LICENSING

93-21. Licensing, General.

1. APPLICATION. Application for a license shall be filed with the city clerk on forms provided therefor and shall contain, in addition to the information specified in s. 85-12, the following information:

a. The number of recycling, salvaging and towing vehicles owned, operated or controlled by the applicant to be used in the conduct of recycling, salvaging or towing, including each vehicle's identification number, make, model, year, license plate number and, if applicable, towing weight capacity, U.S. DOT number or Wisconsin DOT operating authority.

b. Whether the applicant has the capability to provide information to the police department relative to the recordkeeping, reporting and other business regulations set forth in subch. 3.

c. Whether the applicant has ever had a license, permit or authority relating to the activities licensed in this chapter denied, not renewed, suspended or revoked, with a brief statement of the circumstances associated with this event, and the jurisdiction in which this event occurred.

d. For recycling, salvaging or towing premises, a completed plan of operation on a form provided by the city clerk. The plan of operation shall require each of the following:

d-1. The planned hours of operation of the premises.

d-2. What plans, if any, the applicant has to ensure the orderly appearance and operation of premises with respect to litter and noise, including plans the applicant has to ensure that all motor vehicles associated with the business will be stored on the licensed premises and that all maintenance and repair work related to these vehicles will be confined to the licensed premises and will not violate any code provisions relating to littering of the public right-of-way.

d-3. What plans, if any, the applicant has to provide security for the premise with respect to the theft of valuable metal and other articles of personal property.

d-4. Any other types of licenses or permits planned or currently held by the applicant or issued for the premises.

d-5. Any other types of business enterprises planned or currently conducted at the premises.

e. For recycling, salvaging or towing vehicles, what plans, if any, the applicant has to ensure that all vehicles owned, operated or controlled by the applicant, including all junk, motor vehicles, valuable metals or other materials attached to or located within these vehicles, will be stored in a secured lot or facility, and the exact location of this lot or facility.

2. FEE. a. Premises. Each application for a recycling, salvaging or towing premises license shall be accompanied by the fee specified in s. 81-102.6.

b. Vehicle. Each application for a recycling, salvaging or towing vehicle license shall be accompanied by the fee specified in s. 81-102.8.

3. FINGERPRINTING. All applicants shall be fingerprinted as provided in s. 85-21-1.

93-23. New License. 1. INVESTIGATION.

a. Every application for a new license shall be referred to the chief of police and the commissioner of neighborhood services, both of whom shall cause an investigation to be made and report their findings to the licensing committee in accordance with s. 85-21-2.

b. No license shall be granted to any applicant who is not of good professional character or who has been convicted of any felony, misdemeanor or other offense, the circumstances of which substantially relate to the circumstances of being a recycling, salvaging or towing business.

2. HEARING. Each application for a new license shall be referred to the licensing committee for a hearing in accordance with s. 85-2.7.

93-25. Renewal, Nonrenewal, Revocation or Suspension. 1. RENEWAL; INVESTIGATION.

a. Application for the renewal of a recycling, salvaging or towing license shall be made to the city clerk. The clerk shall refer the application to the chief of police and the commissioner of neighborhood services for review.

b. If the chief of police and the commissioner of neighborhood services indicate that the applicant still meets the licensing qualifications, the application shall be referred to the common council for approval unless a written objection has been filed with the city clerk at least 45 days prior to the date on which the license expires.

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c. If the city clerk determines that there is cause to question the renewal of the license on the basis of one or more written complaints related to operation of the licensee during the current license period, or if the chief of police objects on the basis of police reports of incidents and activities on or related to the licensed premises or vehicle not previously considered by the licensing committee establishing cause to question whether renewal of the license may have an adverse impact on the health, safety and welfare of the public and the neighborhood, or if the applicant has been issued a warning letter or been subject to administrative sanctions by the Wisconsin department of agriculture, trade and consumer protection, the city clerk shall cause the application to be scheduled for hearing. A written objection shall meet the definition in s. 85-2-4 and shall comply with the requirements of s. 85-3-3.

2. SUSPENSION; REVOCATION. Suspension or revocation proceedings may be initiated by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police or upon a sworn written complaint filed with the city clerk by any interested party.

3. HEARING. Any license issued under this chapter may be not renewed, suspended or revoked for cause by the common council after notice to the licensee and a hearing. If there is a possibility that the licensing committee will not recommend renewal of the license, or if suspension or revocation proceedings are initiated, the procedures for notice and committee hearing and for the committee report, recommendations and common council consideration provided in ss. 85-3 to 85-5 shall apply.

4. PROBATIVE EVIDENCE. The recommendation of the committee concerning the licensee shall be based on the preponderance of evidence presented at the hearing. Probative evidence concerning non-renewal, suspension or revocation may include evidence of:

a. Failure of the licensee to meet the statutory and municipal requirements.

b. Pending charges against or the conviction of a felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the circumstances of the particular licensed activity, by the licensee, his or her employees, or subcontractors.

c. The licensee, or any employee or lessee of the licensee, having violated any of the regulations or prohibitions set forth in this chapter.

d. Whether the applicant has been issued a warning letter or been subject to administrative sanctions by the Wisconsin department of agriculture, trade and consumer protection.

e. Any other factors which reasonably relate to the public health, safety and welfare.

93-27. Additional Storage. The application for, and issuance of, a premises license shall be conducted in accordance with ss. 93-21 to 93-25, except that for an application for additional storage, the report to the licensing committee by the commissioner of neighborhood services shall include information related to the zoning district in which the principal place of business, or additional fixed place of storage, of the recycling, salvaging or towing business is to be located and shall be made within 14 days.

93-29. Changes to be Reported.

1. APPLICATION; PLAN OF OPERATION. See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

2. TRANSFER OF LICENSES; CHANGE OF NAMES. See s. 85-19 for provisions relating to the transfer of licenses and change of licensee names.

93-31. Change of Vehicle. A licensee may change the motor vehicles used in the conduct of the recycling, salvaging or towing business if the licensee files with the city clerk the information required on the form provided by the city clerk and pays the applicable fee specified in s. 81-102.8. Every motor vehicle involved in the recycling, salvaging or towing business as of October 9, 2015, shall comply with the sticker, signage and other applicable requirements of subch. 3.

93-33. Disqualification; Change of Circumstances. Whenever any application is denied, or license not renewed, revoked or surrendered, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

SUBCHAPTER 3
OPERATING REGULATIONS

93-41. Purpose. The purpose of this subchapter is to regulate the operation of the various kinds of recycling, salvaging and towing businesses licensed by the city.

93-43. Operating Regulations for all Recycling, Salvaging or Towing Premises.

1. IDENTIFICATION. No licensee shall purchase any junk, valuable metals, or salvage motor vehicles without first obtaining adequate identification from the seller.

2. TRANSACTIONS INVOLVING PROPERTY NOT OWNED. No licensee shall purchase any property if any of the following is true:

a. The article of property is not owned by the person offering to sell the property.

b. The article of property is the property of a person other than the person offering to sell it, regardless of whether the transaction is occurring with the permission of the owner.

c. Another person, other than the person offering to sell the property, has a security interest in the article of property.

3. EXCEPTION. Subsection 2 shall not apply to any person selling, consigning, leaving or depositing any article of property with or to a licensed recycling, salvaging or towing premises if the person is any of the following:

a. A duly executed power of attorney for the owner of the property.

b. A personal representative of the estate to which the property belongs.

c. The recipient of a lawful written authorization to pledge, sell, consign, leave or deposit the property issued by the owner of the property prior to the time of the transaction.

4. ALTERED OR OBLITERATED SERIAL NUMBER. No licensee shall receive any regulated property with an altered or obliterated serial number, or from which a serial number has been removed.

5. REGULATED PROPERTY, DOCUMENTATION. No licensee shall purchase any regulated property unless the licensee receives from the seller documentation, such as a bill of sale, receipt, letter of authorization or similar evidence, which establishes that the seller lawfully possesses the regulated property. This documentation shall be retained for one year. Licensees may forego the documentation

requirements of this subsection if either of the following is true:

a. The licensee documents that he or she has made a diligent inquiry into whether the person selling the regulated property has the legal right to do so, and, not later than one business day after purchasing the regulated property, submits a report to the chief of police describing the regulated property and submits a copy of the seller's or deliverer's adequate identification.

b. The licensee takes a color photograph or color video recording of the regulated property, as provided in sub. 8.

6. PURCHASE FROM MINORS PROHIBITED. No licensee shall purchase or accept any material or article from any individual less than 18 years of age without the written consent of the individual's parent or guardian.

7. RECORDKEEPING, GENERAL. Every licensee shall keep on his or her premises a transaction description record, in a form approved by the chief of police or the chief's designee, for any valuable metal purchased or received. The transaction description record shall be numbered consecutively at the time of the purchase and shall be maintained and open for inspection by the chief of police, or the chief's designee, at any reasonable time for one year after the date of purchased or receipt. The transaction description record shall include each of the following:

a. A transaction number.

b. The date and time of the transaction.

c. The printed name and permanent address of the person from whom the article was purchased or received, a copy of that person's adequate identification and a color photograph or color video recording of the person that meets the standards of sub. 11.

d. The seller's vehicle license plate number and state of issuance, if applicable.

e. A description of the individual property purchased or received, to be consistent with guidelines promulgated by a national recycling industry trade organization and to be approved by the chief of police.

f. A signed, written declaration of ownership from the seller, separate and apart from any computerized records maintained, in a form approved by the chief of police.

g. The seller's signature.

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8. RECORDKEEPING, REGULATED PROPERTY. For regulated property, in addition to the information required in sub. 7, the transaction description record shall include a full and accurate description of each article purchased or received, including identifying letters or marks written, inscribed or otherwise included on the article and the name and maker of the article, if known. A color photograph or color video recording of the regulated property, taken at the time of purchase or receipt and meeting the standards of sub. 11, shall fulfill this requirement.

9. RECORDKEEPING, VEHICLE SALVAGE. a. Records kept under the provisions of s. Trans 136.03, Wis. Adm. Code, as amended, shall be satisfactory compliance with the transaction description requirements of sub. 7, and shall at reasonable times be open to the inspection of the chief of police, or any member of the police department designated by the chief of police for this purpose.

b. The purchase or receipt of any motor vehicle parts or pieces thereof previously attached to a salvaged vehicle shall not be exempt from the recordkeeping requirements provided in this section.

10. RECORDKEEPING, WHOLESALE AND BULK PURCHASES.

a. A licensee may choose to limit the transaction description record for wholesale and bulk purchases to a listing of the quantity or the weight purchased according to the guidelines provided in sub. 7-e, and not of individual items, provided that either of the following is true:

a-1. A color video recording meeting the standards of sub. 11 is taken of the individual items purchased, as they are being unloaded.

a-2. The seller is a regularly established foundry, mill, manufacturer, licensed home improvement contractor, as defined in s. 95-14, licensed recycling, salvaging or towing premises, or educational, governmental or medical institution, and is in compliance with all other applicable requirements of this subsection, provided that the record of the purchase states the seller's license number or other identifying information.

b. A licensee presented or finding any undisclosed regulated property in any wholesale or bulk purchase, or any property which is reasonably believed to be stolen, shall immediately report this property to the police.

11. PHOTOGRAPHS. Photographs required as part of this subchapter shall be at least 2 inches square. Photographs and video recordings shall be time and date-stamped and maintained so they can be readily matched and correlated with all other records of a transaction. All photographs and video recordings shall be available to the chief of police, or the chief's designee, upon request. The major portion of a photograph or a video recording of a person shall include an identifiable facial image. Property photographed or video-recorded shall be accurately depicted, of sufficient quality and from a clear and unobstructed perspective, as determined by the chief of police. The licensee shall inform the person that he or she is being photographed or video-recorded by displaying a sign of sufficient size in a conspicuous place on the premises. The licensee shall keep the photograph or video recording for 90 days.

12. REPORTS. a. All transaction description records for regulated property, except for signed declarations of ownership and patron signatures on transaction description records, shall be reported not later than the close of each business day by posting and uploading all transaction description records to an electronic reporting database approved by the chief of police, according to the protocols of the chief of police.

b. Protocols for submitting batch data shall reasonably accommodate various mainstream data processing systems used by licensees, to the extent possible.

c. The police department may delay, reduce or forego daily reporting requirements as the chief of police, or the chief's designee, sees fit without cause.

13. CUSTOMER IDENTIFICATION NUMBERS. The police chief may permit a licensee to substitute a customer identification number, or other seller identifier assigned by the licensee, for a seller's name, address, date of birth, and all identification obtained from the seller as specified in sub. 7, provided the licensee maintains a file containing this information for police inspection.

14. GOODS HELD FOR IDENTIFICATION. The chief of police may, at his or her discretion, cause any items which he or she has reason to believe were sold or exchanged by a person other than the lawful owner to be held, for identification by its lawful owner, for such reasonable length of time as the chief deems necessary.

15. INSPECTION. Every article purchased by a recycling, salvaging or towing premises, and every computerized file, written document and invoice of transaction description records shall be available for inspection by the chief of police, or the chief's designee, at any reasonable time.

16. FALSE INFORMATION. No person selling any property to any licensee shall:

a. Give a false or fictitious name, present false or altered identification documents, give a false date of birth or give a false address of residence or telephone number to the licensee gathering information for a transaction description record.

b. Knowingly conceal or fail to disclose any regulated property contained within a wholesale or bulk purchase.

c. Pawn, pledge, sell, consign, leave or deposit any article of property with or to a business licensed under this chapter if one or more of the following is true:

c-1. The article of property is not owned by the person.

c-2. The article of property is the property of another, regardless of whether the transaction is occurring with the permission of the owner.

c-3. Another person has a security interest in the article of property.

17. SIGNAGE. Every licensee shall display a sign, in a form approved by the chief of police or the chief's designee, of sufficient size and in a conspicuous place on the premises, informing patrons that all transactions are reported electronically to the police department. The sign shall include the premises' license number. Identifying signs that satisfy state statutory or regulatory requirements for signage shall be deemed to satisfy the requirements of this subsection.

18. NOT TO CREATE NUISANCE.

a. No goods or materials associated with a recycling, salvaging or towing premises shall be stored, sorted, assembled, disassembled, displayed or otherwise kept on any public right-of-way, public street, alley, sidewalk, or public parking area. All goods and materials shall be kept within a building, enclosure or site approved on a licensee's application.

b. All lights used to illuminate premises shall be shielded and directed away from public streets and residential properties in such a way as not to create a glare into the public

street or surrounding premises used for residential purposes, or to disturb the comfort of persons living across therefrom or on adjacent property.

93-45. Operating Regulations for Recycling, Salvaging or Towing Vehicles. 1. LICENSE

STICKERS AND SIGNAGE. a. Each motor vehicle used by a licensed recycling, salvaging or towing business shall have affixed to it, in a prominent place, a sticker issued by the city clerk with the words "recycling, salvaging or towing" stamped on it. Whenever a sticker has been defaced, lost, stolen or destroyed, the licensee shall immediately apply to the city clerk for a duplicate sticker. A request for a duplicate sticker shall be accompanied by the fee specified in s. 81-1-4.

b. Each motor vehicle used for business purposes by a licensed recycling, salvaging or towing business shall bear identifying signs printed or affixed to both sides of the vehicle. Identifying signs shall include the name of the business or person operating the vehicle, a valid telephone number for the business or person operating the vehicle, and the phrase, "RST License No." together with the number of the license, all located in a prominent position in letters not less than 2 inches in height. Except for a tow truck performing non-consensual towing, a commercial motor vehicle bearing a U.S. department of transportation number filed and registered with the federal motor carrier safety administration shall be exempt from the signage requirements of this paragraph.

c. Photographs of vehicles and signage shall be submitted to the city clerk in the following manner:

c-1. If not already on file, one or more photographs of each motor vehicle used in the business of recycling, salvaging or towing shall be submitted to the city clerk in a form and manner acceptable to the city clerk prior to issuance of a license.

c-2. Photographs submitted to the city clerk under this paragraph shall clearly display all elements of signage required under par. b.

c-3. Changes in signage and replacement photographs shall be subject to reporting as provided in s. 93-29, and failure to provide required photographs may be considered upon application for renewal or in suspension or revocation proceedings, as provided in s. 93-25-4.

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2. CARRYING BY OPERATORS. An operator of a vehicle licensed under this chapter shall at all times carry the license on his or her person or post the license in the vehicle while engaged in activities related to recycling, salvaging or towing, and shall present the license for inspection upon request made by any person.

3. NOT TO CREATE NUISANCE.

a. No goods or materials associated with recycling, salvaging or towing vehicles shall be stored, sorted, assembled, disassembled, displayed or otherwise kept on any public right-of-way, public street, alley, sidewalk, or public parking area. All goods and materials shall be kept within a building, enclosure or site approved on a licensee's application.

b. No person shall store salvage materials on any residential premises or vacant lot in a residential zoning district.

93-47. Motor Vehicle Towing.

1. OBLITERATED IDENTIFICATION NUMBER. No licensee shall tow any motor vehicle with an altered or obliterated vehicle identification number, unless directed by the police department.

2. NON-CONSENSUAL TOWING. All of the following requirements shall be met for a towing business to perform a non-consensual tow:

a. The licensee shall have in his or her possession an authorized service order form before hooking up the vehicle to be serviced. Authorized service order forms shall include the name of the licensee's business, the address and telephone number of the licensee's storage lot, the licensee's tow truck license number, the name of the driver or operator of the tow truck, the name and signature of the person authorizing the service, the time the service was ordered and a description of the vehicle to be towed, including the make, model and license plate number. In addition:

a-1. A copy of the authorized service order form shall be retained for 90 days and provided to the police department upon request.

a-2. This paragraph shall not be applicable to any licensee operating a tow truck under the terms of this chapter where the licensee is under a written contract for a specific period of time with any person, firm or corporation to tow illegally parked or repossessed vehicles to a specific location as set forth in the contract. Contracts shall be kept at a licensee's premises for review by the police department.

b. The person, firm or corporation authorizing the tow shall be the owner of the private property from which the vehicle will be towed, a duly authorized agent of the owner, a traffic officer or parking enforcer, as provided in s. 349.13(3m)2(d), Wis. Stats.

c. Except for a vehicle issued a repossession judgment or a citation for illegal parking, as provided in s. 349.13(3m)2(b), Wis. Stats., the lot from which any motor vehicle is non-consensually towed shall be properly posted, as provided in Trans 319.04, Wis. Adm. Code.

d. The towing business shall take, and retain unaltered for 90 days, color photographs of the motor vehicle to be towed, including:

d-1. At least one color photograph each from the front, rear, and each side of the vehicle.

d-2. At least one color photograph of the sign indicating the property was properly posted, including, to the extent possible, the vehicle to be towed.

d-3. If applicable, at least one color photograph of any parking citations and any parking permits, placards, stickers or other parking-related signage visible on or in the vehicle.

e. Prior to the towing of a vehicle, the towing business shall report, by approved electronic notification, to the police department, in the manner designated by the police department, the following:

e-1. The address or an accurate, specific description of the location from which the vehicle is being removed.

e-2. The location to which the vehicle will be removed, including a telephone number for the location.

e-3. A description of the vehicle, including make, model, license plate number and vehicle identification number.

e-4. Any other information required by the police department.

f. Prior to the towing of a vehicle, the towing business shall receive and record in the operator's log book a tow reference number from the city confirming that the city has received electronic notification of the tow and that the vehicle to be towed is not stolen. If a system of electronic notification is temporarily unavailable, the police department, or the police department's designee, shall provide notification of the granting or denial of a tow reference number by voice within 10 minutes of the time the request for a tow reference number was received.

g. For every vehicle non-consensually towed for which the towing business receives a tow reference number, the towing business shall remit a fee to the city, as established by the commissioner of public works and as provided in s. Trans 319.03(3), Wis. Adm. Code. The commissioner may waive or reduce this fee if a tow truck operator releases a motor vehicle to the owner or authorized operator of the motor vehicle under the provisions of s. 93-47-3.

h. For every vehicle non-consensually towed for which the towing business receives a tow reference number, not including a vehicle towed as part of a repossession conducted under s. 425.205 Wis. Stats., the towing business shall provide the city with an electronic, itemized receipt of the transaction, including any special equipment used for the tow and the associated cost, within 60 days of the tow.

3. DROP FEE. a. Except for a vehicle issued a repossession judgment and unless otherwise directed by a police officer, if the owner or authorized operator of any motor vehicle to be towed is present and offers to remove the vehicle from the property or correct the violation before the vehicle is attached in any way to the tow truck, no fee shall be charged the vehicle owner.

b. If a tow truck operator has attached equipment for towing to the vehicle to be towed, but is not yet fully hooked up, as defined in s. 93-3-10, the vehicle shall not be towed upon request of the vehicle owner or authorized operator. The owner or authorized operator shall be liable for a drop fee in an amount not to exceed \$50, in lieu of towing, provided the vehicle owner or authorized operator is willing and able to pay the drop fee and remove the vehicle or otherwise correct the violation.

c. If an owner or authorized operator of a motor vehicle is present before the vehicle is fully hooked up, the tow truck operator shall advise the owner or authorized operator of the motor vehicle that he or she may offer payment of the towing drop fee and shall provide the owner or authorized operator of the motor vehicle 5 minutes to make payment of the towing drop fee. The tow truck operator shall concurrently advise the owner or authorized operator of the motor vehicle of acceptable forms of payment, as provided in par. d.

d. For purposes of this subsection, a towing business shall accept payment by cash, credit card or debit card for the drop charge, and shall issue the person requesting the drop a receipt of payment of the drop fee.

e. A tow truck operator shall submit to the city a form, or forms, approved by the commissioner of public works, signed by an owner or authorized operator of a motor vehicle who is present before the vehicle is fully hooked up for tow indicating the owner or authorized operator paid, or declined to pay, the drop fee after being advised payment of the drop fee would avert the tow.

f. If an owner or authorized operator of a motor vehicle who declines to pay a drop fee refuses to sign the form specified in par. e, the tow truck operator shall indicate the refusal on the form, and sign and submit the form as provided in par. e.

4. RESTRICTIONS ON ACTIONS OF TOW TRUCK OPERATORS. No operator of a tow truck shall:

a. Except in the case of a repossession, non-consensually tow any motor vehicle to a location outside the city.

b. Solicit or attempt to divert prospective patrons of another tow truck.

c. Tow a vehicle without first obtaining adequate identification from the owner or authorized operator of the vehicle or from the person authorizing the tow from private property.

d. Refuse to release or charge a fee to release personal property from within a towed vehicle to the owner or authorized operator of the towed vehicle during regular business hours upon presentation by the owner or authorized operator of proper identification as provided in s. 349.13(5)(b), Wis. Stats.

e. Remove any item or material from a towed vehicle, whether on the inside or outside of the vehicle.

f. If performing a non-consensual tow, charge a sum in excess of that authorized by s. Trans 319.03, Wis. Adm. Code.

g. Refuse to release a vehicle after the presentation of sufficient proof of ownership and the payment of authorized charges.

h. Charge the owner or authorized operator of any non-consensually towed motor vehicle any storage fee for any 24-hour period during which the business is not open and the vehicle not available for recovery for at least a 4-hour period between 8 a.m. and 5 p.m.

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i. Refuse payment for towing services by cash or by debit, credit or charge card.

j. Store a non-consensually towed vehicle at any location not on file with the city, unless directed otherwise by the police department.

k. Subcontract any non-consensual towing work to any person, firm or corporation not licensed to perform non-consensual towing in the city.

5. OWNER'S RIGHT TO INSPECT. No towing business shall solicit, demand or receive any payment for services provided or waiver of the right to contest damages prior to allowing the owner or authorized operator of a towed vehicle a reasonable opportunity to inspect the vehicle for damages or loss of contents.

6. POSTING OF FEE SCHEDULE.

a. Prior to performing any tow, a tow truck operator shall disclose to the owner or authorized operator of the motor vehicle all rates and charges to be assessed. This rule does not apply to a non-consensual tow or a tow ordered by a law enforcement officer.

b. The schedule of minimum fees for non-consensual towing, as provided in s. Trans 319.03, Wis. Adm. Code, shall be posted at the business location or locations in a conspicuous place near the main entrance and inside each vehicle owned, operated or controlled by the business to be used in the conduct of the towing business.

7. RECORDKEEPING. Each tow truck operator shall at all times maintain a current transport sheet approved as to type and form by the chief of police containing the information required in sub. 2-e. Transaction description records shall be either computer files or written documents approved by the chief of police, or the chief's designee. Written document transaction description records shall be legible and in ink, and no entry made shall be erased, obliterated or defaced. Written-document and computerized transaction description records shall be open for inspection by the chief of police, or the chief's designee, at any reasonable time. Written documents shall be retained and computerized files shall be maintained for one year.

8. VEHICLE STANDARDS. Every vehicle used in the conduct of a towing business shall meet all safety standards required by state and federal law and, as adjudged by the police department, be kept in good operating condition

and appearance. Every towing business shall keep records of daily vehicle inspection reports for inspection by the police department and shall submit to the police department copies of annual inspections for all tow trucks owned, operated or controlled by the business to be used in the conduct of the towing business in the city.

9. MINORS. No towing business shall conduct any transaction with any person less than 18 years of age unless that person is with his or her parent or guardian, or the business obtains or has on file a written consent signed in a tow truck operator's presence by the parent or guardian granting permission for the minor to transact business with the dealer.

10. STOLEN VEHICLES. A tow truck operator shall report to the police any item presented to a licensed towing business during the course of business that the tow truck operator has reason to believe was stolen, either by the person presenting the item or another party.

11. REGULATIONS TO BE POSTED. Each towing business shall post a copy of these regulations in a conspicuous place on its licensed premises.

12. RESPONSIBILITY FOR PERSONNEL. Each towing business obtaining a license shall be responsible for the acts of its employees, agents and subcontractors, and shall be subject to all applicable penalties if those employees, agents or subcontractors violate this section, including nonrenewal, suspension or revocation of its license.

13. APPLICABILITY. This section shall not apply when the motor vehicle being towed has originated outside the city and is either in the process of being delivered to a location in the city or is being towed through the city to be delivered elsewhere.

93-49. Waste Tires. 1. STORAGE.

a. Each waste tire shall be stored and secured in a manner approved by the commissioner of neighborhood services to eliminate theft and potential nuisances of litter as described in ss.79-11 and 79-12, rat harborage as described in s. 80-48, fly breeding as described in s. 80-31 and fire hazard as described in s. 214-9.

b. No person may store or permit the storage of more than 24 waste tires upon any premises within the city unless the premises is a licensed recycling, salvaging or towing premises.

2. IMPROPER DISPOSAL. No licensed recycling, salvaging or towing premises or vehicle may knowingly dispose of any waste tires improperly by disposing of waste tires in a manner other than to a tire disposer or tire reprocessor. A waste tire transporter who improperly disposes of waste tires shall be assessed costs incurred to dispose of the waste tires properly.

3. INSPECTION. The commissioner of neighborhood services shall periodically inspect the premises of each waste tire generator for proper storage, marking and recordkeeping.

4. REGULATION. a. Each waste tire located at a licensed recycling, salvaging or towing premise shall be permanently marked, by the licensee in a manner approved by the commissioner of neighborhood services, with the letters "RST" and the licensee's license number. Each tire shall be marked before it leaves the premises, and all tires shall be marked not later than 5 working days after receipt on the premises.

b. A waste tire generator shall use only a city-licensed waste tire transporter to pick up and transport its waste tires.

5. RECORDKEEPING. Each waste tire generator and waste tire transporter shall maintain for 3 years all records and receipts relating to waste tires handled by the business. The record for each transaction shall include:

a. For a waste tire generator, the number of waste tires generated, the name of the waste tire transporter, the date and quantity of pickup and the transporter's recycling, salvaging or towing license number.

b. For a waste tire transporter, the date of pickup, number of waste tires, name and address of the waste tire generator, the name and address of the waste tire disposer or reprocessor, and the date and quantity of delivery of the waste tires to the waste tire disposer or reprocessor.

6. REPORTING. Records required in s. 93-49-5 shall be submitted to the commissioner of neighborhood services, in a form specified by the commissioner, annually 60 days prior to each anniversary of license issuance.

7. NUISANCE ABATEMENT. a. Any violation of this section or disposal of waste tires in violation of ss. 79-9 to 79-12 may be ordered corrected by the police department or the department of neighborhood services. If the property owner or licensee fails to comply with the order to correct the conditions which are in violation, the city may correct the conditions. The property owner or licensee, or both, shall be personally liable for any expenses to the city for correcting the conditions of the violation, except for a licensee described in par. b.

b. A waste tire transporter or waste tire generator whose tires have been disposed of in violation of this section or ss. 79-9 to 79-12 shall not be personally liable under par. a if the transporter or generator did not know in advance about, participate in, or otherwise assist the illegal disposal and if the transporter or generator is properly licensed and otherwise in compliance with this section.

8. EXCEPTIONS. A recycling, salvaging or towing license shall be required for each premises and each vehicle dealing in waste tires, except that the licensing requirements of this chapter shall not apply to the following:

a. Any vehicle containing 5 or fewer waste tires unless the transporter is hauling waste tires for a waste tire generator.

b. Any vehicle which originates outside of the city and is designated for transport outside of the city, provided that no waste tires are loaded or unloaded within the city.

c. A fleet owner that takes its vehicles to an outside tire vendor's facility for service, provided the facility is within the city of Milwaukee. In this situation, the tire vendor shall be considered the waste tire generator.

9. PENALTY. Any person violating this section shall be subject to the penalty provided in s. 93-7-3.

For legislative history of chapter 93, contact the Municipal Research Library.

93-- Recycling, Salvaging and Towing Regulations

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CHAPTER 95
HOME IMPROVEMENT CONTRACTORS AND SALESPERSONS

Table

95-14 Home Improvement Contractor
 and Salesperson Licenses

95-14. Home Improvement Contractor and Salesperson Licenses.

1. DEFINITIONS. In this section:

a. "Person" means any person, firm, partnership, corporation or limited liability company.

b. "Contractor" means any person engaged in the business of installing, repairing, servicing, improving or remodeling any permanent installation or improvement attached to an existing home or building used for residence purposes but not exceeding 6 living units, accessory buildings, or any appurtenance thereto, or any sidewalks, driveways or other approaches to such building. This shall include, but not be limited to, roofing, walls, siding, windows, doors, floors, partitions, ceilings, porches, awnings, heating, furnace cleaning, air conditioning, chimneys, water softeners, humidifiers, purifiers, electrical installations, plumbing installations, concrete work, painting and sheet metal work.

c. "Salesperson" means any person who solicits or sells at any place within the city, other than within a building or structure used as a place of business, any home improvement or permanent installation or similar improvement attached to an existing home or building used for residence purposes, but not exceeding 6 living units, accessory buildings, or any appurtenance thereto, or any sidewalks, driveways, or other approaches to such building. This shall include, but not be limited to, roofing, walls, siding, windows, doors, floors, partitions, ceilings, porches, awnings, heating, furnace cleaning, air conditioning, chimneys, water softeners, humidifiers, purifiers, electrical installations, plumbing installations, concrete work, painting and sheet metal work. Any person performing emergency services requiring the installation of parts where the total cost does not exceed \$100 shall not be considered a salesperson under this section.

2. LICENSE REQUIRED.

a. Requirement. No person shall within the city engage in the business of salesperson or act as a contractor without first having obtained a contractor or salesperson's license as provided in this section.

b. Exemptions.

b-1. A master plumber licensed under the statutes of the state of Wisconsin or an electrical contractor licensed under the statutes of the state of Wisconsin need not obtain a contractor's or a salesperson's license, but shall in all other respects comply with this section.

b-2. Individuals, corporations which include only one person, or limited liability companies having only one member, which have been issued a contractor's license as provided in this section, need not have a salesperson's license, but shall in all other respects comply with this section.

b-3. Any company or industry regulated under ch. 196, Wis. Stats., and any persons who are employees thereof shall be exempt from this section.

3. APPLICATION.

a. Applications for new and renewal contractor or salesperson licenses shall be filed with the city clerk on forms provided therefor.

b. The application shall require:

b-1. The name and permanent address of the applicant.

b-2. The name and permanent address of the applicant's employer.

b-3. If the applicant is a corporation or limited liability company, the name of the corporation shall be set forth exactly as it is set forth in its articles of incorporation, together with the names and permanent address of each of its officers, directors and designated managers, if any; the application shall be verified by an officer of the corporation. If one or more of the officers is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the corporate officers.

95-14-4 Home Improvement Contractors and Salespersons

b-4. If the applicant is a partnership, the application shall set forth the name and permanent address of each of the partners, including limited partners, and each partner shall verify the application. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the corporate partners.

b-5. If the applicant is a club, association or other organization that is neither a corporation nor partnership, the application shall set forth the exact name of the entity together with the names and permanent addresses of all officers and be verified by an officer of the club, association or organization.

b-6. The date of birth of the applicant.

b-7. Whether the applicant has prior to the date of application been licensed in this city as a contractor or salesperson as defined in this section.

b-8. Such other reasonable and pertinent information the common council or the proper licensing committee may from time to time require.

c. Post office box numbers shall not be acceptable for addresses required on applications for home improvement contractor and salesperson licenses.

d. Photos. Each individual applicant for a home improvement or salesperson license shall present one recent photograph to the city clerk.

e. Fingerprinting. All applicants for home improvement contractor or salesperson licenses shall be fingerprinted as provided in s. 85-21-1.

f. Changes, Transfers.

f-1. Changes to be Reported. All persons licensed under this section shall notify the city clerk whenever there is a change in any information that is reported in the application form or renewal application form within 10 days after the change occurs.

f-2. Transfer of License or Change of Name. See s. 85-19 for provisions relating to the transfer of licenses and change of licensee names.

4. LICENSE FEE; PERIOD. All applications shall be accompanied by the fee specified in s. 81-60. See s. 81-60 for the required license fees and the date of expiration.

5. INSURANCE. Upon application, every person applying for a contractor's license shall file with the city clerk a certificate of insurance. The certificate of a contractor's general liability and property damage insurance shall be in the sum of not less than \$25,000 per person, \$50,000 per accident, bodily injury liability, and \$10,000 property damage liability or combined single limit of not less than \$60,000 per occurrence.

6. INVESTIGATION AND COMMON COUNCIL ACTION; APPLICATION FOR NEW LICENSE. Each license application shall be referred to the chief of police, who shall cause an investigation to be made and report his or her findings to the city clerk. If the chief files no written report summarizing the arrests and convictions of the application which could form a basis for denial, the city clerk shall issue the license. If the chief files a written report summarizing the arrests and convictions of the applicant which could form a basis for denial, the application shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.5 and 85-2.7.

7.5. DISQUALIFICATION. Whenever any application is denied, or license not renewed, revoked or surrendered, the procedures for disqualification for license provided in s. 85-13 shall apply.

8. ISSUANCE OF LICENSE.

a. If the common council grants the application for a home improvement contractor or salesperson license, the city clerk shall issue an appropriate document to the applicant confirming that fact. The license shall contain the person's true first name, surname and middle initial, the picture of the applicant if individual, the number of the license, the period of time for which the license is valid, and a statement that issuance of the license does not constitute an endorsement by the city of the person or product. The license shall be in such form as to avoid alteration.

b. The license shall be carried on the person of the salesperson or contractor and shall be exhibited to any person requesting to see the same at any time while the person is engaged in selling or soliciting business.

9. PROCEDURES FOR NON-RENEWAL, REVOCATION OR SUSPENSION OF LICENSE.

a. Procedure for Renewal. Applications for renewal shall be made to the city clerk. The clerk shall refer the application to the chief of police for review. If the chief indicates that the applicant still meets the licensing qualifications, the city clerk shall issue the license unless a written objection has been filed with the city clerk at least 45 days prior to the date on which the license expires. Any interested person may file the objection. If a written objection is filed, or if a determination is made that the applicant no longer meets the licensing qualifications, the application shall be forwarded to the licensing committee for its recommendation to the common council.

b. Revocation or Suspension. Any license issued under this section may be revoked or suspended for cause by the common council. Suspension or revocation proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police, or upon a sworn written complaint filed with the city clerk by any interested party.

c. Due Process Hearing and Common Council Review. If there is a possibility that the licensing committee will not recommend renewal of the license, or if suspension proceedings are initiated, the procedures for notice and committee hearing and for the committee report, recommendations and common council consideration provided in ss. 85-3 to 85-5 shall apply.

d. Grounds for Non-renewal, Revocation or Suspension. The recommendation of the committee regarding the licensee shall be based on the preponderance of evidence presented at the hearing. Probative evidence concerning non-renewal, suspension or revocation may include evidence of:

d-1. Failure of the licensee to meet the municipal qualifications or any of the terms of this section.

d-2. Pending charges against or the conviction of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the circumstances of the particular licensed activity, by the licensee, his or her employees, subcontractors or customers.

d-3. Failure to obtain any permit required under the ordinances of the city or the laws of the state of Wisconsin, or employing persons not authorized to do any specific work as required under the ordinances of the city or laws of the state of Wisconsin.

d-4. Whether the licensee, or his or her employees, has violated any of the required and prohibited practices set forth in this section.

d-5. Whether the licensee has been issued a warning letter or had the imposition of administrative sanctions by the Wisconsin department of agriculture, trade and consumer protection.

d-6. Whether a judgment has been rendered against the licensee by any court of competent jurisdiction regarding violations of ordinances of the city or laws of the state of Wisconsin the nature of which substantially relate to the particular activity for which the license is issued, or a judgment has been rendered against the licensee.

d-7. Any failure of the licensee to complete work on a project in accordance with the contractual written specifications for the work set forth pursuant to sub. 12-c-1 and 2, or to complete the work within the time period specified in the contract or agreement for the work pursuant to sub. 12-c-4.

d-8. Any other factor which reasonably relates to the public health, safety and welfare.

e. Evidence of Quality of Workmanship Excluded. The recommendations of the committee regarding the licensee shall not be based on evidence presented at the hearing related to quality of workmanship.

h. Request to Surrender a License. If a licensee who has surrendered his or her license wishes to have the surrendered license returned, the licensee must request, in writing, permission from the licensing committee to do so and appear before the committee at the date, time and place specified in written notice provided to the licensee by the city clerk. The committee may approve the request and return the license without further action by the common council, or make a recommendation to the common council to deny the request based on the same grounds set forth in this section for non-renewal or revocation. If the committee makes a recommendation to deny the request for the return of the license, all committee recommendations shall be prepared and common council actions conducted in the same manner set forth in this section for non-renewal or revocation.

95-14-12 Home Improvement Contractors and Salespersons

12. REQUIRED AND PROHIBITED PRACTICES. All persons licensed under this section shall:

a. **Pay All Subcontractors.** Pay all subcontractors and material suppliers so that no liens are filed against the owner of the property to whom the sale has been made, and furnish such owner waivers of liens from material suppliers and subcontractors within 30 days of completion of any job; except that where any subcontractor or material supplier's bill is the subject of a bona fide dispute in a legal action, no waivers need be furnished until the determination of such action. Legal action in this section shall include any type of arbitration or 3rd party determination of the dispute recognized by the trade.

b. **Furnish Copies of All Written Documents.** Furnish to the purchaser a copy of all written documents which the purchaser is requested to sign at the time of signing.

c. **Written Agreements.** Before starting work of any kind, enter into a contract or firm agreement with the purchaser as to price and the work to be done, provided that no written contract shall be required where the work to be done is of an emergency nature and the total cost does not exceed \$100. Any such agreement shall include therein a complete statement as to:

c-1. The specific work to be done.

c-2. The material to be used, describing it by brand name, if possible, and by weight, size and color.

c-3. Guarantees and warranties made or represented to buyer in writing, setting forth by whom guaranteed or warranted, and any and all exclusions and limitations as to cost of repair, replacement of parts, service charges and labor charges.

c-4. The time in which the work is expected to be completed.

c-5. All financing, including the initial cost, any time charges, interest, etc., and the total cost including such charges, together with the amount of payment, the time at which the payments will begin, and the length of time for which they will continue.

c-6. A statement agreeing to restore and repair any part of the property of the purchaser destroyed or damaged, where such damage results from the negligent acts of the contractor, his or her agents or subcontractors.

c-7. A statement of the fact that the contractor or salesperson has a license from the city does not constitute an endorsement of the person or product by the city.

d. **Other Regulations.** No contractor or salesperson obtaining a license under this section shall:

d-1. Imply that having a license constitutes an endorsement or recommendation of the city. No person shall advertise in any manner that they have obtained a license from the city.

d-2. Use any false or deceptive inducements or misrepresent or falsely state to a prospective customer that his or her dwelling or building is to serve as a "prospective buyer" lure or "model home" or "advertising job," and that he or she will be paid a commission or other compensation for any other sales the seller may make in the vicinity or within a specified distance from the customer's location, and in that way lead the customer to believe that the cost of the improvement or installation will be fully paid or reduced by reason thereof.

d-3. Misrepresent to a prospective customer that he or she is being given a special, introductory, confidential, close-out, factory or wholesale price or discount, or any other concession; or that this price or discount or any other concession is made due to materials left over from a nearby job or a test of the local market or a market survey.

d-4. Misrepresent that anyone, whether connected with the seller or not, is especially interested in seeing that the prospective customer gets a bargain, special price, discount or any other concession.

d-5. Substitute any product or material, or deliver or install or apply a product of different brand, grade or quality from that represented by any sample, illustration or model.

d-6. Misrepresent or mislead prospective customers into believing that:

d-6-a. Fire resistant materials are incombustible or fire-proof.

d-6-b. The product needs no periodic repainting, refinishing, maintenance or any other service.

d-6-c. The product is of a specific or well-known brand name or manufacture, or that the product is nationally advertised.

d-6-d. The product meets or exceeds minimum municipal, state, federal or other applicable standards or requirements.

d-6-e. The product is of a specific size, weight, grade or any other identifiable character.

d-6-f. The product is approved or recommended by any government agency, or other applicable organizations, or that they are the users of said product.

d-6-g. The product is or will be custom-built or specially designed for the needs of the customer.

d-6-h. The buyer need not obtain any permit, authorization or approval from any municipal, state or federal government agency to apply or install the product, or that the seller has or will obtain such permission or approval.

d-6-i. The product will not be damaged by hail or other storm.

d-7. Give any guarantee that is not specific, clear and definite or which shall misrepresent or lead the customer to believe that the manufacturer or anyone else is the guarantor of the product, or give any guarantee unless the same is given in writing.

d-8. Start installation or apply a small portion of the product with the misrepresentation that it is a tryout or test, or any other reason, where in fact it is done so the seller can claim partial performance or that work has actually begun on the job, and induce or force the purchaser into the terms of the contract.

d-9. Misrepresent or mislead the prospective customer into believing that insurance or some other form of protection will be given if the customer in any way is unable to make the payments agreed upon.

d-10. Misrepresent or mislead the customer into believing that the signing of any completion slip, financial statement, advertising agreement, contract, bond or promissory note, or any other document, either before or after completion of the job, will impose no obligation upon the customer, or that such signing will relieve or end some or all of the obligations of the seller.

d-11. Ask or require the customer to sign a completion slip before the installation or job is completed in accordance with the terms of the contract.

d-12. Gain entry or access into the prospective customer's home or into his property under the guise of any governmental inspection right or duty, or the misrepresentation that the seller has such authority, or under the guise that the seller is an employee or represents a public utility.

d-13. Misrepresent or lead the customer to believe that some product or part is unavailable or that there will be a long delay in manufacture, delivery or service, in order to induce or force a customer to buy a product from the seller.

d-14. Fail to disclose in advertising that the advertised prices or offer does not include delivery or installation, if such is the fact.

d-15. Fail to disclose in writing all financial arrangements, interest, service fees, credit investigation costs, and building or installation permit fees, or that the promissory note or any other similar instrument will be placed with a financial institution for collection.

d-16. Misrepresent through the use of any picture, drawings or illustrations, scare tactics, demonstration devices or claims which threaten or imply any physical, mental or bodily harm.

d-17. Misrepresent that the seller is an employee, officer or representative of a manufacturer, importer or any other person, firm, or organization, or that such person, firm or organization will assume some obligation in fulfilling the terms of the contract.

d-18. Misrepresent that maintenance, service or repairs, and replacement parts will be readily available within the customer's immediate trade area.

d-19. Disparage or degrade any of the seller's own advertised products or services, in order to induce or attempt to induce the customer to buy higher priced products or materials from the seller.

d-20. Misrepresent to the purchaser that his or her property is or will be condemned if no work is done.

d-21. Promise or give any money as an inducement for making the sale

d-22. Represent to the purchaser that his or her taxes or insurance rates will or will not be affected as a result of the sale or installation.

d-23. Use a contract of any other person when not properly authorized.

95-14-13 Home Improvement Contractors and Salespersons

13. CONTRACTOR'S RESPONSIBILITY FOR SALES PERSONNEL. Each contractor obtaining a license shall be responsible for the acts of his or her salesperson regardless of whether the same be his or her employees, agents or subcontractors, and shall be subject to all the penalties to which the salesperson shall be subject, if the salesperson violates this section, including revocation of his or her license.

13.5. TERMINATION OF SALESPERSON'S EMPLOYMENT WITH HOME IMPROVEMENT CONTRACTOR. If a licensed home improvement salesperson is separated from employment with a licensed home improvement contractor for any reason, the licensed contractor shall notify the city clerk of the separation in writing within 10 days of the separation. The licensed salesperson shall surrender the salesperson's license to the city clerk not later than 10 days following that day on which separation from employment occurred.

14. PENALTY. a. Any person acting as a salesperson or contractor without having obtained a license so to act or violating any other provision of this section shall be punished by a forfeiture of not less than \$250 nor more than \$3,000. On default of payment thereof, such person shall be committed to the county jail or house of correction for not less than 10 days nor more than 90 days. Each day in which any person shall operate as a salesperson or contractor without having obtained a license, or after revocation or suspension of the same, shall constitute a separate offense.

b. In addition to other applicable enforcement procedures and pursuant to the authority of s. 66.0113, Wis. Stats., the department of neighborhood services may issue citations pursuant to the citation procedure set forth in s. 50-25 to any person violating sub. 2. The police department is also authorized to issue citations for violations of sub. 2.

For legislative history of chapter 95, contact the Municipal Research Library.

Pages 435-452 are blank.

CHAPTER 97 WATER SUPPLY

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97-1. Licensing Required. Any person who shall lay any water service pipe or introduce into or about any building or on any grounds any water pipe, or who shall make any attachments or any connection whatever with the pipes of the water works, or shall prepare any work for such connection, or shall do any plumbing work connected with the introduction or supply of water from the water works, or shall make any repairs, additions to or alterations of any pipe, tap, stopcock, water closet or any other fixture connected or designed to be connected with the service water pipes without being duly licensed to perform said work by the commissioner of public works and without first having obtained either a permit from the water works or filed an application with the commissioner of city development, as the case may be for doing such work, shall be subjected to a fine of not less than \$10 and not exceeding \$50 and costs of prosecution.

97-2. Licensed Plumbers to Make Repairs. Where water service has been extended into any premise or building and the service pipe and all plumbing fixtures connected therewith are already controlled by a water meter, licensed plumbers may make repairs, alterations or additions to such water service pipes or plumbing fixtures without securing a permit from the water works but in lieu thereof shall file with the commissioner of city development an application showing the number and kind of additional plumbing fixtures to be installed.

97-3. Tampering with Water Works Facilities.

1. PERMIT REQUIRED. It shall be unlawful for any person, corporation or other organization to connect to, disconnect, or adjust any meter, pipe, hydrant, or other facility of the Milwaukee water works in any way whatsoever without having first obtained a permit to do so from the water works.

2. BILLING. It shall be unlawful for any person, corporation or other organization to take or use any water from a facility of the Milwaukee water works by any means that do not permit that use or taking to be measured and billed by the water works.

3. OWNER RESPONSIBLE. The presentation of evidence that the acts prohibited by this section took place on privately owned property shall create a rebuttable presumption that those acts were done by the owners of record of that property.

4. VIOLATIONS. The superintendent of the Milwaukee water works, or any official or employee of the water works that the superintendent may designate, shall have the power to issue a citation for any violations of this section.

5. PENALTY. Any person, corporation or other organization which violates this section shall pay a forfeiture of no more than \$1,000, and in default of payment thereof be confined in the county jail for not more than 30 days.

97-4.5. Replacement of Water Meters. As a condition of water service to the customers of the Milwaukee water works, all meters of customers of the Milwaukee water works system used for the purpose of measuring the quantity of water consumed by such customers shall be deemed under the exclusive control and supervision of the Milwaukee water works. The Milwaukee works shall repair or replace water meters as required in order to maintain the water meters in good working condition and so that they may accurately record the quantity of water consumed. The Milwaukee water works may interchange such meters with meters of like kind, may make repairs to such meters in a manner they deem most appropriate and practical, and may carry on such further activities of the servicing of such meters as may appear to be most effective in carrying out the purposes and objectives of the water works utility.

97-6.5 Water Supply

97-6.5. Delinquent Water and Meter Repair Bills. Upon presentation to the city clerk of a list of delinquent water and meter repair bills incurred during the preceding 12 months by customers of any municipal utility residing in the city and submitted by such municipal water utility on or before November 1st of each year, the city treasurer shall pay to such municipal water utility a lump sum of such total delinquency. This payment, however, shall be conditioned upon the fact that such municipal water utility has a reciprocal agreement with the city for the payment of delinquent water bills. Thereafter the said amount of delinquent water and water meter repair bills shall become liens on the real estate to which water was furnished or upon which meters were repaired and shall be inserted in the tax roll as delinquent taxes against the property involved or shall be collected in the same manner as are other delinquent taxes.

97-6.6. Delinquent Service Pipe Repair Bills. Upon presentation to the city clerk of a list of delinquent bills for the repair of service pipes, stops or stop boxes incurred during the preceding 12 months by customers of any municipal utility residing in the city and submitted by such municipal water utility on or before November 1st of each year, the city treasurer shall pay to such municipal water utility a lump sum of such total delinquency. This payment, however, shall be conditioned upon the fact that such municipal water utility has a reciprocal agreement with the city for the payment of delinquent water bills. Thereafter the amount of delinquent bills for the repair of service pipes, stops or stop boxes shall become a lien on the real estate to which service pipes, stops or stop boxes were repaired and shall be inserted in the tax roll as delinquent taxes against the property involved or shall be collected in the same manner as are other delinquent taxes.

97-7. Water Used in Public Buildings. All public buildings wherein city water is used shall be assessed in accordance with the established rates for making water assessments and all water used by the city for flushing sewers, settling sewer or other trenches, for all city display fountains and all water used for any purpose in the public parks shall be assessed according to the established water rates or in accordance with the best information obtainable, and in all cases where water has been used as

described, the fund of the water works shall be credited annually by the city comptroller with the several amounts so assessed and the said amounts charged to the respective funds chargeable with the maintenance of the several departments so supplied with water. During the month of December in each year the commissioner of public works shall certify to the city comptroller the several amounts used for street sprinkling purposes during that year, and the city comptroller shall thereupon, before the end of each year, credit the water works fund with the several amounts so certified as having been used by said ward for street sprinkling purposes.

97-8. Emergency Sprinkling Regulations.

1. TO BE DECLARED. Whenever in his or her opinion an emergency affecting the public health and safety shall exist by reason of insufficient water pressure, the commissioner of public works is authorized to promulgate an appropriate order restricting the use of water for sprinkling of lawns, gardens and premises. Upon approval by the mayor such an order shall be filed with the city clerk and shall thereupon be in full force and effect.

2. PENALTY. Any person violating any provision of such order shall upon conviction thereof be subject to a penalty of not less than \$1 nor more than \$50, together with the costs of prosecution, and in the event of default in the payment of such penalty and costs imprisonment in the county jail or house of correction for a period not to exceed 30 days.

97-9. Water Laboratory Reports. The superintendent of the water works shall make daily analyses and bacteriological tests of the water supply and transmit a monthly bacteriological and chemical summary of the plant water and a monthly bacteriological summary of tap water from various locations in the distribution system to the health commissioner and the state of Wisconsin department of natural resources.

97-10. Rent Withholding. 1. LACK OF WATER SERVICE. a. Deposit in Escrow. Notwithstanding any other provision of law, if a lessor of residential premises fails or neglects to provide water service to the premises as a result of a discontinuance of water service due to delinquent water charges, the commissioner of public works shall authorize the tenant in writing

to deposit rental payments into an escrow account designated by the commissioner. A tenant shall not be authorized to withhold rent if there exists a written agreement whereby the tenant has assumed liability for water charges. The tenant may commence making rental deposits into the escrow account beginning with the month in which authorization is given, provided that payment is made prior to expiration of a 5-day termination notice or service of a 14-day termination notice given by the lessor under ch. 704, Wis. Stats. The lessor shall be notified of rent withholding authorization and the appeal rights set forth in par. b by regular mail within 5 days.

b. Appeal. Authorization to deposit rental payments into an escrow account pursuant to par. a shall be stayed if an appeal of rent withholding authorization is made by the lessor to the administrative review appeals board in the manner and within the time period provided by s. 320-11. In hearing such appeals, the board shall have the power to affirm or reverse the authorization of rent withholding or to require the return to the lessor of all or part of the rent paid to the city rent withholding account or postpone to a future time commencement of rent withholding. The board may determine whether the lack of water service was caused by the fault or failure of the tenants or if there exists a written agreement whereby the tenant is liable for water charges, and, in such event, shall make a specific finding of such fact. This finding shall not affect the determination of the water works to discontinue water service, but shall only effect the ability of the commissioner to authorize rent withholding.

c. Absence of Payment. If the tenant's full rental payment has not been paid into the escrow account by the first day of the rental period, the commissioner shall, within 3 days and by regular mail, notify the lessor of the absence of full payment. If the tenant's full rental payment has not been paid into the escrow account by the 5th day of the rental period, the owner shall not be prohibited from starting eviction procedures.

2. DEPOSIT BY TENANT. The right of the tenant to deposit rental payments into the escrow account established by this section shall not preclude or affect in any way the tenant's right to use any of the remedies provided by the laws of the state of Wisconsin pertaining to the relationship of landlord and tenant.

3. RELEASE OF FUNDS. Monies deposited in the escrow account shall be released under any of the following conditions:

a. To the lessor upon certification by the water works that water service is being provided to the rental premises.

b. To the water works upon written authorization from the lessor. Monies so released shall be applied toward the delinquent water charges.

c. Monies deposited in the escrow account shall be used to pay for utilities where the utilities are included as part of the rent.

d. The commissioner may withdraw monies from the escrow account to restore water service, only after the time for appeal set forth in sub. 1-b has expired, and no appeal is pending.

e. The commissioner may deduct 15% as a fee to cover the costs of establishing, maintaining and closing the escrow account.

4. EVICTION OR RETALIATION.

a. No person or tenant who complains to the commissioner of a lack of water service or complies with this section shall be evicted for nonpayment of rent or because the person or tenant has elected to act under this section, so long as rent is being deposited by that tenant in the escrow account approved by the city for the receipt of such rental amounts.

b. No person or tenant shall be evicted or retaliated against for complaining of a lack of water service or for complying with this section. It shall be presumed that any attempt to terminate the tenancy of such tenant or to evict such tenant or to raise such tenant's rental payments or to otherwise harass or retaliate against such tenant during the period from the first complaint to the commissioner to 12 months after the certification by the water works that water service is being provided is done in retaliation for the tenant's complaint to the commissioner or for his or her compliance with this section and is declared void and subject to a forfeiture of not less than \$100 nor more than \$2,000 for each such attempt. In order to overcome such presumption, the lessor must show by a preponderance of the evidence that such acts were based upon good cause. In this paragraph "good cause" means that the lessor must show a good reason for his or her action, other than one related to or caused by the operation of this section, such as normal rental increases due to tax increases or increased maintenance costs. A tenant may be evicted for

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failure to pay rent into the escrow account when due or if the tenant commits waste upon the property.

5. PROSECUTION. Use of rent withholding shall not prohibit the city from pursuing any legal remedy available to it relative to delinquent water charges or from prosecuting violations of the code relating to the property.

6. COERCION. a. Any person who accepts, as a result of harassment or coercion, rental payments for premises subject to rent withholding under this section shall be subject to a forfeiture of not less than \$100 nor more than \$2,000, whether the rental payments are tendered by or on behalf of the tenant occupying the premises at the time rent withholding is authorized or by or on behalf of any subsequent or other tenant who occupies the premises during the existence of such rent withholding authorization. Each payment accepted shall constitute a separate violation.

b. Any tenant who willfully and maliciously uses or attempts to use this section to harass a lessor shall be subject to a forfeiture of not less than \$100 nor more than \$2,000.

97-12. Cross-Connection Control Regulations.

1. PURPOSE. The purpose of this section is to protect consumers and the public water supply system of the city from the possibility of contamination or pollution due to, but not limited to, a backflow, a backsiphonage or the interconnection of contaminants into a building's plumbing system or into the public water supply.

2. ADOPTION OF STATE CODE. Chs. SPS 381 to 387 and 390, Wis. Adm. Code, as amended, s. NR 810.15, Wis. Adm. Code, as amended, and ch. 145, Wis. Stats., as amended, are adopted by reference and incorporated into this section to the extent and with the limitations provided by this section.

3. SUPPLEMENTARY PROVISIONS. This section shall not supercede the Wisconsin Administrative Code (plumbing code), ch. 225 or the water works rules and regulations governing water service and water service piping specifications, but is supplementary to them.

4. DEFINITIONS: In this section:

a. "Backflow" means the unwanted reverse flow of liquids, solids or gases.

b. "Backpressure" means a pressure higher in the private consumer water piping system than in the public water supply system which may cause backflow.

c. "Backsiphonage" means the creation of a backflow as a result of negative pressure.

d. "Commercial premises" means a commercial or industrial premises or a residential dwelling of 3 or more units.

e. "Cross-connection" means a connection or potential connection between any part of a water supply system and another environment containing any substance in a manner that, under any circumstances, would allow the substance to enter the public water supply system by means of backsiphonage or backpressure.

f. "Cross-connection control device" means any mechanical device that automatically prevents backflow from a contaminated source into a public water supply system.

g. "Person" means an individual, sole proprietorship, partnership, limited liability company, corporation or association.

h. "Residential premises" means one or 2-family dwellings.

5. PROHIBITIONS. a. No person shall establish or permit to be established or maintain or permit to be maintained any cross-connection.

b. No person shall remove or permit to be removed a cross-connection control device or method.

c. No person shall establish an interconnection whereby any water from private, auxiliary or emergency water supply other than the regular public water supply of the city may enter the building plumbing or the public water supply system of the city unless the private, auxiliary or emergency water supply and the method of connection and use of the supply shall have been approved by the water works and by the Wisconsin department of natural resources in accordance with s. NR 810.15(2), Wis. Adm. Code.

6. CROSS-CONNECTION CONTROL PROGRAM. The water works shall develop and implement a comprehensive cross-connection control program for the elimination of all existing unprotected cross-connections and prevention of all future unprotected cross-connections to the last flowing tap or end-use device. The cross-connection control program shall include:

a. Conducting a survey of each residential premises a minimum of once every 20 years, on a schedule matching meter replacement. For normal kitchen and bathroom fixtures on residential premises, public education materials may be provided in lieu of surveys of those fixtures, as long as those materials are provided to the customer not less than every 3 years and with every cross-connection survey.

b. Conducting a survey of each commercial premises and each public authority a minimum of once every 2 years, subject to the following exceptions:

b-1. For a commercial premises with a risk of cross-connection similar to or less than a residential premises, the survey schedule may be the same as described in par. a.

b-2. For a multi-family residential or condominium premises, except a premises heated by a boiler, the survey shall be conducted a minimum of once every 5 years.

c. Maintaining results of all surveys until corrections and follow-up surveys have been made.

d. Maintaining a complete description of the methods, devices and assemblies which will be used to protect the potable water supply. These methods, devices and assemblies shall be consistent with the provisions of s. SPS 382.41, Wis. Adm. Code.

e. Providing for the discontinuance of water service, after reasonable notice, to any premises where an unprotected cross-connection exists or where a survey could not be conducted due to denial of access. See sub. 9 for additional information.

f. Submitting to the Wisconsin department of natural resources an annual report including a total number of service connections by category and the number of surveys completed in each category for that year.

7. INSPECTIONS. In addition to surveys conducted as part of the ongoing survey program described in sub. 6, a representative of the water works shall have the power and authority at all reasonable times, for any proper purpose, to examine any property served by a connection to the public water supply system. If entry is refused, the representative may obtain a special inspection warrant under s. 66.0119, Wis. Stats. A copy of any testing conducted on any testable backflow preventer shall be provided to the water works. Upon request by a representative of the water works, the owner, his

or her agent, lessee or occupant of any property so served shall furnish to the inspection agency any additional pertinent information regarding the piping system or systems on the property if the information is known to the owner, agent, lessee or occupant.

8. REINSPECTIONS. Any person who shall fail or neglect to comply with any lawful order issued by the superintendent of water works or the superintendent's designee pursuant to this section, may be assessed a reinspection fee pursuant to s. 200-33-48.

9. DISCONTINUANCE OF SERVICE.

a. The water works shall discontinue water service to any property wherein any connection in violation of this section exists or where a survey could not be conducted due to denial of access, and take any other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service may be discontinued only after reasonable notice and opportunity for a hearing pursuant to s. 320-11, except as provided in par. b. Water service to the property shall not be restored until the cross-connection has been eliminated in compliance with this section or access for a survey has been provided.

b. If it is determined by the water works that a cross-connection or an emergency causes imminent danger to the public health, safety or welfare and required immediate action, service may be immediately discontinued or ordered disconnected. The person aggrieved shall receive notice of the disconnection and shall have the right to appeal pursuant to s. 320-11.

9.5. DELEGATION OF AUTHORITY. The water works may delegate the inspection, survey, and enforcement authority and duties established in this section to the department of neighborhood services pursuant to a memorandum of understanding.

10. PENALTY. Any person who violates or fails to comply with this section shall be subject to a forfeiture of not less than \$150 nor more than \$5,000, together with the cost of prosecution, and in default of payment shall be imprisoned in the house of correction or in the Milwaukee county jail until such fine and costs are paid, such imprisonment not to exceed 90 days. Each day of violation shall constitute a separate offense.

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LEGISLATIVE HISTORY CHAPTER 97

Abbreviations:

am = amended

cr = created

ra = renumbered and amended

rc = repealed and recreated

rn = renumbered

rp = repealed

<u>Section</u>	<u>Action</u>	<u>File</u>	<u>Passed</u>	<u>Effective</u>
97-1	am	960621	7/30/96	8/16/96
97-1	am	980963	12/18/98	1/1/99
97-2	am	960621	7/30/96	8/16/96
97-2	am	980963	12/18/98	1/1/99
97-4.5	am	951346	1/23/96	2/9/96
97-8-1	am	960621	7/30/96	8/16/96
97-9*	cr	86-677	7/29/86	8/16/86
97-9*	cr	872597	6/7/88	6/24/88
97-9*	rn to 97-10	880524	7/26/88	8/13/88
97-10-1-b	am	881930	3/7/89	3/25/89
97-12	cr	031241	10/11/2004	10/28/2004
97-12-1	am	111247	10/14/2014	10/31/2014
97-12-2	am	111247	10/14/2014	10/31/2014
97-12-4-a	am	111247	10/14/2014	10/31/2014
97-12-4-c	am	111247	10/14/2014	10/31/2014
97-12-4-d	am	111247	10/14/2014	10/31/2014
97-12-4-g	am	111247	10/14/2014	10/31/2014
97-12-4-h	am	111247	10/14/2014	10/31/2014
97-12-5-b	am	111233	1/18/2012	2/4/2012
97-12-5-c	am	111233	1/18/2012	2/4/2012
97-12-6	rc	111247	10/14/2014	10/31/2014
97-12-6-a	am	111233	1/18/2012	2/4/2012
97-12-6-b	rc	180869	10/16/2018	11/2/2018
97-12-6-b-2	am	111233	1/18/2012	2/4/2012
97-12-7	am	111247	10/14/2014	10/31/2014
97-12-9-a	am	111247	10/14/2014	10/31/2014
97-12-9.5	cr	180869	10/16/2018	11/2/2018

* Section 97-9 was created effective 8/16/86; in 1988, a new section of chapter 97 was created, effective 6/24/88, and inadvertently assigned the same section number (section 97-9).

Subsequently a revisor's bill was passed, effective 8/13/88, renumbering the new text created effective 6/24/88 to section 97-10.

CHAPTER 98
USE AND OCCUPANCY OF CITY-OWNED CONDUIT
AND OTHER FACILITIES

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98-1. Definitions. In this chapter:

- 1. ALTERNATIVE TELECOMMUNICATIONS UTILITY** has the meaning given in s. 196.01(1d), Wis. Stats.
- 2. CABLE OPERATOR or OPEN VIDEO SYSTEM OPERATOR** means any person who delivers cable service.
- 3. CABLE SERVICE** has the meaning given in 47 USC 522 (5).
- 4. CABLE TELEVISION SYSTEM or CABLE SYSTEM** has the meaning given under 47 U.S.C. 522 (7).
- 5. CABLE TELEVISION TELECOMMUNICATIONS SERVICE PROVIDER** means a person who provides one or more telecommunications services.
- 6. COMMUNICATIONS CONDUIT SYSTEM or CONDUIT SYSTEM** means any city-owned reinforced passage or opening capable of containing transmission facilities now existing or hereinafter constructed to accommodate a permittee's transmission facilities in, on, under or through the ground and includes, but is not limited to: main conduit, underground dips such as short sections of conduit under or along roadways, driveways, bridges, parking lots; and similar conduit installation; laterals to poles or into buildings; ducts; sweeps and manholes.
- 7. CONDUIT DUCT** means a standard 4-inch passage or opening within the communications conduit system.

8. FRANCHISE or LICENSE means an initial authorization or renewal thereof, issued by the state, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a video services system.

9. OPEN VIDEO SYSTEM shall mean a facility consisting of a set of transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community and which is regulated under 47 U.S.C. 573.

10. PERMITTEE shall mean any person to whom a permit to occupy city-owned conduit has been granted under this chapter.

11. PERSON means a corporation, company, association, firm, partnership, limited liability company, limited liability partnership and individuals and their lessors, transferees and receivers.

12. PUBLIC SERVICE CORPORATION has the meaning given under s. 184.01(2), Wis. Stats.

13. PUBLIC UTILITY has the meaning given under s. 196.01 (5), Wis. Stats.

14. SERVICE is used in its broadest and most inclusive sense.

15. TELECOMMUNICATIONS means the transmission between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

16. TELECOMMUNICATIONS CARRIER means any person who owns, operates or controls any plant or equipment used to furnish telecommunications services within the state directly or indirectly to the public but does not provide basic local exchange service, except on a resale basis. "Telecommunications carrier" does not include an alternative telecommunications utility, a cellular mobile radio telecommunications utility or any other mobile radio telecommunications

98-3 Use and Occupancy of City-Owned Conduit and Other Facilities

utility as such terms are defined in s. 196.01, Wis. Stats.

17. TELECOMMUNICATIONS PROVIDER means any person who provides telecommunications services.

18. TELECOMMUNICATIONS SERVICE means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used. "Telecommunications service" does not include cable television service or broadcast service.

19. TELECOMMUNICATIONS UTILITY has the meaning given under s. 196.01 (10), Wis. Stats.

20. TRANSMISSION FACILITY is used in its most inclusive sense and means any cables, wires, lines, towers, wave guides, optical fibers or other fiber optic cables, laser equipment and any associated equipment or facilities designed and constructed for the purpose of producing, receiving, amplifying, transmitting or distributing audio, video, data and other forms of electronic signals or light waves to and from persons or locations within the city.

21. VIDEO SERVICE has the meaning given in s. 66.0420(2)(y), Wis. Stats.

22. VIDEO SERVICE PROVIDER has the meaning given in s. 66.0420(2)(zg), Wis. Stats.

98-3. Applicability. This chapter applies to all transmission facilities used by any person who provides cable services, video services or telecommunications services, including but not limited to alternative telecommunications utilities; public utilities; telecommunications utilities; telecommunications carriers and telecommunications providers; public service corporations; cable television telecommunications service providers; cable television service providers; video service providers; and open video system service providers.

98-5. Use to be Approved By Common Council. Before any person uses or occupies any city-owned conduit duct for the purpose of providing cable services or telecommunications services, such person shall register and submit to department of public works the location of the lines of the facilities to be used or occupied. The department of public works

shall determine the availability of excess capacity in the conduit system, and the time and manner for such use or occupancy, and shall forward the registration to the common council. No portion of the conduit system may be used or occupied without having first obtained permission from the common council.

98-7. Registration. Any person who seeks to occupy or use a city-owned conduit or facility shall register with the department of public works. Registration shall consist of payment of the registration fee required by s. 98-11 providing information to and as required by the department, execution of a written agreement to pay an occupancy and use fee, and compliance with the provisions of the agreement and city code relating to the use of rights-of-way.

98-9. Registration Information. The information provided to the department of public works at the time of registration shall include, but not be limited to:

1. The registrant's name, address and e-mail address, if applicable, telephone number, facsimile number and evidence of diggers hot line registration.

2. The name, address and e-mail address, if applicable, and telephone and facsimile number of a local representative. The local representative shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

3. A certificate of insurance:
a. Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in Wisconsin.

b. Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the:

b-1. Use and occupancy of the city's conduit system or other facilities by the registrant, the registrant's officers, agents, employees and permittees.

b-2. Placement and use of equipment in the right-of-way by the registrant, the registrant's officers, agents, employees and permittees, including, but not limited to, protection against liability arising from

completed operations, damage of underground equipment and collapse of property.

b-3. Indicating comprehensive liability coverage, automobile liability coverage and umbrella coverage in amounts established by the city attorney.

b-4. Naming the city as an additional insured as to whom the coverage required is in force and applicable and for whom defense will be provided as to all such coverage.

b-5. Requiring that the city attorney shall be notified 30 days in advance of cancellation of the policy.

c. If the person is a corporation, a copy of the certificate required to be filed under Wisconsin statutes as recorded and certified to by the secretary of state.

4. The class or classes of service to be provided on the registrant's transmission facility and the specific locations or areas within the city in which each class of service will be available:

- a. During the next calendar year; and
- b. For the 5 years following the next calendar year.

5. Contemplated conduit occupancy locations:

a. Specific locations and the beginning and ending dates of all projects to be commenced during the next calendar year.

b. Tentative locations and beginning and ending dates for all projects contemplated for the 5 years following the next calendar year.

6. Evidence of authorization from the federal communications commission or the Wisconsin public service commission to operate a telecommunication service, or evidence of authorization from the state of Wisconsin to operate a cable service, video service or an open video system.

7. The permittee shall keep all of the information listed in this section current at all times by providing to the department of public works by December 1 of each year an operations plan. Such plan shall be submitted using a format designated by the commissioner of public works and shall contain the information determined by the commissioner to be necessary to facilitate the coordination of conduit occupancy use and the frequency of excavations and obstructions of rights-of way.

8. The permittee shall notify the department of public works of any projects

which have been or are to be deleted from the conduit occupancy operations plan. Notification of changes in any information listed in this subsection shall be submitted to the department of public works within 15 days following the date on which the permittee has knowledge of any change.

98-11. Registration Fee; Fee in Addition to Conduit System Occupancy Fees.

1. Registration review and processing costs shall be paid at the time of registration with the department of public works for conduit occupancy.

2. Make-ready and conduit pulling costs for approved occupancy shall be separately reimbursable.

98-13. Conduit System Occupancy Fees. A use and occupancy fee shall be paid for each class of service delivered on all or a portion of the transmission system. If more than one class of service is delivered over a transmission facility, an occupancy registration and use agreement shall be obtained for each class of service. For purposes of calculating occupancy fees pursuant to this chapter, linear distance shall be defined as the point-to-point linear distance of each portion of the facility used to deliver each class of service. The following minimum use and occupancy fees shall apply for conduit occupancy agreements having a term of 15 years:

1. CLASS ONE: The minimum fee for conduit system occupancy for transmission facilities used for the delivery of cable services or video services, pursuant to a franchise or license agreement and subject to payment of a franchise or license fee, shall be:

a. \$1.65 per foot per year for sub-duct occupancy of up to one-third of a conduit duct.

b. \$1.95 per foot per year for sub-duct occupancy of more than one-third but less than two-thirds of a conduit duct.

c. \$2.25 per foot per year for full occupancy of a conduit duct.

d. Class one occupancy fees are not applicable to any portion of the conduit system which crosses under any river or is attached to a bridge.

2. CLASS TWO: The minimum fee for conduit duct occupancy for transmission facilities used for the delivery of

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telecommunications services not subject to payment of a franchise or license fee shall be:

a. \$1.95 per foot per year for sub-duct occupancy of up to one-third of a conduit duct.

b. \$2.25 per foot per year for sub-duct occupancy of more than one-third but less than two-thirds of a conduit duct.

c. \$2.55 per foot per year per occupied conduit duct.

d. Class two occupancy fees are not applicable to any portion of the conduit system which crosses under any river or is attached to a bridge.

3. CLASS THREE: The minimum fee for conduit duct occupancy for transmission facilities under common or affiliated ownership or control and used for the delivery of both class one and class two services shall be:

a. \$2.25 per foot per year for sub-duct occupancy of up to one-third of a conduit duct.

b. \$2.55 per foot per year for sub-duct occupancy of more than one-third but less than two-thirds of a conduit duct.

c. \$2.85 per foot per year for full occupancy of a conduit duct.

d. Class three occupancy fees are not applicable to any portion of the conduit system which crosses under any river or is attached to a bridge.

e. For purposes of this subsection, "affiliated", when used in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with such person.

4. CLASS FOUR: The minimum fee for conduit duct occupancy for transmission facilities delivering either class one or class two services in conduit which crosses under any river, railroad, freeway or other obstruction or is attached to a bridge shall be:

a. There shall be a base fee of \$7,500 for up to one-third of a conduit duct occupancy plus \$15 per foot per year for the first 200 feet, then \$7.50 per foot per year for the next 300 feet, then \$2 per foot per year for any additional space.

b. There shall be a base fee of \$15,000 for up to two-thirds of a conduit duct occupancy plus \$20 per foot per year for the first 200 feet, then \$10 per foot per year for

the next 300 feet, then \$2.50 per foot per year for any additional space.

c. There shall be a base fee of \$17,500 for two-thirds or more of a conduit duct occupancy plus \$25 per foot per year for the first 200 feet, then \$12.50 per foot per year for the next 300 feet, then \$3 per foot per year for any additional space.

d. For purposes of this subsection, measurement of such conduit occupancy shall be from manhole to manhole on each side of the river or other obstruction.

5. The commissioner of public works shall have the power to establish rates by auction or negotiation for new or additional conduit system capacity or its occupancy if there is insufficient space to accommodate all of the anticipated requests of permittees or persons to occupy and use the existing conduit system.

6. The commissioner of public works shall have the power to establish rates and negotiate occupancy agreements for terms of less than 15 years, subject to s. 98-5.

98-15. Grant of Right; Payment of Occupancy Fee.

1. Any person required to register under s. 98-7, who furnishes telecommunications, video services or cable services or who occupies or uses the city's conduit system is granted a right to do if and only so long as authorized to do so by the city, and the person pays the occupancy fee as provided in s. 98-11 and complies with all other requirements of law, including the execution of a written agreement and receipt of a registration certificate and permit to occupy the conduit system.

2. The fee shall be paid to the city on January 1 and July 1 of each calendar year in advance for the succeeding 6-month period. The fee shall be based upon the total linear distance of conduit then used or occupied with a back payment, prorated on a daily basis, made for conduit used or occupied since the last billing period.

3. The grant of such right is expressly conditioned on, and is subject to continuing compliance with all provisions of law, including this chapter.

4. The commissioner of public works shall have the power to prohibit or limit the placement of new or additional facilities within the conduit system if there is insufficient

space to accommodate the needs of the city or of all the requests of registrants or persons to occupy and use the conduit system. In making such decision, the commissioner shall be guided primarily by considerations of public interest, the condition of the conduit system, the public's needs for the particular service, the protection of existing facilities in the conduit system, and future city plans for public improvements and development projects which have been determined to be in the public interest.

98-17. Reservation of Regulatory and Police Powers. The city, by the granting of a registration certificate and permit to occupy city-owned conduit under this chapter, does not surrender or to any extent lose, waive, impair or lessen the lawful powers and rights, which it has now or may be hereafter vested in the city under federal law, the Wisconsin constitution, the statutes of the state of Wisconsin, or charter of the city; and the permittee by its acceptance of occupancy permit or of registration under this chapter agrees that all lawful powers and rights, regulatory power, or police power, or otherwise as are or the same may be from time to time vested in or reserved to the city, shall be in full force and effect and subject to the exercise thereof by the city at any time. A permittee or registrant is deemed to acknowledge that the permittee or registrant's right are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general laws and ordinances enacted by the city pursuant to such powers. Any conflict between the provisions of a registration or a conduit occupancy permit and any other present or future lawful exercise of the city's regulatory or police powers shall be resolved in favor of the latter.

**98--(HISTORY) Use and Occupancy of City-Owned
Conduit and Other Facilities**

**LEGISLATIVE HISTORY
CHAPTER 98**

Abbreviations:

am = amended

cr = created

ra = renumbered and amended

rc = repealed and recreated

rn = renumbered

rp = repealed

<u>Section</u>	<u>Action</u>	<u>File</u>	<u>Passed</u>	<u>Effective</u>
Ch. 98	cr	970451	7/25/97	8/13/97
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98-1-8	am	080429	7/30/2008	8/16/2008
98-1-21	cr	080429	7/30/2008	8/16/2008
98-1-22	cr	080429	7/30/2008	8/16/2008
98-3	am	080429	7/30/2008	8/16/2008
98-9-6	am	080429	7/30/2008	8/16/2008
98-13-1-0	am	080429	7/30/2008	8/16/2008
98-13-1-a	am	020593	11/8/2002	1/1/2003
98-13-1-b	am	020593	11/8/2002	1/1/2003
98-13-1-c	am	020593	11/8/2002	1/1/2003
98-13-2-a	am	020593	11/8/2002	1/1/2003
98-13-2-b	am	020593	11/8/2002	1/1/2003
98-13-2-c	am	020593	11/8/2002	1/1/2003
98-13-3-a	am	020593	11/8/2002	1/1/2003
98-13-3-b	am	020593	11/8/2002	1/1/2003
98-13-3-c	am	020593	11/8/2002	1/1/2003
98-13-4	rc	070406	9/25/2007	10/12/2007
98-13-4-a	am	020593	11/8/2002	1/1/2003
98-13-4-b	am	020593	11/8/2002	1/1/2003
98-13-4-c	am	020593	11/8/2002	1/1/2003
98-15-1	am	080429	7/30/2008	8/16/2008

[Pages 465 to 466 are blank]

CHAPTER 99 VIDEO SERVICES SYSTEMS

Table

99-11 PEG Access Managers; Public
 and Educational Access
 Channels

99-11. PEG Access Managers; Public and Educational Access Channels.

1. INTENT. In order to achieve utilization of access channels that is in the best public interest, it is the intent of the city to ensure that the public and educational access channels on any franchised cable system are governed by an independent, nonprofit corporation (the Access manager), such that these channels may be free of censorship, open to all residents of the city and available for all forms of public expression, community information and debate of public and educational issues.

2. FUNCTIONS. The access manager shall have the following functions:

a. Responsibility for administration of program production for and management of the public and educational access channels.

b. Encourage the use of public and educational access channels among a wide range of individuals, groups and institutions within the city.

c. Assure that the public and educational access channels are made available to all residents of the city on a fair and equitable basis.

d. Assure that no censorship or control over program content of the channels exist, except as necessary to comply with legal, statutory and regulatory prohibitions on transmission of materials that is obscene or conducts a lottery.

e. Devise, establish and administer all rules, regulations and procedures pertaining to the use and scheduling of the public access and educational channels.

f. Prepare such regular or special reports as may be required or desirable.

g. Hire and supervise staff and insure compliance with applicable affirmative action and equal opportunity guidelines in the hiring of personnel.

h. Make all purchases of materials and equipment that may be required and assure utilization of emerging business enterprises whenever possible.

i. Develop additional sources of funding, such as foundation or federal or state grants or community underwriting and support, to further educational and community programming.

j. Perform such other functions relevant to the access channels as may be appropriate.

3. ACCESS RULES. The access manager shall complete a set of rules governing the use of the access channels which shall be promptly forwarded to the city. The rules shall, at a minimum, provide for:

a. Access on a nondiscriminatory basis.

b. Prohibition of any presentation of lottery information, or obscene or indecent material.

c. Public inspection of the log of producers, which shall be retained by the access manager for a period coincident with the review of performance periods.

d. Procedures by which individuals, groups or institutions who violate any rule may be prevented from further access to the channel.

e. Use of reasonable amounts of channel time, facilities and technical support in accordance with an agreement between the access manager and the city.

4. REPORTS TO CITY. The access manager shall provide a report to the city clerk, at least annually, indicating achievements in educational and community-based programming and services and compliance with the requirements of the access management agreement. Quarterly statements of revenues and expenditures shall be submitted to the city clerk within 45 days of the end of each calendar quarter, and an annually audited financial statement shall be submitted to the city clerk within 120 days of the end of the year. The access manager shall also provide such other reports and records as may be requested by the city clerk.

5. PROCEDURE FOR DESIGNATION OF ACCESS MANAGER. a. The city may at any time designate upon recommendation of the city clerk, an access manager, or direct the city clerk to solicit applications and proposals from persons wishing to be designated as the city's access manager.

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b. Upon recommendation of the city clerk, the city may grant or deny an application for designation as an access manager. Prior to making such recommendation, the city clerk may conduct such investigations as are necessary to determine whether the applicant has the financial, technical, administrative and legal capabilities to satisfy the requirements of this section. If the city finds that it is in the public interest to designate an applicant as an access manager, considering the capabilities of the applicant and the factors set forth above, and subject to the applicant's entry into an appropriate written agreement with the city, it shall issue such a designation. The city clerk also may reject any application that is incomplete or fails to respond to information requested by the city clerk.

**LEGISLATIVE HISTORY
CHAPTER 99**

Abbreviations:

am = amended

cr = created

ra = renumbered and amended

rc = repealed and recreated

rn = renumbered

rp = repealed

<u>Section</u>	<u>Action</u>	<u>File</u>	<u>Passed</u>	<u>Effective</u>
Ch. 99	rc	79-1592-j	5/8/81	5/23/81
Ch. 99	rc	980530	12/17/99	1/11/2000
99-0	am	080429	7/30/2008	8/16/2008
99-1	rp	080429	7/30/2008	8/16/2008
99-2	rp	080429	7/30/2008	8/16/2008
99-3	rp	080429	7/30/2008	8/16/2008
99-3-5	am	79-1592-4q	4/26/83	5/14/83
99-3-24	am	79-1592-4q	4/26/83	5/14/83
99-3-32	am	79-1592-5k	7/20/84	8/4/84
99-3-38 and 39	am	79-1592-4q	4/26/83	5/14/83
99-3-51	rp	79-1592-4q	4/26/83	5/14/83
99-4	rp	080429	7/30/2008	8/16/2008
99-4-6	am	79-1592-5k	7/20/84	8/4/84
99-4-8-a and b	rc	79-1592-4q	4/26/83	5/14/83
99-4-8-f	rp	79-1592-4q	4/26/83	5/14/83
99-4-9-c-2	am	970131	5/13/97	5/31/97
99-4-9-d	cr	961747	3/21/97	4/10/97
99-4-11-a	am	79-1592-4q	4/26/83	5/14/83
99-4-11-a	am	79-1592-4w	7/12/83	7/29/83
99-4-11-a	am	79-1592-5k	7/20/84	8/4/84
99-4-11-d and f	rc	79-1592-4q	4/26/83	5/14/83
99-4-12-a and b	rc	79-1592-4q	4/26/83	5/14/83
99-4-12-c-3	rc	79-1592-4q	4/26/83	5/14/83
99-4-15-a	rc	79-1592-4q	4/26/83	5/14/83
99-4-15-a-1-f	am	970131	5/13/97	5/31/97
99-4-15-a-2-0	am	881395	12/20/88	1/13/89
99-4-15-a-2-0	am	901096	3/3/92	3/20/92
99-4-15-a-2-0	am	970131	5/13/97	5/31/97
99-4-15-a-2-a	am	901096	3/3/92	3/20/92
99-4-15-a-2-b	am	901096	3/3/92	3/20/92
99-4-15-a-2-d	am	901096	3/3/92	3/20/92
99-4-15-b and c	rc	79-1592-4q	4/26/83	5/14/83
99-4-15-b-6	am	901096	3/3/92	3/20/92
99-4-15-b-8	am	901096	3/3/92	3/20/92
99-4-15-c-0	am	901096	3/3/92	3/20/92
99-4-15-c-2	am	881395	12/20/88	1/13/89
99-4-15-c-2	am	901415	12/21/90	1/12/91
99-4-15-c-2	am	901096	3/3/92	3/20/92
99-4-15-c-2	am	940829	11/29/94	12/16/94
99-5	rp	080429	7/30/2008	8/16/2008
99-5-1	am	901096	3/3/92	3/20/92
99-5-1 and 2	rc	79-1592-4q	4/26/83	5/14/83
99-5-3-b-3 and 7	rc	79-1592-4q	4/26/83	5/14/83
99-5-3-b-9-c	rc	79-1592-4q	4/26/83	5/14/83
99-5-5	cr	930786	9/28/93	10/15/93

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99-5-14-e-0	am	020593	11/8/2002	1/1/2003
99-5-14-e-1	am	020593	11/8/2002	1/1/2003
99-5-14-e-2	am	020593	11/8/2002	1/1/2003
99-5.3	cr	901096	3/3/92	3/20/92
99-5.3	am	920827	9/17/92	12/20/92
99-5.5	cr	79-1592-3a	12/15/81	1/8/82
99-5.5	rc	901096	3/3/92	3/20/92
99-5.5-3	cr	79-1592-3u	2/25/82	3/13/82
99-5.5-3	am	880329	11/18/88	12/9/88
99-6	rp	080429	7/30/2008	8/16/2008
99-6-1.5	cr	86-6	5/23/86	6/12/86
99-6-1.5-b-3	am	901096	3/3/92	3/20/92
99-6-2-c	rc	79-1592-4q	4/26/83	5/14/83
99-6-2-p	am	020593	11/8/2002	1/1/2003
99-6-6	am	872421	5/17/88	6/4/88
99-7	rp	080429	7/30/2008	8/16/2008
99-7-5-c	rc	79-1592-4q	4/26/83	5/14/83
99-8	rp	080429	7/30/2008	8/16/2008
99-8-12-c	rc	79-1592-4q	4/26/83	5/14/83
99-9	rp	080429	7/30/2008	8/16/2008
99-9-1	am	79-1592-5k	7/20/84	8/4/84
99-10	rp	080429	7/30/2008	8/16/2008
99-10-1	rc	75-1592-4q	4/26/83	5/14/83
99-10-2-c to e	rc	79-1592-4q	4/26/83	5/14/83
99-10-2-e	rc	901206	2/12/91	3/1/91
99-10-2-e-1-a	cr	79-1592-5k	7/20/84	8/4/84
xviii and xix				
99-10-2-e-0	am	970131	5/13/97	5/31/97
99-10-2-e-1-a*	rn	LRB*	3/2/88	
99-10-2-e-1-b-vi	cr	79-1592-5k	7/20/84	8/4/84
99-10-2-e-1-b*	rn	LRB*	3/2/88	
99-10-2-e-2-a to g*	rn	LRB*	3/2/88	
99-10-2-e-2-e	am	970131	5/13/97	5/31/97
99-10-2-e-4	am	970131	5/13/97	5/31/97
99-10-5-b and c	rc	79-1592-4q	4/26/83	5/14/83
99-10-8	am	901096	3/3/92	3/20/92
99-11-2-a	am	080429	7/30/2008	8/16/2008
99-11-2-d	rc	080429	7/30/2008	8/16/2008
99-11-2-h	am	020593	11/8/2002	1/1/2003
99-11-3-e	am	080429	7/30/2008	8/16/2008
99-12	rc	79-1592-4q	4/26/83	5/14/83
99-12	rp	080429	7/30/2008	8/16/2008
99-12-3-c	am	021185	12/20/2002	1/11/2003
99-13	rp	080429	7/30/2008	8/16/2008
99-13-1 and 4	rc	79-1592-4q	4/26/83	5/14/83
99-13-3-b	am	020593	11/8/2002	1/1/2003
99-13-4	am	901096	3/3/92	3/20/92
99-13-5	rp	79-1592-4q	4/26/83	5/14/83
99-13-6 to 14	rn	79-1592-4q	4/26/83	5/14/83
99-13-10	rc	930105	6/15/93	7/2/93
99-13-11-a to g	am	79-1592-3r	11/19/81	12/5/81
99-13-11	rn	79-1592-4q	4/26/83	5/14/83

** Provisions were administratively renumbered by the Legislative Reference Bureau to conform with changes in the numbering of code sections.*

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99-13-12-a-2	am	79-1592-5n	3/22/85	5/10/85
99-13-12-a-5	rp	79-1592-5n	3/22/85	5/10/85
99-13-12-a-6	rn	79-1592-5n	3/22/85	5/10/85
99-13-12-b	am	79-1592-5n	3/22/85	5/10/85
99-13-12-c	am	79-1592-5n	3/22/85	5/10/85
99-14	rp	080429	7/30/2008	8/16/2008
99-15	cr	901096	3/3/92	3/20/92
99-15	rp	080429	7/30/2008	8/16/2008
99-16	rp	080429	7/30/2008	8/16/2008
99-17	rp	080429	7/30/2008	8/16/2008

99 - (HISTORY) Video Services Systems

[Pages 472 to 480 are blank]

CHAPTER 100 PUBLIC PASSENGER VEHICLE REGULATIONS

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SUBCHAPTER 1 GENERAL PROVISIONS

100-1. Authority; Title. This chapter is adopted under ss. 62.11(5) and 349.24, Wis. Stats., and shall be cited as "The City of Milwaukee Public Passenger Vehicle Regulations".

100-2. Purpose. The purpose of this chapter is to:

1. Provide for safe, convenient and efficient transportation for the general public.
2. Enhance the image of the city and to more effectively serve visitors.
3. Enhance the role of the private sector in public transportation.
4. Protect consumers from hazardous conditions or overcharging for service.
5. Encourage innovation in the provision of public passenger vehicle services.
6. Eliminate conflict and confusion among users between different types of services.

100-3. Definitions. In this chapter:

1. **COLOR** means any hue named in the Inter-Society Color Council as it has been developed at the National Bureau of Standards (ISCC-NBS circular 553).
2. **CONTRACT SERVICE** means acceptance of a passenger for transportation for a fixed fare by agreement prior to entry of the passenger into the public passenger vehicle.
3. **CRUISING** means driving along public ways soliciting passengers for hire, and includes stopping wherever parking is permitted and at any cabstand or private property where permitted by the owner.
4. **DOUBLE LOADING** means accepting additional fares after being hired by one fare paying passenger.
5. **DRIVER'S LICENSE** means a license issued under this chapter by the common council to drivers of public passenger vehicles.
6. **EXCLUSIVE** means the persons hiring a vehicle have its exclusive use, with no ride sharing.
- 6.3. **FIXED FARE** means the amount a passenger may be responsible for paying based upon the combination of any rates and fees or estimates agreed upon by the passenger and confirmed by the driver of a public passenger vehicle upon accepting contract service.
- 6.5. **FIXED ROUTE** means authorized scheduled trips from predetermined passenger pickup points to predetermined destinations.

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6.7. HAIL means signaling the driver of a public passenger vehicle visually or by telephonic or other electronic means indicating a demand for immediate service by a metered vehicle for passenger transportation.

6.9. HIRE means acceptance for a fee, fare or compensation of any kind of a passenger for transportation by contracted service or upon hail or request for transportation and entry of the passenger into the public passenger vehicle.

7. HUMAN SERVICES VEHICLE means a vehicle for hire, other than a taxicab or public mass transportation vehicle, which is especially suited for the transportation of disabled or elderly persons who by reason of physical or mental infirmity or age cannot be transported on public mass transportation vehicles.

8. HORSE AND SURREY LIVERY means a horse-drawn surrey for hire.

9.5 LICENSE CLASSIFICATION means the category or categories of public passenger vehicles for which a person holding a valid driver's license issued under s. 100-54 is qualified to operate under s. 100-54-2. License classifications include the following:

a. "Class H" means the holder of the license has met the qualifications to operate the following public passenger vehicles: human services vehicle.

b. "Class L" means the holder of the license has met the qualifications to operate the following public passenger vehicles: limousines and shuttle vehicles.

c. "Class M" means the holder of the license has met the qualifications to operate the following public passenger vehicles: motorcycles used for tours.

d. "Class P" means the holder of the license has met the qualifications to operate the following public passenger vehicles: pedicabs and horse and surrey liveries.

e. "Class T" means the holder of the license has met the qualifications to operate the following public passenger vehicles: taxicabs.

10. LICENSING COMMITTEE means the committee of the common council responsible for licensing vehicles under this chapter.

11. LIMOUSINE means a category of for-hire, unmetered, unmarked, chauffeur-driven, ground transportation vehicles solely engaged in the business of carrying passengers on a contract service basis only.

11.5. MOTORCYCLE means a vehicle as defined in s. 340.01(32), Wis. Stats., and which is used on a contract service basis.

12. MOTOR VEHICLE means a self-propelled vehicle and also includes trailers and semitrailers designed for use with such vehicles.

13. NETWORK COMPANY means a transportation company or business that uses an online, digital or electronic platform to connect passengers with network vehicles operated by public passenger vehicle drivers.

14. NETWORK VEHICLE means a public passenger vehicle operated as a taxicab under contract service arranged through a network company.

14.5. PASSENGER-CARRYING CAPACITY means the seating capacity of the vehicle which has been specified by the manufacturer, or established by the department of public works upon visual inspection of the vehicle.

15. PEDICAB means a multiwheeled hooded or unhooded passenger vehicle that is moved by human power, or rickshaw-type vehicle pulled or propelled by any person which is used in the movement of passengers for hire on the public highways.

16 PEDICAB, COMMERCIAL QUAD-RICYCLE means a vehicle with fully operational pedals for propulsion entirely by human power, that has 4 wheels and is operated in a manner similar to a bicycle, that is equipped with at least 12 seats for passengers, that is designed to be occupied by a driver and passengers providing pedal power to the drive train of the vehicle, that is used for commercial purposes, and that is operated by the vehicle owner or an employee of the owner.

17. PERMIT means a permit issued by the common council under this chapter to operate a public passenger vehicle.

18. PERMITTEE means a person who has been issued a permit under this chapter.

19. PERMITTEE, FLEET means a person who has been issued 5 or more vehicle permits.

20. PERMITTEE, INDIVIDUAL means a person who has been issued 4 or fewer vehicle permits.

21. PERSON means any individual, partnership, corporation, limited liability company or association.

22. PLYING means solicitation of potential taxicab customers, including the use of flashing lights mounted anywhere on the vehicle,

soliciting or taking orders by telephone, cruising, stopping, whether in taxicab stands or not, or in any other manner holding out to the public that such taxicab is available for hire.

23. PUBLIC PASSENGER VEHICLE means a vehicle which is used for the transportation of passengers for hire, including human service vehicle (Class H), horse and surrey livery (Class P), limousine (Class L), pedicab (Class P), motorcycle used for tours (Class M), shuttle vehicle (Class L), and taxicab (Class T). Public passenger vehicle does not include:

- a. A vehicle operated on fixed routes pursuant to authority granted by the county, state or federal government.
- b. A vehicle which is rented to be driven by the renter or an agent.
- c. A vehicle operated solely as a funeral car.
- d. A vehicle used in a carpool operated by private individuals.
- e. A commercial motor vehicle as defined under s. 340.01(8), Wis. Stats., as amended.

24. RIDE SHARING means a method of operating a vehicle in which passengers sharing a common portion of a trip may enter the vehicle at one or more points of origin and disembark at one or more destinations, each passenger paying an individual fare for the trip.

25. SHUTTLE VEHICLE means a privately owned vehicle which is solely engaged in the business of carrying passengers in either a:

- a. Shared ride service for hire on a fixed route and fixed schedule to and from predetermined locations; or
- b. Group travel service for hire, provided that the vehicle:
 - b-1. Operates on a pre-reserved basis only and has a passenger-carrying capacity of 5 or more persons, excluding the driver; or
 - b-2. Is a "low-speed vehicle," as defined in 340.01(27h), Wis. Stats., and is titled and registered by the state as a low-speed vehicle.

26. STANDS means street curb locations which are designated for a particular type of permitted vehicles.

27. TAXICAB means a public passenger vehicle with 3 or more doors which operates without a fixed route or schedule and which is available for hire upon demand for service including by hail on the street, or upon telephonic or other electronic request.

28. TAXICAB AFFILIATION means an association of taxicab permittees organized by incorporation, limited liability company, partnership, individual ownership or other legally-binding cooperative association.

29. TAXIMETER means a device by which the charge for hire of a taxicab is calculated, either for distance traveled or for waiting time, or for both, and upon which such charge is indicated by means of numbers.

100-4. Licensing Committee. 1. AUTHORITY. The licensing committee, subject to the approval of the common council, shall supervise and regulate public passenger vehicles and keep the rates within the limits established by the common council, and determine the adequacy of the service furnished.

3. REGULATIONS; ORDERS. The committee may prescribe regulations and issue orders, in conformity with this chapter, applicable to permittees or drivers of public passenger vehicles. The committee may require the filing of reports, schedules and other data by the permittees or drivers of public passenger vehicles so that the provisions of this chapter may be carried out. Any permittee or driver who does not comply with the regulations or orders of the committee shall be subject to the penalty provisions of this chapter.

4. ADMINISTRATIVE OFFICIAL.

a. The city clerk shall administer all regulations and orders adopted or issued by the committee and shall keep a register of the names of each permittee, together with the permit number and record of financial responsibility as provided in this chapter and the description, make and year of each permitted vehicle, with the date and the complete record of inspection made of the vehicle. These records shall be open to public inspection at all reasonable times and shall be public records, extracts of which may be certified for use as evidence by the chief of police.

b. The city clerk shall investigate and otherwise review the operation of vehicles and the conduct of drivers and vehicle permittees as directed by the committee and may issue warnings and citations for violations of the regulations and orders of the committee or for violations of other applicable provisions of this chapter assessing reasonable costs related to enforcement of the chapter.

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SUBCHAPTER 2
VEHICLE REGULATIONS

100-49. Purpose. The purpose of this subchapter is to provide uniform regulations to require every permittee and driver to furnish reasonably safe and adequate service at just and reasonable rates to assure adequate accommodations to the public.

100-50. Public Passenger Vehicle Permits.

1. PERMIT REQUIRED. a. No vehicle owner or lessee shall operate his or her vehicle, or allow his or her vehicle to be operated, as a public passenger vehicle for hire upon the streets of the city without the vehicle owner or lessee first obtaining for the vehicle a permit as provided in this section.

b. No person shall operate a public passenger vehicle for hire upon the streets of the city without the vehicle owner or lessee first obtaining for the vehicle a permit as provided in this section.

c. Any person violating this section shall be subject to the penalty provided in s. 100-62-2.

2. EXEMPTIONS. The following vehicles shall be exempt from the regulations of this subchapter:

a. Vehicles licensed by the Wisconsin department of transportation as human service vehicles as described in ch. Trans 301, Wis. Adm. Code.

b. Shuttle vehicles authorized by Milwaukee county to provide in-county shuttle service to and from General Mitchell International Airport under s. 4.05.02, Milwaukee county code when solely engaged in the business of carrying passengers to and from General Mitchell International Airport.

3. ELIGIBILITY, TAXICABS. a. No new or renewal public passenger vehicle permit for a taxicab shall be issued for any motor vehicle of a model year greater than 10 years old at the time of application.

b. No new public passenger vehicle permit for a taxicab shall be issued except for a motor vehicle that, in addition to meeting all other requirements of this subchapter, provides passenger leg room of not less than 32 inches measured from the back of the seated passenger forward.

c. No permit shall be transferred to a different vehicle except to a vehicle in compliance with par. b.

d. Notwithstanding the vehicle requirements of pars. b and c, a permit for a taxicab may be issued or renewed upon a determination that the vehicle model meets the requirements in s. 100-51.5-4 for human service vehicles.

f. Notwithstanding the limitations in sub. 13, a new public passenger vehicle permit may be issued upon surrender of an existing permit to the city clerk and either an application by the permittee to change his or her legal form of business or upon application of a permittee to transfer the permit to another person.

4. APPLICATION. a. Application for a public passenger vehicle permit shall be filed with the city clerk on forms provided and, except where otherwise expressly provided in this section, shall conform to the requirements in s. 85-12. Completed applications for a new permit shall be accepted by the city clerk for processing in a manner established by the city clerk for submission to the licensing committee.

b. The application shall require:

b-1. The name, date of birth and home address and telephone number of the applicant.

b-2. If the applicant is a corporation or limited liability company, the name of the corporation shall be set forth exactly as it is set forth in its articles of incorporation, together with the names, dates of birth and home addresses and telephone numbers of its designated agent and each of its officers or members, if any. If any of the members is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the corporate officers.

b-3. If the applicant is a partnership, the application shall set forth the name, date of birth and home address and telephone number of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the corporate partners.

b-4. The type of public passenger vehicle the applicant intends to employ.

b-5. The current state registration of each motor vehicle, naming the applicant as title holder.

b-6. Evidence of financial responsibility as required by s. 100-53, issued to and covering the applicants.

b-7. The identity of any dispatch services or network company with which affiliated, if any.

b-8. The plan for public passenger vehicle operation including:

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b-8-a. A statement of the experience of the applicant in operating a public passenger vehicle, if any.

b-8-b. Identification of all public passenger vehicle permits currently issued to the applicant.

b-8-c. The times at which the public passenger vehicle will be available for service and whether the vehicle will be operated within an affiliation, network company or dispatch service that provides 24-hour service each day of the year.

b-8-d. The area or areas of the city to be served by the public passenger vehicle or that will be served by an affiliation, network company or dispatch service.

b-8-e. A description of routine maintenance, including location and frequency of maintenance activities and other vehicle inspections conducted by or on behalf of applicant.

b-8-f. The manner in which the public passenger vehicle will be operated if not operated and driven by the applicant, including arrangements for leasing, loaning, driver employment or other operation by parties other than the applicant.

b-8-g. A statement or copy of the written policies for drivers to maintain a clean, professional and orderly appearance together with specific requirements, if any, established by the applicant for driver dress or uniform.

b-8-h. The applicant's written plan to promote and ensure driver and passenger security.

b-8-i. A statement of the applicant's process for resolving complaints, including the manner in which complaint records are to be retained and reported to the city clerk.

b-8-j. The manner in which all accident reports or citations received in the operation of a permitted vehicle shall be retained and made available to the city clerk.

b-8-k. A description of all proposed vehicle markings, body color or colors, signs or stickers consistent with the requirements in s. 100-51.5.

b-9. Such other reasonable and pertinent information the common council or the licensing committee may from time to time require.

c. If the applicant cannot satisfy the provisions of pars. b-5 and b-6 at the time of filing, the applicant shall file, with the application, a letter addressed to the licensing committee outlining his or her intentions of satisfying all the requirements of this subchapter prior to issuance of the applicable permit.

d. Each corporate applicant applying shall file with its application for a permit a statement by its officers or members showing the names and addresses of all persons who individually hold 20% or more of the corporation's total or voting stock, or proxies for that amount of stock, together with the amount of stock or proxies held by each person.

e. In addition to the requirements of par. b, applications for horse and surrey livery permits shall require:

e-1. The name and address of a licensed veterinarian whom the applicant attests will be kept on call to administer veterinary services to the applicant's horses at any time when the horse and surrey livery service is operating.

e-2. The telephone number or numbers at which the licensed veterinarian can be reached 24 hours a day.

e-3. The manufacturer's specified seating capacity of the surrey. If the manufacturer has not specified the seating capacity of the surrey, the chief of police shall establish the seating capacity.

5. CHANGES TO BE REPORTED.

a. A permittee shall notify the city clerk whenever there is a change in any information that is reported in the application form or renewal application form. The permittee shall make this notification in writing within 10 calendar days after the change occurs.

b. Whenever a corporation or limited liability company holding a public passenger vehicle permit changes any of its corporate officers, members or agents, the corporation agent shall file, within 10 calendar days after the change occurs, the appropriate application with the city clerk and pay the fee required by s. 81-101.5. This application shall in all respects be treated as a new application subject to all the requirements of this section.

c. It shall be the duty of the corporate officers to file with the city clerk a statement of the sale or transfer of any stock or proxies, where the effect of such stock would constitute a change in the stockholders' list previously filed with the city clerk. The notice to the city clerk shall be given in writing within 10 calendar days after the sale or transfer occurs.

6. FEE. Each application shall be accompanied by the fee specified in ch. 81.

7. FINGERPRINTING. All applicants for public passenger vehicle permits shall be exempt from the fingerprinting requirement provided in s. 85-21-1.

8. INVESTIGATION. a. Each application shall be referred to the chief of police who shall cause an investigation to be made and report the findings to the licensing committee.

b. The chief of police may designate one or more additional parties, businesses or agencies, subject to approval by the common council, to conduct investigations under terms and conditions that will ensure substantially similar quality and costs as if conducted by the department.

9. COUNCIL ACTION. If the chief of police files no written report summarizing the arrests and convictions of the applicant which could form a basis for denial, the city clerk shall issue the permit in accordance with this section. If the chief of police files a written report summarizing the arrests and convictions of the applicant which could form a basis for denial, the application shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 and 85-5.

10. DISQUALIFICATION. a. Whenever an applicant for a new or renewal public passenger vehicle permit has had his or her application denied, not renewed or revoked, no other application by the same applicant for any new public passenger vehicle permit shall be recommended for approval by the licensing committee for a period of 12 months following the date of the denial, nonrenewal or revocation.

11. ISSUANCE. a. Whenever a public passenger vehicle permit has been granted by the common council or whenever the chief of police files no written report summarizing the arrests and convictions of an applicant which could form a basis for denial, the city clerk shall prepare and deliver to the applicant a permit in accordance with this section.

b. No permit shall be issued by the city clerk unless the applicant has first provided the city clerk with all of the following items:

b-1. A current state vehicle registration naming the applicant as titleholder.

b-2. Proof of financial responsibility in accordance with s. 100-53.

b-3. A city treasurer's receipt for payment of the permit fee.

c. The permit shall be conspicuously and prominently displayed in each vehicle by the owner and shall be kept there at all times. An exception is made to the permit display for any taxicab or shuttle vehicle marked as provided in s. 100-51.5-1-c.

d. A permit shall be mailed only to the vehicle owner. If a vehicle owner wishes to have the permit mailed to an address other than his or her home address, the vehicle owner shall fill out a form prepared by the city clerk, indicating the vehicle owner's mailing address. The address listed on the required form shall be a street address, not a post office box. In case of a corporation, limited liability company or limited liability partnership, the address listed on the form shall be the home address of the agent or the mailing address of the corporation, limited liability company or limited liability partnership. The individual owner, all partners of a partnership, the agent and all members of a limited liability company or limited liability partnership, and the agent, president and secretary of a corporation shall sign the form.

e. Whenever a permit has been defaced, lost, stolen or destroyed, the permittee shall immediately apply to the city clerk for a duplicate permit. All requests for a duplicate permit shall be accompanied by the fee specified in s. 81-1-4.

12. REGULATIONS. a. All Permittees. Every permittee shall be responsible for the operation of the vehicle for which the permit has been granted without regard to the legal relationship between the permittee and the driver.

e. Replacement of Vehicle.

e-1. No permit may be transferred to any other vehicle unless the owner of the vehicle is also the permittee, demonstrates financial responsibility for the vehicle, and the owner has paid the required vehicle replacement fee. The city clerk shall be notified of all vehicle replacements.

e-2. No public passenger permits for taxicabs shall be transferred to any motor vehicles not meeting the eligibility requirements provided under s. 100-50-3.

g. Fleet Parking. Fleet permittees shall be responsible for providing and using suitable off-street parking for their vehicles.

k. Commercial Quadricycles. Passengers on a commercial quadricycle that is permitted to operate as a pedicab under a plan approved by the licensing committee may possess on or carry onto the commercial quadricycle not more than 36 ounces of fermented malt beverages and may consume fermented malt beverages upon the quadricycle subject to the following requirements and restrictions and any other regulation required by the city or specified in the plan of operation:

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k-1. No other alcohol beverage including intoxicating liquor as defined in ch. 125, Wis. Stats., may be possessed on, carried upon or consumed upon a commercial quadricycle.

k-2. Restrictions on possession, transportation and consumption of alcohol beverages in the operation of commercial quadricycles upon city highways and public places shall apply to operation of commercial quadricycles when used for nonrevenue-producing events or transportation in addition to regular commercial activities.

k-3. No driver of a commercial quadricycle may consume alcohol while the commercial quadricycle is occupied by passengers.

k-4. No person may drive a commercial quadricycle with an alcohol concentration of more than 0.02.

k-5. No person may drive a commercial quadricycle on which any alcohol beverages are carried or consumed other than fermented malt beverages under this section.

k-6. No person may drive a commercial quadricycle on which alcohol beverages are sold and may not transport alcohol beverages on a commercial quadricycle for the purposes of sale or delivery upon sale.

k-7. No alcohol beverages, including fermented malt beverages, shall be possessed, carried upon or consumed on a commercial quadricycle if any passenger or the driver has not attained the legal drinking age as defined in ch. 125, Wis. Stats.

k-8. Passengers shall be advised by the operator, driver or other person responsible for the operation of a commercial quadricycle that no alcohol beverages shall be possessed on, carried upon or consumed on a commercial quadricycle in violation of city ordinance or state statute, and shall conspicuously post a notice of these restrictions upon the commercial quadricycle in a form and manner approved by the city.

k-9. No glass beverage containers shall be carried upon a quadricycle while operated on the public way.

k-10. The plan of operation of a licensed quadricycle shall identify the geographic area in which the quadricycle shall routinely operate and may include a description of procedures for notifying police or other authorities when anticipated operation of a quadricycle deviates from customary routes.

k-11. Failure of a licensee to comply with the regulations of this paragraph or to operate in accordance with an approved plan of operation shall constitute grounds for non-renewal, suspension or revocation as provided in ss. 85-4-4 and 100-51-16.

13. TRANSFER OF PERMITS. a. If a permittee dies or becomes disabled, the permit may be transferred, upon notification of the city clerk by the claimant, to the surviving spouse, and if there is no surviving spouse, to the legal representative of the permittee or the estate, who shall be eligible for the operation of the vehicle for the remainder of the permit period. A permit may also be transferred with the permittee's consent to a spouse for good cause and upon approval of the licensing committee.

b. Upon expiration of the permit, the surviving spouse or legal representative may apply for the permit in his or her own name.

14. RENEWAL. a. Renewal Application. Renewal applications shall be made as provided in s. 85-26.

b. Procedure for Renewal. b-1. Except as provided in subd. 2, the licensing committee shall, without a hearing, recommend to the common council the granting of an application for renewal of a public passenger vehicle permit to a permittee, provided the city clerk has received a timely-filed application for renewal and the applicant has complied with the requirements of subs. 7-a and 11-b.

b-2. If the chief of police files a written report summarizing the arrest and convictions of the applicant which could form a basis for nonrenewal, or there is a written objection to the renewal of the permit by any interested person in accordance with the provisions of s. 85-3-3, the application shall be forwarded to the licensing committee for its recommendation as to whether or not each permit should be renewed.

b-3. Any application filed after the expiration date of the license period following the license period for which the permit was issued shall be considered as a new permit application and be subject to the requirements for an original permit provided in this subchapter.

c. Procedure for Nonrenewal. c-1. If there is a possibility that the committee will not renew a permit, a motion should be entertained to hold the application in committee and instruct the city clerk to forward proper notice to the applicant, unless the notice has already been sent, in which case the hearing shall proceed.

c-2. Prior to the date set for the hearing, the city clerk's office shall forward notice to the applicant which shall contain:

c-2-a. The date, time and place of the hearing.

c-2-b. A statement of the common council's intention not to renew the permit in the event any objections to renewal are found to be true.

c-2-c. A statement of the reasons for possible nonrenewal.

c-2-d. A statement that an opportunity will be given to respond to and challenge such reasons for nonrenewal and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

c-2-e. A statement that the applicant may be represented by counsel at the applicant's expense, if the applicant so wishes.

d. Hearings. All hearings held and committee recommendations prepared pursuant to this subsection shall be conducted as set forth in sub. 16.

15. REVOCATION OR SUSPENSION OF PERMITS. a. Any permit issued under this section may be suspended or revoked for cause by the common council after notice to the permittee and a hearing.

b. Suspension or revocation proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police, or upon a sworn written complaint filed with the city clerk by any interested person.

c. Whenever either sworn written charges or a sworn written complaint are filed with the city clerk setting forth specific charges against a permittee involving conduct which would violate ordinances that are grounds for suspension or revocation of a permit, the city clerk shall issue notice to the permittee. The notice shall contain:

c-1. The date, time and place of the hearing.

c-2. A statement to the effect that the possibility of suspension or revocation of the permit exists and the reasons for possible suspension or revocation.

c-3. A statement that an opportunity will be given to the applicant to respond to and challenge any reason for suspension or revocation

and to present witnesses under oath and to cross-examine opposing witnesses under oath.

c-4. A statement that the permittee may be represented by counsel at the permittee's expense, if the permittee so wishes.

d. The licensing committee shall convene at the date and time designated in the notice for the purpose of taking evidence and making findings of fact and conclusions of law and a recommendation to the common council in connection with the proposed suspension or revocation.

e. If the permittee appears before the committee at the time designated in the notice and denies the charges contained in the complaint, the committee shall conduct an evidentiary hearing in connection with the suspension or revocation at that time. If the permittee does not appear, or appears but does not deny the charges contained in the complaint, the complaint shall be taken as true and the committee shall hear the arguments of the complaints and the permittee in connection with the suspension or revocation.

f. All hearings held and committee recommendations prepared pursuant to this subsection shall be conducted as set forth in sub. 16.

16. PROCEDURE FOR NON-RENEWAL, REVOCATION OR SUSPENSION.

a. Applicable Procedures. If there is a possibility that the licensing committee will not recommend renewal of the permit, or if revocation or suspension proceedings are initiated, the procedures for notice and committee hearing and for the committee report, recommendations and common council consideration provided in ss. 85-3 to 85-5 shall apply.

b. Grounds for Non-renewal, Suspension or Revocation. The recommendation of the committee regarding the permittee shall be based upon evidence presented at the hearing. Probative evidence concerning non-renewal, suspension or revocation may include evidence of:

b-1. Failure of the permittee to meet the municipal qualifications or any of the licensing requirements of this chapter.

b-2. Pending charges against or the conviction of any felony, misdemeanor, municipal offense, or other offense, the circumstances of which substantially relate to the circumstances of the particular licensed activity, by the permittee, or by any employee or driver of the permittee.

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b-3. The permittee, or any employee or driver of the permittee, having violated any of the operating regulations and prohibited practices set forth in this chapter.

b-4. Failure of a permittee to comply with the written plan of operation provided under s. 100-50-4-b-8.

b-5. Any other factor or factors which reasonably relate to the public health, safety and welfare.

17. REQUEST TO SURRENDER A PERMIT. See s. 85-17 for provisions relating to the surrender of permits and the return of surrendered permits.

100-51. Vehicle Inspection. 1. INSPECTION REQUIRED. a. A public passenger vehicle permittee shall submit his or her vehicle for inspection on the designated date and time for any inspection or reinspection required under this section.

b. The department of public works shall conduct inspections under this section.

c. The commissioner of public works may designate one or more additional parties, businesses or agencies, subject to approval by the common council, to conduct inspections under terms and conditions that will ensure substantially similar quality and costs as if conducted by the department.

2. WHEN REQUIRED. A vehicle inspection conducted by the department of public works or its designee shall be required as determined by a random or other selection process or when identified by complaint by the police department, the department of public works or the city clerk.

3. NOTICE OF INSPECTION. Notice of inspection including the time and place of inspection shall be provided by the city clerk by U.S. first class mail, postage prepaid, at least 3 days prior to inspection.

4. ELIGIBILITY. No vehicle shall be inspected unless, prior to inspection, the permit, certificate of vehicle registration, and, if a meter fare taxicab, meter permit and meter inspection slip are presented to the inspecting officer.

5. INSPECTION REPORT. The department of public works shall report the results of each inspection to the city clerk in a form and manner prescribed by the city clerk. The report shall include vehicles appearing for inspection, vehicles passing inspection, vehicles removed from public service, reasons for removal of vehicles from public service and vehicles failing to appear for inspection. The department of public

works shall also provide the city clerk with information related to the costs of inspections upon request.

6. INSPECTION ACTIONS.

a. **Inspection Sticker.** The department of public works shall place in a conspicuous location a nonremovable sticker on each public passenger vehicle thoroughly inspected by the department of public works and found to meet the vehicle standards and equipment requirements established in this subchapter. The city clerk may provide for an inconspicuous inspection sticker for limousines. No inspection sticker shall be required for a horse and surrey livery or a pedicab.

b. **Require Reinspection.** The department of public works shall not issue an inspection sticker for, and shall require reinspection of, any vehicle that is found in violation of any of the vehicle standards and equipment requirements established in this subchapter. Violations found during any inspection shall be corrected and the vehicle shall be presented at the designated inspection station for reinspection on the next regularly scheduled inspection date, or on or before the last day of the annual inspection period, if applicable.

c. **Remove Vehicle from Service.** In addition to any action taken under par. b, the department of public works shall immediately suspend the permit of and remove from public service any vehicle that is found to be in a hazardous condition and unsafe for public patronage.

c-1. A red sticker shall be placed on the vehicle that shall read: THIS VEHICLE UNSAFE FOR PUBLIC PATRONAGE.

c-2. The sticker may only be removed by the department of public works upon a successful reinspection at the designated inspection station.

c-3. Removal, alteration, defacement or obscuration of the sticker by anyone other than the department of public works shall be subject to the penalty provisions of this chapter.

d. **Suspend Permit.** d-1. Without any further action, the city clerk shall immediately suspend the permit and notify the permittee by first class mail of the suspension whenever the department of public works receives information that any of the following has occurred:

d-1-a. The permittee fails to submit the vehicle on the designated date and time for any inspection or reinspection required under this section.

d-1-b. All violations found during any inspection are not corrected when the vehicle is presented at the designated inspection station for reinspection.

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e. Any permit suspended under this section shall be immediately reinstated upon successful inspection or reinspection and payment of any special inspection fee required under s. 81-101.5-7.

7. WEIGHTS AND MEASURES INSPECTIONS. In addition to other inspection requirements of this section, a metered taxicab licensee shall submit his or her vehicle for any inspection required under subch. 3 of ch. 82 and shall be subject to all applicable requirements and procedures of that subchapter.

100-51.5. Vehicle Standards and Equipment Requirements. 1. GENERAL REQUIREMENTS.

a. **Responsibility.** No vehicle owner or other person shall operate his or her vehicle, or allow his or her vehicle to be operated, as a public passenger vehicle for hire upon the streets of the city without the vehicle first meeting the vehicle standards and equipment requirements established in this section.

b. **Vehicle Standards.** Vehicles shall meet all safety standards required by law and, as adjudged by the police department or its designee, be kept in good operating condition and appearance.

b-1. Vehicle interior and exterior shall be free of dirt, mud, oil, rips, tears, exposed springs, foodstuff, trash, waste material or any other substance or object capable of harm, damage or injury to, or interference with the person, clothing, personal property, comfort or convenience of any passenger, whether upon ingress or egress of such vehicle, or while riding therein.

b-2. Vehicle shall have an exterior which is free of any misshapen or deformed condition arising from collision, crash or other impact, excepting minor dents. Vehicles shall be free of holes in floorboards, and trunk shall be empty except for emergency equipment. Vehicle shall be free of exterior rust and exterior must be painted a uniform color so as not to have patches of unmatching paint on the vehicle.

b-3. All vehicles shall be washed a minimum of once per week.

c. **Vehicle Markings.** c-1. Each taxicab not meeting the definition of network vehicle and each shuttle vehicle, excepting a shuttle vehicle meeting the definition in s.100-3-25-b, shall have the following clearly and permanently marked:

c-1-a. The word "Milwaukee" on the right and left sides of the vehicle.

c-1-b. The permit number, the type of permit and the name of the owner of the vehicle or

the trade name under which the vehicle is operated, placed on the right and left sides of the vehicle on either the front or rear doors with the permit number at least 5 inches high in a color to contrast with the auto body color.

c-1-c. The permit number at least 5 inches high in a color to contrast with the auto body color marked on the trunk or rear door of the vehicle.

c-1-d. The permit number clearly displayed on the back of the driver's seat.

c-2. Vehicles with shuttle permits, excepting a shuttle vehicle meeting the definition in s. 100-3-26-b, shall have the word "shuttle" in a color to contrast with the auto body color permanently marked on the left and right side of the vehicle.

c-3. The licensing committee may require vehicle marking other than as required by this paragraph for specified types of vehicles.

d. **Complaint Forms.** Except as provided in par. e-1, each public passenger vehicle shall have available, in the passenger compartment in a conspicuous place plainly visible to all occupants of the vehicle, complaint forms provided by vehicle owners, in a format approved by the city clerk.

e. **Complaint Placard.** Except as provided in par. f, each public passenger vehicle shall have posted, in the passenger compartment in a conspicuous place plainly visible to all occupants of the vehicle, a rate and service complaint placard provided by the city, in substantially the following form:

Milwaukee Permit Number _____

NOTICE TO PASSENGERS

The Rates of Fare are:

Fill in with approved rates.

Complaints regarding rates or service may be addressed to:

License Division Manager, City Clerk's
Office
Room 105, City Hall, 200 E. Wells St.
Milwaukee, WI 53202
license@milwaukee.gov

Complainant: Please provide the name of the driver, vehicle number, company name, trip date and time, and details of the complaint.

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f. Information provided to passengers. Limousines, taxicabs meeting the definition of network vehicle, and shuttle vehicles meeting the definition under s. 100-3-26-b shall provide to passengers, at the time the service is contracted for hire, the information provided on the complaint form and rate and service complaint placard required under this subsection.

g. Complaints. Complaints shall be in writing and contain the name of the driver, vehicle number, company name, trip date and time, and the details of the complaint.

2. EQUIPMENT REQUIREMENTS. In addition to any other vehicle standards and equipment requirements established in this section, each public passenger vehicle shall be equipped with a Milwaukee area street map or street guide and the following mechanical devices, in sound working condition:

a. All headlamps, tail lights, emergency blinkers and turn signals shall be operable and in good working condition.

b. Each taxicab shall be equipped with a dome light mounted above the top line of the windshield.

c. Each motor vehicle shall have a heater and defroster that is in good working condition and shall be equipped with a permanently installed air conditioning system capable of reducing the interior temperature of the passenger section to 68 degrees Fahrenheit. A motor vehicle is exempt from the air conditioning requirement contained in this paragraph if the vehicle has been continually licensed as a public passenger vehicle by the vehicle owner prior to July 23, 2005.

d. The spare tire, if standard equipment, shall be securely attached and properly inflated.

e. All hood, trunk and door latches shall be in proper working order.

f. All windows shall be in proper working order and free of unsafe chips and cracks. No vehicle shall operate with curtains, shades or other means which hide its occupants from outside view. There shall be no obstructions to normal vision by the driver.

g. Operable and easily accessible safety belts for use by each person in the motor vehicle.

h. The windshield wipers shall be in proper working order and the blades shall be free of defects.

i. The horn shall be in sound working condition and be of the standard type for each motor vehicle.

j. Door handles, arm rests and window handles must be clean and intact.

k. The muffler, tailpipe and crossover pipe shall be securely connected and free of holes and punctures.

L. The condition of the steering apparatus, suspension and brakes shall be determined by a road test of whatever length to verify the safe operating condition of the devices.

m. The tire-tread depth shall not be less than 2/32 of an inch and each tire shall be free of cuts or breaks in the sidewall. Each tire shall be of the type approved for use as original equipment. No tire shall extend beyond the outer fender wall.

3. TAXICAB REQUIREMENTS (CLASS T) a. Taximeter.

a-1. The taximeter shall not be in error more than 1% in deficiency and more than 4% in excess of the interval under test.

a-2. After sundown a suitable light, so arranged as to throw a continuous steady light thereon, shall illuminate the face of the taximeter.

a-3. The taximeter case is sealed and its cover and gear intact.

a-4. Taximeters shall not be transferred between vehicles without permission of the city sealer.

a-5. Taximeters shall not be programmed to charge rates higher than permitted.

b. Noncash Payment. On or after July 1, 2014, each permittee replacing a taxicab or placing a new vehicle into service shall install rear seat swipe credit and debit card-processing equipment subject to policy or rule established by the city clerk and approved by the licensing committee.

c. Fuel Efficiency. The legislative reference bureau shall provide a report to the common council on or before July 1, 2015, reviewing best practices, strategies and regulation in comparable municipalities for improving fuel efficiency and reducing reliance upon fossil fuels within the city's permitted taxicab fleet. Information shall be organized and provided by the legislative reference bureau with the assumption that fuel standards will be developed and implemented on or before July 1, 2019.

4. HUMAN SERVICE VEHICLE REQUIREMENTS (CLASS H). Human service vehicles shall be suited for the transportation of disabled or elderly persons who by reason of physical or mental infirmity or age cannot be

transported on public mass transportation vehicles or in taxicabs. These vehicles shall have:

- a. Doorways wide enough to accommodate a wheelchair.
- b. Ramps or lifting devices for elevating wheelchairs from the curb or sidewalk into the vehicle.
- c. Adequate means of securing wheelchairs to the inside of the vehicle and safety belts for all disabled persons.
- d. A door, in addition to those normally provided on the vehicle for ingress and egress from the vehicle, located at the rear of the vehicles to be used as a method of escape in case of an emergency.

5. HORSE AND SURREY LIVERY REQUIREMENTS (CLASS P). A horse and surrey livery shall:

- a. Be in thoroughly safe and sanitary condition for the transportation of the public.
- b. Comply with the equipment requirements of ch. 347, Wis. Stats., as amended, with respect to lamps and identification emblem for animal drawn, slow moving vehicles.
- c. Be provided with facility to remove all fecal matter and flush all urine from public ways.
- d. Fixed seating. Each horse and surrey livery shall provide passengers with fixed seating which has been installed by the manufacturer of the surrey.
- e. Posting of Signs. Each horse and surrey livery shall securely post and maintain placards indicating the following:
 - e-1. The seating capacity of the surrey which has been specified by the manufacturer, or established by the chief of police, and declared on the application for a new or renewal permit pursuant to s. 100-50-4-f-3.
 - e-2. A placard posted in the passenger compartment in a conspicuous place visible to all occupants of the vehicle stating: "No standing while vehicle is in motion."

6. MOTORCYCLE USED FOR TOURS REQUIREMENTS (CLASS M). A motorcycle used for tours shall:

- a. Be in a thoroughly safe condition for the transportation of the public.
 - b. Comply with the equipment requirements of ch. 347, Wis. Stats., as amended.
- 7. PEDICAB REQUIREMENTS (CLASS P).** A pedicab shall be in a thoroughly safe condition for the transportation of the public.

8. LIMOUSINE REGULATIONS (CLASS L). In addition to all other applicable provisions of this chapter, a limousine shall comply with the following:

- a. The exterior of a permitted vehicle may not display any signs, markings or stickers not otherwise required by law, except as specifically authorized in an approved plan of operation under s. 100-50-4-b.
- b. The color or paint design of a permitted vehicle shall not be unduly distracting or untypical for the make, model or year of the vehicle

100-52. Rates Established.

1. RATE INCREASES. a. Application for an increase in the fares may be made to the licensing committee by any fleet permittee, or by at least 10% of the individual classification of permittees. The committee upon request for a rate increase may recommend to the common council that any of the regulations controlling fares be revised.

b. On or before July of each even-numbered year, the legislative reference bureau shall provide to the common council information derived from the international taxicab and livery association or other sources with respect to taxicab meter rates and operating costs.

2. METER FARE TAXICAB. a. Except a taxicab meeting the definition of network vehicle, no person owning, operating or controlling any motor vehicle licensed as a meter fare shall charge an amount exceeding the following rates:

a-1. The first 1/10 mile or fraction of a mile, for one or more persons, \$2.25.

a-2. For each succeeding 1/10 mile or fraction of a mile, for one or more persons, \$0.25.

a-3. For each minute of waiting time, \$0.35. In this subdivision "waiting time" includes the time when the meter fare taxicab is not in motion beginning 5 minutes after the specified time designated by the passenger as the time of arrival at the place to which the meter fare taxicab has been called or the time consumed while standing at the direction of the passenger, but no charge shall be made for the time lost for inefficiency of the meter fare taxicab or its operator or time consumed by premature response to a call.

a-4. For each additional passenger over the age of 12 years, \$1, except that there shall be no additional charge for an identified personal care attendant who accompanies a passenger with disability

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a-5. For more than 2 suitcases (21" overnigher or larger) or larger packages handled by the taxicab driver, and for other grocery, laundry, and similar bags and items that exceed the storage capacity of the taxicab trunk, a single surcharge of \$1.

b. Rates are to be determined by the taximeter after the customer is seated in the cab or has placed one or more articles within the cab. The owner, operator, driver or person in control of the meter fare taxicab shall use the shortest practical route.

c. All fares computed from General Mitchell International Airport shall include any fees imposed by Milwaukee county for use of airport facilities and grounds. The minimum fare from the airport terminal to any part of this city shall be \$15.

3. OTHER PUBLIC PASSENGER VEHICLE RATES. Maximum rates for other vehicles including those permitted for human services, as horse and surrey, limousine, pedicab, motorcycle used for tours, or shuttle vehicle may be established by adoption of such rates by the common council.

100-53. Insurance Required. 1. INSURANCE. No person may operate, or shall be issued a permit to operate, a public passenger vehicle unless that person is in conformance with the financial responsibility requirements under ch. 344, Wis. Stats.

2. DRIVER TO BE COVERED. All surety bonds or policies of insurance in compliance with this section shall contain an omnibus coverage clause by which all provisions of the surety bond or insurance policy shall inure to the benefit of and cover all drivers of the named assured's public passenger vehicle regardless of the type of operation and regardless of any arrangement for the operation of the vehicle existing between the owner and the driver, whether such arrangement is that of principal agent, employer-employee, bailor-bailee, renter-rentee, or any other type of relationship.

3. HUMAN SERVICE DRIVER. All surety bonds, deposits or insurance for persons transporting disabled or elderly persons shall cover such persons transported from the time the driver or other employe of the permittee assumes control over the persons. Such liability shall continue until the driver or other employe of the permittee or owner relinquishes control over the disabled or elderly person.

4. NO OBLIGATION ON PART OF CITY. The city in requiring surety bonds, insurance policies or escrow deposits makes no representations or commitments whatsoever as to the sufficiency or adequacy with respect thereto and assumes no obligations to the public by virtue of having required the forgoing to be submitted and filed with the city.

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SUBCHAPTER 3
DRIVER'S LICENSE

100-54. Public Passenger Vehicle Driver's License. 1. LICENSE REQUIRED.

a. No person shall operate a public passenger vehicle in the city, including a human service vehicle licensed or otherwise regulated by the state of Wisconsin, unless the person first holds a valid license issued under this section.

b. No permittee may allow his or her vehicle to be operated by any person not holding a valid license issued under this section.

2. QUALIFICATIONS. Each applicant for a driver's license shall:

a. Be at least 18 years of age.

b. Possess a valid motor vehicle driver's license, excluding occupational licenses, issued by the state of Wisconsin.

c. If desiring to operate a motorcycle for tours, possess a valid motor vehicle driver's license issued by the state of Wisconsin for the operation of "Class M" vehicles under ch. 343, Wis. Stats., as amended.

e. If a driver of human service vehicles, have successfully completed within 3 years prior to the date of any original application a passenger assistance techniques training program approved by the commissioner of health. This requirement shall be waived if, at any time within the 2-year period prior to the date of filing the application with the city clerk, the applicant held a public passenger vehicle driver's license for human service vehicles issued under this chapter.

f. Be able to read, write and speak the English language to the extent necessary to operate a public service vehicle licensed by the city.

g. Be of sound physique, with good eyesight, and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render a person unfit for the safe operation of a public passenger vehicle.

h. Be clean in dress and person and shall comply with all applicable written standards of dress and appearance specified in the plan of operation provided under s. 100-50-4-b-8.

3. APPLICATION. a. Application for a driver's license shall be filed with the city clerk on forms provided therefor. The application shall require the following information:

a-1. Name, home address and telephone number of the applicant.

a-2. Date of birth, height, weight, color of eyes and hair of the applicant.

a-3. Valid motor vehicle driver's license number issued by the state of Wisconsin.

a-4. License classification for which the applicant is applying.

a-5. Name, business address and telephone number of the person, firm, association or corporation for whom the applicant is or will be employed as a public passenger vehicle driver, if known.

a-6. Whether the applicant has prior to the date of application been licensed to operate a public passenger vehicle in this city.

a-7. Whether the applicant has within the last 5 years had any motor vehicle driver's license issued by the state of Wisconsin suspended or revoked, and the nature of the suspension or revocation.

a-8. Sworn statement by the applicant stating that the applicant is aware that the license may be subject to suspension, nonrenewal or revocation if the licensee violates any rule or regulation provided in this section.

b. Each applicant for a driver's license shall file with the application one recent photograph suitable in size and form, as determined by the city clerk, for inclusion on the applicant's official license.

c. Post office box numbers shall not be acceptable for addresses required on applications for driver's licenses.

4. FEE. All applications shall be accompanied by the fee established in s. 81-44.7.

5. CHANGES TO BE REPORTED. A licensee shall notify the city clerk whenever there is a change in any information that is reported in the application form or renewal application form. The licensee shall make this notification in writing within 10 calendar days after the change occurs.

6. FINGERPRINTING. All applicants shall be fingerprinted as provided in s. 85-21-1.

7. INVESTIGATION. Each application shall be referred to the chief of police who shall cause an investigation of the applicant's criminal history for the preceding 10 years and motor vehicle driving history for the preceding 2 years to be made, and report the findings to the city clerk. The chief of police may object to issuance of the license based on the applicant's criminal history and shall object to issuance of the license if, within the preceding 2 years, the applicant has been convicted of 3 or more moving violations, as defined in s. 343.01(2)(cg), Wis. Stats., arising out of separate incidents or occurrences.

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8. COMMON COUNCIL ACTION; APPLICATION FOR NEW LICENSE. If the police chief files no objection to an application for a new license, the city clerk shall issue the license in accordance with sub. 9. If the police chief files an objection, the application shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 and 85-5 and may be subject to the additional requirements for license issuance under s. 100-56.

9. ISSUANCE OF LICENSE. Any license issued by the city clerk under this section shall contain the following information:

- a. Name and recent photograph of the license holder
- b. License classification indicating the category or categories of public passenger vehicles the licensee is qualified to operate.
- c. The period of time for which the license is valid.

10. CHANGE OF LICENSE CLASSIFICATION. a. During the license period. Any holder of a license issued under this section is permitted to change the license classification during the license period. Requests for changes of classification shall be made by filing an amendment with the city clerk, and by providing documentation of meeting the qualifications for the license classification under s. 100-54-2 and payment of the fee as provided in s. 81-44.7-7.

a-1. If the police chief had not previously filed an objection to the application for the license for which the change in license classification is sought, the city clerk shall issue the license with a change in license classification in accordance with sub. 9.

a-2. If the police chief had previously filed an objection to the application for the license for which the change in license classification is sought, the city clerk shall refer the application for change of license classification to the chief of police for review.

a-2-a. If the police chief files no objection to an application for change of license classification, the city clerk shall issue the license with a change in license classification in accordance with sub. 9.

a-2-b. If the police chief files an objection to an application for change of license classification, the application shall be forwarded to the licensing committee for its recommendation as to whether a license with a change in license classification should be issued.

b. At the time of renewal.

b-1. Any holder of a license issued under this section is permitted to change the license classification at the time application for renewal is filed. Requests for change of license classification shall be made by filing an application for renewal with the city clerk pursuant to sub. 11, and by providing documentation of meeting the qualifications for the license classification under s. 100-54-2 and payment of the fee as provided in s. 81-44.7-4.

b-2. If the licensee fails to submit documentation of meeting the qualifications for the change of license classification at the same time the application for renewal is filed with the city clerk, no change in license classification shall occur, except as provided in par. a.

11. RENEWAL AND NON-RENEWAL.

a. Procedure for Renewal. Applications for renewal shall be made to the city clerk. The clerk shall refer the application to the chief of police for review. The chief of police may object to renewal of the applicant's license based on the applicant's criminal history and shall object to renewal of the license if, within the most recent license period, the applicant has been convicted of 3 or more moving violations, as defined in s. 343.01(2)(cg), Wis. Stats., arising out of separate incidents or occurrences. If the chief of police indicates that the applicant still meets the licensing qualifications, the city clerk shall issue the license unless a written objection to renewal of the license has been filed with the city clerk in accordance with the provisions of s. 85-3-3. If a written objection is filed, or if a determination by the city clerk or a designee of the city clerk is made that the applicant no longer meets the licensing qualifications, the application shall be forwarded to the licensing committee for its recommendation to the common council.

b. If there is a possibility that the committee will not recommend renewal of a permit, the procedures for notice, hearing and review by the common council provided in sub. 12 shall apply.

c. An applicant who has held a public passenger vehicle driver's license in the past 12 months shall be required to file a renewal application. If more than 12 months have elapsed since the date of license expiration, the applicant may file either a new application or a renewal application, except that any application filed after the expiration date of the license period following

the license period for which the license was issued shall be considered a new license application and is subject to the requirements for an original license provided in sub. 2.

12. PROCEDURES FOR NON-RENEWAL, SUSPENSION OR REVOCATION.

a. Any license issued under this section may be subject to non-renewal, suspension or revocation for cause by the common council after notice to the licensee and a hearing and may be subject to the additional requirements for license issuance under s. 100-56.

b. Non-renewal, suspension or revocation proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police or upon a sworn written complaint filed with the city clerk by any interested party.

c. Due Process Hearing and Review by the Common Council. If there is a possibility that the licensing committee will not recommend renewal of the license, or when revocation or suspension proceedings are initiated, the procedures for notice and committee hearing and for the committee report, recommendations and common council consideration provided in ss. 85-3 to 85-5 shall apply.

d. Grounds for Non-renewal, Suspension or Revocation. The recommendation of the committee regarding the licensee shall be based on evidence presented at the hearing. Probative evidence concerning non-renewal or revocation may include evidence of:

d-1. Failure of the licensee to meet the municipal qualifications.

d-2. Pending charges against or the conviction of any felony, misdemeanor, municipal offense or other offense by the licensee, the circumstances of which substantially relate to the circumstances of the licensed activity.

d-3. Violations of any rules or regulations of this chapter.

d-4. Any other factor or factors which reasonably relate to public health, safety and welfare.

13. DISQUALIFICATION. Whenever any application is denied, or license not renewed, revoked or surrendered, the procedures for disqualification for license provided in s. 85-13 shall apply.

14. REQUEST TO SURRENDER A LICENSE. See s. 85-17 for provisions relating to the surrender of licenses and the return of surrendered licenses.

100-56. Additional Requirements for License Issuance. For an application subject to common council review and approval under this subchapter, the common council may direct, if circumstances warrant based on evidence presented at the licensing committee, that the city clerk withhold issuance of a license until the applicant provides the city clerk with documentation indicating the applicant has successfully completed any of the following additional requirements:

1. DEFENSIVE DRIVING AND SAFETY COURSE. A driver of a motorized public passenger vehicle may be directed under this section to successfully complete a defensive driving and safety course approved by the police department.

2. KNOWLEDGE OF CITY GEOGRAPHY AND REGULATIONS TEST. A driver of a motorized public passenger vehicle may be directed under this section to pass a test established and administered by the city clerk concerning knowledge of city streets, major buildings, facilities and city regulations regarding public passenger vehicles. Alternate tests shall be available for those applicants who possess limited ability to read the English language.

3. DRIVER TRAINING COURSE. A driver of a motorized public passenger vehicle may be directed under this section to successfully complete a driver training course offered by the Taxicab, Limousine and Paratransit Association or its equivalent upon approval by the chief of police.

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**SUBCHAPTER 4
OPERATING REGULATIONS**

100-58. Purpose. The purpose of this subchapter is to regulate the operation of the various kinds of public passenger vehicles permitted by the city.

100-59. Operating Regulations for all Public Passenger Vehicles.

1. LICENSE TO BE EXHIBITED. a. A driver while operating a public passenger vehicle shall display in a conspicuous location clearly visible to passengers at all times and illuminated at night the license issued under subch. 3. Except for a taxicab driver, the license may be carried on the person of the driver when operating a public passenger vehicle, in lieu of the display requirements under this paragraph.

b. Whenever a licensee's state of Wisconsin motor vehicle driver's license is cancelled, expired, revoked or suspended, the public passenger vehicle driver's license issued under this chapter to the licensee shall be automatically suspended and returned to the city clerk within 10 working days following the date on which the motor vehicle driver's license was cancelled, revoked or suspended. The public passenger vehicle driver's license will be reinstated upon presentation of documentation evidencing the possession of a valid state of Wisconsin motor vehicle driver's license excluding occupational licenses.

2. DRIVER NAME AND RECEIPT.

a. No driver of a public passenger vehicle may refuse to give to a person requesting the information his or her name or license number, the vehicle owner's name, or the address of the vehicle owner's place of business.

b. If requested by the passenger, the driver in charge of a vehicle shall deliver to the person paying for the hiring a receipt in legible writing containing, at a minimum, the name of the service, the city permit number, the driver's city license number, the total amount paid and the date of payment.

3. FAILURE TO PAY FARE. a. No person shall neglect or refuse to pay for the service of any licensed vehicle with the intention of defrauding the driver of the vehicle, provided the rates charged by the vehicle are in conformity with this chapter.

b. Every driver of a vehicle shall have the right to demand payment of the legal fare in advance and may refuse employment unless so

prepaid, but no driver shall otherwise refuse or neglect to convey any orderly person upon request within the area bounded by Lake Michigan on the east and 22000 block west on the west, 12000 block north on the north and the 11100 block south on the south unless previously engaged or unable to do so.

4. HOURS OF DRIVERS. No person may require any other person driving a public passenger vehicle upon the public streets to work more than 12 hours in every 24 hours. Such 12 hours shall be split by an intermission of one to 4 hours off duty. Every driver shall have at least 24 consecutive hours off each week.

5. LOST ARTICLES LEFT IN VEHICLES. Whenever an article is left in or on a public passenger vehicle, the driver shall deliver the article to the property bureau at police headquarters or to the office of the vehicle dispatcher, unless the driver shall have returned the article to its owner or disposed of the article in a manner directed by its owner within 48 hours of the discovery of the article. Property not reclaimed by the owner from the dispatcher's office within 48 hours shall be delivered to the property bureau of police headquarters.

6. MAP OR STREET GUIDE. Every public passenger vehicle driver shall cause to be maintained in the vehicle he or she is driving for public hire, or upon his or her person, a Milwaukee area map or street guide.

7. MISINFORMING, MISLEADING PERSONS PROHIBITED. No owner or driver of a public passenger vehicle, or agent of an owner or driver of a public passenger vehicle, shall induce a person to ride in or hire the vehicle by misinforming or misleading the person as to the time or place of the arrival or departure of a bus, airline flight, passenger train or other public transportation, or as to the location of a transportation terminal, business, public place or private residence.

8. MISREPRESENTATION AND FALSE VOUCHERS PROHIBITED. a. No owner or driver of a public passenger vehicle or agent of an owner or driver of a public passenger vehicle shall induce a person to ride in or hire the vehicle by falsely representing the vehicle as being in the employment of another person. No owner or driver of a public passenger vehicle shall deceive a person as to the value of a ticket or voucher or make a false statement concerning a voucher or ticket which may be shown to him or her.

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b. No driver or owner of a public passenger vehicle or agent of a driver or owner of a public passenger vehicle shall submit for payment a fare voucher for an amount in excess of the rates of fare established in this chapter as applicable to the trip for which the voucher was written.

9. PROHIBITED ACTIVITIES. The following activities are prohibited:

a. Permitting a nonpaying passenger or driver's pet in a vehicle when transporting a fare-paying passenger, except for the purpose of driver training. The potential passenger shall be informed of this training and offered an alternative vehicle.

b. The directing, taking or transportation, or offering to direct, take, or transport any person for immoral purposes, or assisting by any means whatsoever any person for such purposes, to seek or to find any prostitute or other person engaged in immoral practices, or any brothel, or bawdy house, or any other place of ill fame whatsoever, with knowledge or reasonable cause to know of the character of the person, house or place is prohibited.

c. Knowingly receiving any person for purposes of lewdness, assignation or prostitution, into or upon any vehicle, conveyance, or other means of transportation, or permitting any person to remain for purposes of lewdness, assignation or prostitution, in or upon any vehicle, conveyance, or other means of transportation.

d. Knowingly receiving and transporting any goods or substances which are contraband or illegal or otherwise restricted as to delivery or use.

e. Using while on duty alcohol, a controlled substance, a controlled substance analog or a combination thereof, or driving or operating a vehicle while intoxicated or under the influence of alcohol, a controlled substance, a controlled substance analog or a combination thereof, or under the influence of any drug which renders the person incapable of safely driving.

10. SEATING CAPACITY OF VEHICLES. No driver shall carry more adult passengers than the designed capacity of the vehicle, and no more children, except children under 5 years of age carried in the arms of an adult, than can be seated comfortably on the seats. In no event shall more than 2 persons in addition to the driver be permitted in the front seat of the vehicle.

11. SOLICITATION; DRIVER TO REMAIN WITH VEHICLE. No person shall solicit passengers at a designated vehicle stand unless the driver is sitting in the driver's seat of the vehicle. Drivers of vehicles shall remain on driver's seat or inside of the vehicle except to use a restroom, receive telephone calls or to assist passengers, in and out of the vehicle, and they are not to be absent more than 15 minutes at a time.

12. STOPPING OF VEHICLES IN VARIOUS RESTRICTED PARKING ZONES.

Permittees may stop in the following restricted parking zones to engage and disengage passengers and their baggage: in a loading zone; in an alley in a business district; within 10 feet of a fire hydrant, unless a greater distance is indicated by an official traffic sign; within 4 feet of the entrance to an alley of a private road or driveway; closer than 15 feet to the near limits of a crosswalk upon any portion of a highway where, and at the time when parking is prohibited, limited or restricted by official traffic signs. All such business shall be performed without any unnecessary delay.

13. TRIP RECORDS. Prior to starting any shift, every driver shall fill in on the trip record his or her name, the shift date and start time, and the vehicle permit number. Every driver shall complete in real time on a daily basis trip records, approved by the police department as to format, which shall show the date, time and place each passenger was picked up and the date, time and place each passenger was discharged. The permittee shall retain trip records for at least 90 days, and the original records shall be readily available for inspection upon request by the police department.

14. DAILY SAFETY CHECKLIST.

a. Every public passenger vehicle driver prior to the beginning of each shift shall inspect the vehicle to make sure that all equipment on the vehicle is operable and in good working condition and that the vehicle is maintained in a reasonably clean condition on the inside and outside.

b. Every public passenger vehicle driver shall keep in the vehicle a daily safety checklist ensuring that the items listed in par. c have been inspected and are in good working order and by the public passenger vehicle permit holder properly placed in or on the vehicle. The checklist shall be kept for at least 14 days by the public passenger vehicle permit holder and be readily available for inspection upon request by the police department.

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c. The daily safety checklist shall include the following items:

- c-1. Meter seal.
- c-2. Rate/complaint placard.
- c-3. Clean interior/exterior.
- c-4. Seat belts.
- c-5. Horn.
- c-6. Spare tire (inflated).
- c-7. Heater/defroster/air conditioner.
- c-8. Windshield (in compliance with s. Trans 305.34, Wis. Adm. Code, as amended).
- c-9. Windshield wipers/blades.
- c-10. Head lamps/tail, turn, brake, hazard lights.
- c-11. Tires.
- c-12. Wheels/rims.
- c-13. Body of vehicle.
- c-14. Upholstery.

15. SERVICE TO DISABLED PASSENGERS. No owner or driver of a public passenger vehicle or agent of an owner or driver of a public passenger vehicle shall decline service to those passengers who are disabled or those with service animals or wheelchairs.

100-60. Additional Operating Regulations.

1. METER FARE TAXICABS. a. Taxi Stand Use. a-1. No taxicab standing at the head of a taxi stand line shall refuse to carry any orderly person applying for a taxicab who agrees to pay the proper fare, but this shall not prevent any person from selecting any taxicab he or she may desire on the stand whether it be at the head of the line or not.

a-2. As the taxicabs leave the line with passengers, those behind shall move up, and any taxicab seeking a place on the stand shall approach the same only from the rear of the stand and shall stop as near as possible to the last taxicab already on the line. No taxicab shall stand within 5 feet of any crosswalk.

b. Radio Service Prohibited. b-1. No person may provide radio service to any unlicensed taxicab or taxicab whose license has been suspended or revoked.

b-2. Penalty. Any person violating subd. 1 shall be subject to the penalty provided in s. 100-62-2.

c. Double Loading. Double loading is prohibited unless expressly authorized by the first passenger. No driver may plant, or permit to be planted, any person for the purpose of assuming the role of a first passenger to attempt to evade

the provisions of this paragraph. Any person consenting to act as a plant for the purpose of falsely assuming the role of a first passenger shall be considered with the driver to be violating this paragraph.

d. Maximum Period. A driver of a taxicab shall respond to a service request within 30 minutes upon receiving the request.

2. HORSE AND SURREY LIVERY.

a. Hours of Operation. Unless otherwise authorized by the chief of police, no horse and surrey livery service shall be conducted between 7 a.m. and 9 a.m. and 3 p.m. and 6 p.m. on weekdays, except during the months of November, December, January and February, when no horse and surrey livery service shall be conducted between 7 a.m. and 9 a.m. and 3 p.m. and 6:30 p.m. on weekdays.

b. Sanitation. No driver of a horse and surrey livery may permit urine or fecal matter of such animal to remain on any street, alley, gutter, sidewalk, lawn, field or any public or private property as set forth in ss. 79-11 and 79-12, and it shall be solely the responsibility of the driver of the animal to immediately remove all fecal matter by shovel or like instrument, and dilute and flush the urine.

c. Maximum Number of Passengers. No horse and surrey shall carry more passengers than can be seated comfortably on the seats without exceeding the seating capacity of the surrey as posted pursuant to s.100-51.5-5-e-1, except up to 2 children under 5 years of age who each shall be carried in the arms of separate persons 18 years of age or older.

d. Riding with Driver Prohibited. The driver of any horse and surrey livery shall not permit any passenger to sit alongside the driver while the driver is engaged in the operation of the horse and surrey livery.

e. Operation on Certain Streets Restricted. No horse and surrey livery shall be operated on East State Street, West State Street, East Wells Street or West Wells Street for more than one block length at a time. Whenever a horse and surrey livery operates for one block on one of the specified streets, it shall then turn onto an intersecting street.

f. Horse and Surrey Stands. Livery services shall stop, stand or park only at stands approved for that purpose pursuant to s.101-23-9.

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g. Serious Injury. g-1. Whenever a horse and surrey animal is injured in an accident so severely that the police department believes euthanasia may be necessary, the police department shall immediately contact the horse and surrey livery permittee, inform the permittee of the situation and, in consultation with the permittee, determine whether euthanasia is required.

g-2. If the police department and the permittee agree that euthanasia is required and determine that the licensed veterinarian on call is able to come to the accident site in a period of time that will not prolong excessive suffering by the animal, the permittee shall immediately summon the veterinarian to the accident site. Euthanasia shall then be permitted only when both of the following conditions are met:

g-2-a. The euthanasia is performed by a veterinarian licensed by the state of Wisconsin who concurs with the determination of the police department and the permittee that euthanasia is necessary.

g-2-b. The euthanasia is administered by painless lethal injection.

g-3. The police department may euthanize a horse and surrey animal with close range gunfire directed at the animal's brain under any of the following circumstances:

g-3-a. The police department and the permittee agree that euthanasia is required but determine that the veterinarian cannot come to the accident site in a period of time that will not prolong excessive suffering by the animal.

g-3-b. The police department is unable to make contact with the permittee, and the police department determines that, in order to prevent excessive suffering by the animal, the animal must be euthanized immediately.

g-3-c. The police department determines that the animal poses an immediate and serious threat to public safety.

3. SHUTTLE VEHICLES. a. Each person holding a permit for a shuttle vehicle operating on a fixed route and schedule shall post a current route schedule in the vehicle and submit a copy to the city clerk.

b. No shuttle vehicle operating on a fixed route and schedule may deviate from the route filed with the city clerk, without the person holding a permit for the shuttle vehicle having first filed an amended route and schedule form with the city clerk's office at least 48 hours prior to the change in route and schedule.

4. LIMOUSINE REGULATIONS. In addition to all other applicable provisions of this chapter, operation of limousines shall comply with the following:

a. Purpose. The purpose of this subsection is to promote a high standard of appearance for limousine service based upon the common expectation of parties contracting limousine services for business meetings and formal events.

b. Uniform. All limousine chauffeurs shall be uniformed in business attire.

c. Vehicle Type and Appearance. The party contracting for a limousine on a prereserved basis shall be advised of the make, model and year of the vehicle and of any custom nonproduction features or unique energy conservation features of the vehicle. No vehicle shall be provided that is of a different make, model, year or custom features, or an equivalent vehicle, from that agreed to by the contracting party prior to passenger pickup.

5. PEDICABS. a. No person may operate on a highway during hours of darkness any pedicab unless the pedicab is equipped with at least 2 lighted lamps or lanterns exhibiting a white light visible from a distance of 500 feet ahead and 2 lighted lamps or lanterns exhibiting a red light visible from a distance of 500 feet to the rear. As an alternative to the red lamps or lanterns, 2 red reflectors may be displayed on the rear of the pedicab if the following standards are met:

a-1. Each reflector is mounted at a height not less than 16 inches nor more than 60 inches above the ground on which the pedicab stands. If the pedicab is more than 80 inches wide, the reflectors shall be mounted so as to indicate as nearly as possible the extreme width of the vehicle.

a-2. Each reflector is of such size and characteristics and so maintained as to be readily visible during the hours of darkness from all distances within 500 feet to 50 feet from the pedicab when directly in front of lawful upper beams of headlamps.

a-3. The pedicab is equipped with a flashing lighted lamp or lantern exhibiting a red light visible from a distance of 500 feet to the rear.

b. No person may operate on a highway, day or night, any pedicab unless there is displayed on the most practicable rear area of the pedicab a slow moving vehicle emblem consistent with the provisions of s. 347.245(2), Wis. Stats.

100-62. Penalty. 1. Any person who violates any provision of this chapter shall, where no other provisions are expressly made for the enforcement of any forfeitures or penalties under this chapter, upon conviction forfeit not less than \$50 nor more than \$750 together with the costs of prosecution, or in default of payment may be imprisoned as provided by law.

2. Any person who violates s. 100-50-1 or 100-60-1-b-1 shall upon conviction be subject to the following forfeitures together with the costs of prosecution, and, in default of payment may be imprisoned as provided by law:

a. A forfeiture not less than \$1,500 nor more than \$2,500 if the person has not committed a previous violation within 24 months of the violation.

b. A forfeiture not less than \$2,500 nor more than \$4,000 if the person has committed a previous violation within 24 months of the violation.

c. A forfeiture not less than \$4,000 nor more than \$5,000 if the person has committed 2 or more previous violations within 24 months of the violation.

3. Any person who violates s. 100-54-1 shall upon conviction forfeit not less than \$500 nor more than \$1,000 together with the costs of prosecution, or in default of payment may be imprisoned as provided by law.

4. Multiple violations for the same offense, though occurring on the same date, may be treated as separate violations under this section.

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SUBCHAPTER 5
PROVISIONAL LICENSES AND PERMITS

100-70. Provisional Licenses and Permits.

1. **AUTHORITY.** a. A provisional public passenger vehicle driver's license shall authorize the license holder to perform those activities permitted a person holding a regular public passenger vehicle driver's license issued under s. 100-54.

b. A provisional public passenger vehicle permit shall authorize the holder to perform those activities permitted a person holding a regular public passenger vehicle permit issued under s. 100-50.

3. **ELIGIBILITY.** Any person who has properly filed with the city clerk a completed application and the required application fee for a regular public passenger vehicle driver's license or permit may apply for a provisional license or permit issued under this subchapter, unless the applicant is subject to the disqualification provisions provided under s. 85-13.

5. **ISSUANCE.** a. Application for a provisional license or permit shall be filed with the city clerk in writing on forms provided. Upon application, the city clerk shall issue a provisional license or permit to an applicant if the applicant has first filed with the city clerk all of the following items:

a-1. A completed application and the required application fee for a regular public passenger vehicle driver's license or permit.

a-2. Evidence of possessing a valid motor vehicle driver's license, excluding occupational licenses, issued by the state of Wisconsin. This requirement shall apply to a person applying solely for a provisional permit.

a-3. A statement affirming that within 2 years of the date of application that all of the following are true:

a-3-a. The applicant has not been convicted of any felony or misdemeanor offense related to a violent offense.

a-3-b. The applicant has not been convicted of 3 or more moving violations, as defined in s. 343.01(2)(cg), Wis. Stats., arising out of separate incidents or occurrences.

a-3-c. The applicant has not been convicted of any offense related to operating a motor vehicle while intoxicated.

a-4. A statement affirming the applicant's understanding that providing false, misleading or fraudulent information or a false affidavit on any application required under this subchapter shall be subject to the penalties provided in s. 85-34.

a-5. A statement attesting that there are no open warrants for the arrest of the applicant, that the applicant has no unpaid fines or forfeitures due the city, and that the applicant is not on probation or parole.

a-6. If the application is for a provisional public passenger vehicle driver's license and the applicant seeks to drive a handicapped and elderly vehicle, documentation that the applicant has completed a passenger assistance training course.

b. Any person filing an application for a provisional public passenger vehicle permit shall, in addition to the requirements under par. a, file with the city clerk all of the following items:

b-1. The current state registration of each motor vehicle naming the applicant as title holder.

b-2. Evidence of financial responsibility as required under s. 100-53, issued to and covering the applicant.

6. **FEE.** No provisional public passenger vehicle license or permit shall be issued until the applicant submits to the city clerk, in addition to the required application fee for a regular license or permit, the fee for a provisional license or permit specified in ch. 81.

7. **EXPIRATION DATE.** A provisional license or permit shall expire 60 days after the date of issuance by the city clerk or upon issuance, denial, non-renewal, or suspension of the regular license or permit, whichever is sooner, and shall not be renewable.

9. **REVOCATION.** The city clerk may revoke a provisional license without further common council action if he or she determines that the applicant provided false information on the license application or upon denial by the common council of the holder's application for a regular license or permit.

"For legislative history of chapter 100, contact the Legislative Reference Bureau."

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101-1. Title and Adoption of State Laws.

1. TITLE. Chapter 101 shall be known and may be referred to and cited as The Milwaukee Traffic Code.

2. ADOPTION OF STATE LAWS. The city of Milwaukee adopts s. 23.33 and chs. 340, 341, 342, 343, subch. 6 of ch. 344, 345, 346, 347, 348, 349, 941.01 and 941.03, Wis. Stats., and all subsequent amendments thereto defining and describing regulations with respect to vehicles and pedestrians and traffic for which the penalty is a forfeiture only, including but not limited to provisions for stipulation, conditions of deposit or bail, penalties unless another provision for such penalties, provisions for stipulation, conditions of deposit or bail is provided in this chapter.

101-2. Display of Registration Plates. 1. CITY ADOPTS STATE RULE. The city of Milwaukee adopts s. 341.15, Wis. Stats., 1969, and all subsequent amendments thereto.

2. PENALTY. Upon conviction of a violation of s. 341.15, Wis. Stats., 1969, so adopted, the court shall enter a judgment of forfeiture against the violator, payable to the city, within the range of forfeitures provided by statute for violation of such section in addition to taxable costs and, in default of payment thereof, order confinement in the county jail or house of correction until such forfeiture and costs are paid, but not to exceed 30 days.

101-3. Rules of the Road. 1. CITY ADOPTS STATE RULE. The city of Milwaukee adopts ch. 346, Wis. Stats., 1969, and all subsequent amendments thereto defining and describing regulations with respect to vehicles and traffic for which the penalty is a forfeiture only, including penalties to be imposed; except as provided in s. 101-34. Excluded from this general adoption of ch. 346, Wis. Stats., is s. 346.94(4), Wis. Stats. The city of Milwaukee also adopts s. 346.63(1), Wis. Stats., prohibiting driving or operating a motor vehicle while under the influence of an intoxicant or a controlled substance or a combination of an intoxicant and a controlled substance while that person has a blood alcohol concentration of more than 0.0 but not more than 0.8.

2. PENALTY. Upon conviction of a violation of any section of ch. 346, Wis. Stats., 1969, so adopted, the court shall enter a judgment of forfeiture against the violator, payable to the city, within the range of forfeitures provided by statute for violation of such section in addition to taxable costs and, except as provided in s. 101-34, in default of payment thereof, order confinement in the county jail or house of correction until such forfeiture and costs are paid, but not to exceed 30 days. The municipal court shall suspend an operator's license for violation of the Milwaukee ordinance enacted in conformity with s. 346.63(1), Wis. Stats.

101-3.5. Operators to be Licensed.

1. LICENSE REQUIRED. Except as provided in sub. 3, no person may operate a motor vehicle upon a highway in this city unless the person has a license issued to him or her by the Wisconsin department of transportation, which license is not revoked, suspended, canceled or expired. A valid chauffeur's license satisfies the requirements of this section only when the licensee is operating a vehicle in the performance of his or her duties as chauffeur. No person may operate a motor-driven cycle unless the person possesses a valid operator's license which has been specifically endorsed for motor-driven cycle operation. No person may

operate a moped unless the person possesses a valid operator's license or a special restricted operator's license issued under s. 343.135, Wis. Stats. No person may operate a motor bicycle unless the person possesses a valid operator's license or a special restricted operator's license issued under s. 343.135, Wis. Stats.

2. REVOCATION. This section shall not apply to any person operating a motor vehicle upon a highway in this state when such person's license is revoked or suspended.

3. PERSONS EXEMPT. The following are exempt from the licensing requirements of this section:

a. Any person in the armed services while operating a motor vehicle owned by or leased to the United States government.

b. Any person while operating any farm tractor or implement of husbandry temporarily operated or moved on a highway.

c. Any nonresident of this state who is at least 16 years of age and who has in his immediate possession a valid license issued to him in his home jurisdiction.

d. Any nonresident of the United States who holds an international driving permit or a valid operator's license issued by a country which is signatory to either the 1943 regulation of inter-American automotive traffic or the 1949 Geneva convention on road traffic.

e. Any nonresident of the United States who holds an international driving permit or a valid operator's license issued by West Germany, Mexico or Switzerland or by any other nation having a reciprocal agreement with the United States concerning driving privileges.

f. Exemptions under pars. d and e shall be for a period of one year only.

4. FORFEITURE. Any person violating sub. 1 shall forfeit not more than \$100, and in default thereof shall be imprisoned in the Milwaukee county jail for a period not to exceed 30 days.

101-4. Equipment of Vehicles. 1. ADOPTION OF STATE LAW. The city of Milwaukee adopts chs. 110 and 347, Wis. Stats., 2001-2002, and all subsequent amendments thereto defining and describing regulations for which the penalty for violation thereof is a forfeiture only, including penalties to be imposed.

2. MALFUNCTIONING HORNS A NUISANCE. If an automobile horn, as provided for by s. 347.38, Wis. Stats., malfunctions on public or private property within the limits of the city and emits an audible continuous sound for more than 3 minutes, and if the operator or owner of the vehicle cannot be located after a reasonable attempt to find said operator or owner, the malfunctioning horn shall be deemed a nuisance, and the police department shall summarily abate the nuisance by any reasonable means.

3. PENALTY. Upon conviction of a violation of any section of chs. 110 or 347 Wis. Stats., 2001-2002, so adopted, the court shall enter a judgment of forfeiture against the violator, payable to the city, within the range of forfeitures provided by statute for violation of such section in addition to taxable costs and in default of payment thereof order confinement in the county jail or house of correction until such forfeiture and costs are paid, but not to exceed 30 days.

101-4.5. Adoption of State Administrative Code for Vehicle Equipment and Safety Standards. 1. ADOPTION OF ADMINISTRATIVE REGULATION. The city of Milwaukee adopts chs. Trans. 305, 325, 326 and 327, Wis. Adm. Code, as amended, with respect to defining and describing motor vehicle equipment standards and motor carrier safety regulations.

2. PENALTY. Upon conviction of a violation of any section of chs. Trans. 305, 325, 326 and 327, Wis. Adm. Code, so adopted, the court shall enter a judgment of forfeitures provided by statute or administrative regulation for violation of such section in addition to taxable costs and in default of payment thereof order confinement in the county jail or house of correction until such forfeiture and costs are paid, but not to exceed 30 days.

101-4.7. Adoption of State Code for Leasing of Vehicles by Private Carriers. 1. ADOPTION OF ADMINISTRATIVE REGULATION. The city of Milwaukee adopts ch. Trans. 150, Wis. Adm. Code, as amended, as part of this code.

2. PENALTY. Upon conviction of any violation of this section, the court shall enter a judgment of forfeiture provided by statute or administrative regulation in addition to taxable costs and, in default of payment thereof shall order confinement as provided by law.

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101-5. Size, Weight and Load. 1. **ADOPTION OF STATE LAW.** The city of Milwaukee adopts ch. 348, Wis. Stats., 1999-2000, and all subsequent amendments thereto defining and describing regulations for which the penalty for violation thereof is a forfeiture only including penalties to be imposed.

2. **PENALTY.** Upon conviction of a violation of any section of ch. 348, Wis. Stats., 1999-2000, so adopted, the court shall enter a judgment of forfeiture against the violator, payable to the city, within a range of forfeitures provided by statute for violation of such section in addition to costs of prosecution and in default of payment thereof order confinement in the county jail or house of correction until such forfeiture and costs are paid, but not to exceed 30 days.

101-5.5. Excessive Size, Weight and Load Permit.

1. **REQUIRED BY VEHICLE OPERATOR.** a. No person may operate on a highway within the city any vehicle having a total width in excess of 8-1/2 feet, an overall height in excess of 13-1/2 feet, an overall length in excess of 75 feet, or a total weight of more than 80,000 lbs., even if a permit has been issued by the state of Wisconsin, without obtaining a permit from the commissioner of public works.

b. A permit is valid only for the vehicle and load described in the application and permit.

c. A fee shall be paid in accordance with s. 81-80 prior to issuance of the permit.

2. **INSURANCE AND LIABILITY CONDITIONS.** a. A permittee shall certify, and may be required to present satisfactory written evidence, that the following insurance coverage or a bond in a form satisfactory to the commissioner of public works will be in effect for the vehicle and load designated in the permit while operating on the public highway, unless this requirement is expressly waived by the commissioner of public works:

Bodily injury liability - each person	\$150,000
Bodily injury liability - each accident	\$450,000
Property damage liability - each accident	\$300,000
or, Combined single limit	\$750,000

b. A permittee shall hold the city, its officers, employees and agents harmless from any claim which may arise from granting of the permit or which may result from operation over public highways under the permit.

c. A permittee shall pay any claim for any bodily injury or property damage resulting from operation under the permit for which the permittee is legally responsible.

3. **GENERAL CONDITIONS AND REQUIREMENTS.** a. The permit may designate the route to be traversed and may contain any other condition or restriction deemed necessary by the commissioner of public works.

b. The commissioner of public works may for good cause suspend or revoke the permit or may decline to issue additional permits.

c. When a vehicle operating under a permit is overheight, the permittee shall give prior notice to the owners of overhead wires, cables, structures or other facilities which may be affected.

d. When a vehicle operating under a permit is overheight, the permittee is responsible for ensuring that the vehicle clear, by at least 3 inches, all overhead structures along the route.

e. The commissioner of public works may require a traffic officer to accompany a vehicle operating under a permit through the city if the vehicle has a total width in excess of 12 feet, an overall height in excess of 13-1/2 feet, an overall length in excess of 75 feet, or a total weight in excess of 150,000 pounds. An additional fee for the officer's service shall be paid by the permittee in accordance with s. 81-80 prior to issuance of the permit.

f. Permits shall be carried on the vehicle during operations so permitted and presented to any city official upon request.

g. A permit is not valid during periods when adverse weather or road conditions, such as fog, smoke, heavy rain, snow or ice, or wind velocity, impair the safety of a movement under the permit.

h. The granting of a permit shall not be considered as a guarantee of the sufficiency of any highway or structure transported upon.

i. The commissioner of public works shall charge a special investigation fee when it is deemed necessary because of the size or weight of the load or of the route to be traveled. The fee shall be charged for services including but not limited to bridge load calculations and field measurements. The special investigation fee shall be paid by the permittee in accordance with s. 81-49.5.

j. The commissioner of public works shall charge an additional fee for the actual cost incurred for protecting, adjusting, moving, or otherwise altering city facilities to accommodate the movement of excessive loads.

4. MULTIPLE TRIP PERMIT. a. The commissioner of public works may issue a multiple trip permit for any vehicle that is not required to have a traffic officer accompany it through the city.

b. The multiple trip permit shall be effective for a period of one month or 12 months.

c. A fee shall be paid in accordance with s. 81-50.5 prior to issuance of the permit.

d. A multiple trip permit issued for 12 months may be transferred within the same 12 month period to another vehicle upon proper application to the commissioner of public works. A fee shall be paid in accordance with s. 81-50.5 to transfer the permit.

e. A multiple trip permittee shall comply with all applicable statutes, ordinances, and administrative rules, including the conditions and requirements of a single trip permittee, unless they are modified by the conditions of the permit.

f. The maximum size and weight limitations authorized by a multiple trip permit shall not be exceeded.

5. MULTIPLE TRIP PERMIT REQUIRING TRAFFIC OFFICER ESCORT.

a. The commissioner of public works may issue a multiple trip permit for any vehicle that is required to have a traffic officer accompany it through the city.

b. The multiple trip permit requiring a traffic officer escort shall be issued for a period of one month or 2 months.

c. A fee shall be paid in accordance with s. 81-80 prior to issuance of the permit.

d. The permittee shall allow adequate time for the city to conduct its review when applying for the permit.

e. A multiple trip permittee requiring a traffic officer escort shall comply with all applicable statutes, ordinances, and administrative rules, including the conditions and requirements of a single trip permittee, unless they are modified by the conditions of the permit.

f. The commissioner of public works may suspend the permit or change the designated route to be traversed during the effective date of the permit when deemed necessary.

7. PENALTY. Any person who violates any provision of this section shall upon conviction forfeit not less than \$50 nor more than \$500 together with costs of prosecution, or in

default of payment may be imprisoned in the county jail or house of correction for a period not to exceed 20 days.

101-6. Designation of No Passing Zones. The commissioner of public works is authorized to mark no-passing zones, which have been deemed by him to be required on the basis of engineering study, either by signs or by a yellow unbroken line on the pavement on the right hand side of and adjacent to the centerline of any highway.

101-7. Designation of Crosswalks. 1. BY COMMISSIONER OF PUBLIC WORKS. The commissioner of public works is authorized to mark by appropriate devices, marks or lines upon the surface of the roadway, and to thereafter maintain crosswalks at the intersections and other places established by ordinance where, in his opinion, there is particular danger to pedestrians crossing the roadway.

2. NONINTERSECTION CROSSWALKS. Marked pedestrian crosswalks are established at certain nonintersection locations listed in official files.

3. DIAGONAL CROSSWALKS. Marked pedestrian diagonal crosswalks are established at certain specific locations listed in official files. (Specific locations are to be found in the common council proceedings; the official record on file in the city clerk's office, and the code on file in the legislative reference bureau.

101-8. Designation of Safety Zones. The commissioner of public works is authorized to mark, by appropriate signs, the area or space set apart within a roadway, by ordinance or resolution for the exclusive use of pedestrians, including those about to board or alight from public conveyances.

101-9. Designation of Prohibited Pedestrian Crossings. 1. TO INSTALL SIGNS. Pedestrian crossings are prohibited at certain locations and the commissioner of public works shall install appropriate signs and, when deemed necessary, erect barricades to indicate that pedestrians are prohibited from crossing at the following locations:

Specific locations are to be found in the common council proceedings; the official record on file in the city clerk's office; and the code on file in the legislative reference bureau.

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2. PENALTY. Any pedestrian violating this section shall upon conviction be punished by a forfeiture of not less than \$2 nor more than \$50, together with the cost of prosecution, and in default thereof shall be imprisoned in the house of correction or county jail for not less than one day nor more than 10 days.

101-9.5. Designation of Locations Where Loitering or Standing is Prohibited upon Street Medians.

1. DEFINITION. In this section:
a. Median” means a paved or unpaved area dividing a street or highway that separates lanes of traffic traveling in opposite directions.

b. “Safety zone” means the area or space defined in s. 340.01(55), Wis. Stats.

2. LOITERING PROHIBITED. No person shall stand, sit or stay upon any median less than 5 feet wide, or any median in a designated roadway or highway that is considered a safety hazard for pedestrians. This provision shall not apply to:

a. Persons using a crosswalk or safety zone to cross a street.

b. Law enforcement officers or public employees acting within the scope of their duties.

c. Fire or emergency employees providing emergency assistance.

d. Street or utility construction and maintenance workers performing authorized construction or maintenance work.

3. LOCATIONS; INSTALLATION OF SIGNS. Specific locations to which this section applies are to be found in the common council proceedings; the official record on file in the city clerk’s office; and the code on file in the legislative reference bureau. The commissioner of public works shall install appropriate signs to indicate the prohibition of sub. 2 applies to these specific locations.

4. PENALTY. Any person found violating this section shall upon conviction be punished by a forfeiture not less than \$50 nor more than \$200, together with the cost of prosecution, and in default thereof shall be imprisoned as provided by law.

101-10. Designation and Marking of Intersections and Other Locations Where Right Turns Are Prohibited. 1. NO RIGHT TURNS; LOCATIONS. Right turns are prohibited at certain locations, and the commissioner of public works shall install the proper signs and/or

markings designating such prohibited movements.

Specific locations are to be found in the common council proceedings, the official record on file in the city clerk’s office; and the code on file in the legislative reference bureau.

2. NO RIGHT TURNS ON RED SIGNAL; LOCATIONS. Right turns on red signal are prohibited at certain locations, and the commissioner of public works shall install the proper signs and/or markings designating such prohibited movements.

Specific locations are to be found in the common council proceedings; the official record on file in the city clerk’s office; and the code on file in the legislative reference bureau.

101-11. Designation and Marking of Intersections and Other Locations Where Left Turns Are Prohibited.

1. NO LEFT TURNS; LOCATIONS. Left turns are prohibited at certain locations, and the commissioner of public works shall install the proper signs and/or markings designating such prohibited movements.

Specific locations to which this section applies are to be found in the common council proceedings; the official record on file in the city clerk’s office; and the code on file in the legislative reference bureau.

2. NO LEFT TURNS ON RED SIGNAL; LOCATIONS. Left turns on red signal are prohibited at certain locations, and the commissioner of public works shall install the proper signs and/or markings designating such prohibited movements.

Specific locations to which this section applies are to be found in the common council proceedings; the official record on file in the city clerk’s office; and the code on file in the legislative reference bureau.

101-12. Designation of Locations Where Special Vehicular Traffic Movement is Required; U Turns; Lanes. 1. CERTAIN MOVEMENTS PROHIBITED. The commissioner of public works shall, when authorized by the common council, place signs, signals, buttons or markings at certain locations, or adjacent thereto, indicating the course of travel to be prohibited.

2. U TURNS PROHIBITED. The operator of a vehicle shall not turn his vehicle so as to proceed in the opposite direction at certain locations, and the commissioner shall install the proper signs and/or markings designating such prohibited movement.

3. REVERSIBLE LANES. The commissioner of public works, when authorized by the common council, may designate certain streets, parts of streets or specific lanes thereon, upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day and shall place and maintain appropriate markings, signs, barriers, signals or other devices to give notice thereof.

4. TURN LANES. a. **Mandatory Turn Lanes.** The commissioner of public works shall, when authorized by the common council, place signs, markings or appurtenances at certain locations, or adjacent thereto, indicating certain lanes are restricted to a particular movement.

b. **Multiple Turn Lanes.** The commissioner of public works shall, when authorized by the common council, place signs, markings and other appurtenances indicating that more than one lane has been set aside for the respective turning movement along with other attendant controls and/or restrictions as to lane use. Specific locations of special vehicular movements are to be found in the common council proceedings; the official record on file in the city clerk's office; and the code on file in the legislative reference bureau.

101-13. Designation and Marking of Speed Zones.

1. TO INSTALL SIGNS. The commissioner of public works shall install and maintain standard speed signs as deemed necessary to give adequate warning to users of the following highways and any other highways where the speed limit has been modified by ordinance and resolution.

2. MAXIMUM SPEED 30 MILES PER HOUR. Except as otherwise provided, the maximum permissible speed on through highways shall be 30 miles per hour, provided that the through highways:

- a. Have a single roadway and have a width of 38 feet or greater.
- b. Are divided highways and have a total or combined roadway width of 40 feet or greater, or
- c. Are established as one-way streets and have a roadway width of 30 feet or greater.
- d. Have rural type pavement which consists of two lanes for moving traffic, and shoulders in lieu of curb and gutter sections, where an engineering study and concurrence by the police department indicates 30 MPH would be a safe maximum speed.

3. PARK OR RECREATION AREAS 15 MILES PER HOUR. The maximum permissible speed on the indicated portions of certain streets and highways within the corporate limits of the city of Milwaukee that are within, contiguous or adjacent to a public park or recreation area shall be 15 miles per hour when children are going to or from or are playing within such area. This subsection shall not apply to streets or highways designated as through highways, state trunk highways, connecting highways on the state trunk system or county trunk highways.

4. MAXIMUM SPEEDS VETERANS ADMINISTRATION, WOOD, WISCONSIN.

a. **Fifteen Miles per Hour.** Except as hereinafter provided, the maximum permissible speed on all streets, roadways, driveways, service drives, etc., of the Veterans Administration Center known as Wood, Wisconsin, lying between the stadium expressway and S. 56th street and between the east-west expressway and W. National avenue shall be 15 miles per hour.

b. **Twenty Miles per Hour.** The maximum permissible speed on certain streets and roadways of the Veterans Administration Center known as Wood, Wisconsin, lying between the stadium expressway and S. 56th street and between the east-west expressway and W. National Avenue shall be 20 miles per hour.

5. MAXIMUM SPEED 35 MILES PER HOUR. The maximum permissible speed on portions of certain streets and highways, as listed, within the corporate limits of the city of Milwaukee shall be 35 miles per hour.

6. MAXIMUM SPEED 40 MILES PER HOUR. The maximum permissible speed on portions of certain streets and highways, as listed, within the corporate limits of the city of Milwaukee shall be 40 miles per hour.

7. MAXIMUM SPEED 45 MILES PER HOUR. The maximum permissible speed on portions of certain streets and highways, as listed, within the corporate limits of the city of Milwaukee shall be 45 miles per hour.

8. MAXIMUM SPEED AT CERTAIN SCHOOL CROSSINGS. The maximum permissible speed at certain school crossings, as listed, within the corporate limits of the city of Milwaukee, shall be 20 miles per hour.

Specific locations to which this section applies are to be found in the common council proceedings; the official record on file in the city clerk's office; and the code on file in the legislative reference bureau.

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101-14. Temporary Signs and Signals.

1. AUTHORITY AND NEED. The commissioner of public works is authorized and directed to establish such temporary traffic control measures as may be required as a result of street, bridge, viaduct, expressway, or utility construction projects, or any other project which requires temporary traffic controls. Such temporary measures shall include, but are not limited to, the establishment of temporary public transit routes; one-way streets and alleys; turn prohibitions; parking, speed, and trucking regulations; the installation of traffic control signals and stop signs, the painting of pavement markings; and the barricading of streets.

2. TO NOTIFY PUBLIC. The city traffic manager under authority of the commissioner of public works shall notify the press, radio and television stations, the mayor, each alderman affected, the city attorney, the department of public works, the police department and the fire department of substantial changes in the traffic pattern.

3. REMOVAL OF SIGNS. The commissioner of public works shall remove all signs, signals and appurtenances required for the temporary control of traffic within a reasonable period of time after the completion of that part of the project for which the temporary provisions have been made.

4. TEMPORARY SIGNS, OFFICIAL. All signs and signals erected pursuant to this section shall be official traffic signs and signals until they are removed.

101-15. Installation of Yield Right-of-way Signs. The commissioner of public works is authorized to install yield right-of-way signs at the following locations: Specific locations of signs are to be found in the common council proceedings; the official record on file in the city clerk's office; and the code on file in the legislative reference bureau.

101-16. Installation of Stop Signs and Through Highway Signs. **1. STOP SIGNS.** The commissioner of public works is authorized to install stop signs regulating traffic emerging from alleys, private roadways, private driveways or garages; and shall erect and maintain stop signs or traffic control signals on every intersecting highway where traffic crosses or enters a through highway, and at other locations where needed in the interest of public safety as designated herein.

Specific locations are to be found in the common council proceedings; the official record on file in the city clerk's office; and the code on file in the legislative reference bureau.

2. THROUGH HIGHWAY SIGNS. The following described highways and portions thereof are designated as through highways.

Specific locations and designations are to be found in the common council proceedings; the official record on file in the city clerk's office; and the code on file in the legislative reference bureau.

3. NO STOPPING SIGNS FOR RIGHT TURNS. At the following locations, where stop signs have been installed, the commissioner of public works shall erect and maintain signs indicating that no stop is required for vehicles making a right turn.

Specific locations and designations are to be found in the common council proceedings; the official record on file in the city clerk's office; and the code on file in the legislative reference bureau.

101-17. Service Road Stop Signs. **1. TO BE INSTALLED.** The commissioner of public works may erect and maintain stop signs on every service road where traffic thereon enters or crosses another highway other than an alley.

2. DEFINITION. Service road is defined as a highway that runs generally parallel to, but is separated from the main roadway or roadways by a parkway or other physical barrier and is primarily intended to provide access to the abutting property and not for the use of through traffic.

101-18. Heavy Traffic of 3 Tons and Over.

1. PROHIBITED IN RESIDENTIAL DISTRICTS. Heavy traffic is prohibited in residential districts except on connecting highways in the state trunk highway system or on through highways which permit heavy traffic. The commissioner of public works may erect and maintain appropriate signs to inform the public of such prohibitions when necessary. Specific locations and designations may be found in the common council proceedings, the official record on file in the city clerk's office and the code on file in the legislative reference bureau.

2. UNATTENDED VEHICLES PROHIBITED. No operator of any semitrailer or truck tractor, as defined in s. 340.01(57) and (73), Wis. Stats., or any vehicle in excess of 3 tons may leave any such vehicle unattended on any

street on which heavy traffic is prohibited under sub. 1. This section does not prohibit the temporary parking of such vehicles while they are being used to perform a service or make deliveries.

101-19. Temporary Restrictions on Heavy Trucking. 1. **WEIGHT LIMITATIONS.** The commissioner of public works is empowered to impose special weight limitation on any such highway or portion thereof which, because of weakness of the roadbed due to deterioration or climatic conditions or other special or temporary conditions, would likely be seriously damaged or destroyed in the absence of such special limitations. The commissioner of public works may permit by an order in writing the delivery of emergency supplies and fuel.

2. **WEIGHT LIMITATION ON BRIDGES, ETC.** The commissioner of public works is empowered to impose special weight limitations on bridges or culverts when in his judgment such bridge or culvert cannot safely maintain the maximum weight limitations permitted by statute.

3. **AUTHORITY TO SUSPEND OPERATION.** The commissioner of public works is empowered to order the owner or operator of any vehicle being operated on a highway to suspend operation if in his judgment such vehicle is causing or likely to cause injury to the highway or is visibly injuring the permanence thereof or the public investment therein, except when s. 84.20, Wis. Stats., 1969, is applicable or when the vehicle is being operated pursuant to a contract which provides that the city will be reimbursed for any damage done to the highway.

4. **COMMISSIONER TO ERECT SIGNS.** The commissioner of public works is directed to erect suitable signs giving notification of such temporary prohibition or regulation. The signs are to be placed upon and along all streets or alleys on which said temporary prohibition or regulation is in force and such prohibition or regulation of heavy traffic shall be effective the day following the placing of said signs and shall remain in force until the signs are removed.

5. **TO PROTECT STREETS.** This section is enacted as an exercise of the police power to safeguard and protect streets and alleys in areas of the city where streets have recently been installed and in other areas where the streets are of a composition noted above so as to insure the safe and ready movement of fire, police and other vehicles necessary and vital to

the protection of life and property and for the preservation of the government and good order of the city and for the health, safety and welfare of the public.

101-20. Unnecessary Vehicle Noises Prohibited.

1. **PROHIBITED.** No person shall make unnecessary and annoying noises with a motor vehicle, by squealing tires, excessive acceleration of engine, by emitting unnecessary and loud muffler noises, or by suffering or permitting his or her unattended motor vehicle's audio alarm to be activated without evidence of any tampering with the doors, locks, windows or any other part of the motor vehicle.

2. **PENALTY.** Any person in violation of this section shall upon conviction be subject to a forfeiture of not less than \$100 nor more than \$200 together with the costs of prosecution, and, in default of payment thereof be confined in the county jail or house of correction until such forfeiture and costs are paid, but not to exceed 8 days.

101-20.5. Cruising Prohibited. 1. DEFINITIONS. In this section:

a. "Cruising" means driving a motor vehicle past a traffic control point in the designated area more than twice in any 2 hour period between the hours of 8:00 p.m. and 5:00 a.m. Passing a designated control point a third time under the aforesaid conditions shall constitute unnecessary repetitive driving and cruising.

b. "Designated area" means:

b-1. All of that portion of South 27th Street, within the limits of the city, bounded by West Kinnickinnic River Parkway on the north and West College Avenue on the south.

b-2. All of that portion of East and West Layton Avenue, within the limits of the city, bounded by South Brust Avenue on the east and South 27th Street on the west.

b-3. All of that portion of West Wisconsin Avenue bounded by North 17th Street on the east and North 35th Street on the west.

b-4. All of that portion of North Sherman Boulevard bounded by West Center Street on the south and West Villard Avenue on the north.

b-5. All of that portion of East and West Capitol Drive within the Milwaukee city limits.

b-6. All of that portion of South Superior Street bounded by East Russell Avenue on the north and East Oklahoma Avenue on the south.

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b-7. All of that portion of East and West Oklahoma Avenue bounded by South Superior Street on the east and South 20th Street on the west.

b-8. All that portion of West Fond du Lac Avenue bounded by West Locust Street on the south and West Silver Spring Drive on the north.

b-9. All of that portion of West Forest Home Avenue bounded by South 35th Street on the east and South 68th Street on the west.

b-10. All that portion of West Silver Spring Drive bounded by North 51st Boulevard on the east and North Lovers Lane Road on the west.

b-11. All that portion of North 60th Street bounded by West Capitol Drive on the south and West Mill Road on the north.

b-12. All that portion of North 76th Street bounded by West Brown Deer Road on the north and West Good Hope Road on the south.

b-13. All that portion of West Bradley Road bounded by North 60th Street on the east and North 91st Street on the west.

b-14. All that portion of North Lovers Lane Road bounded by West Silver Spring Drive on the north and West Hampton Avenue on the south.

b-15. All that portion of West Roosevelt Drive bounded by West Capitol Drive on the east and West Fond du Lac Avenue on the west.

b-16. All that portion of West Burleigh Street bounded by West Fond du Lac Avenue on the east and the Milwaukee city limits on the west.

c. "Traffic control point" means a reference point within or adjacent to a designated area selected by a police officer for the purpose of determining unnecessary repetitive driving and cruising.

2. CRUISING PROHIBITED. It shall be unlawful for any person to engage in cruising. For the purposes of this section, the person having control or ownership of a motor vehicle shall be considered the person cruising, without regard as to whether that person was actually driving the motor vehicle each time it passed the traffic control point. Having control or ownership of a motor vehicle shall mean either the owner of the vehicle, if present in the vehicle at the time of the violation, or, if the owner is not present, the person operating the vehicle at the time of violation.

3. EXEMPTIONS. This section shall not apply to:

a. Any publicly owned vehicle of any city, county, state, federal or other governmental unit, while the vehicle is being operated for official purposes of the governmental unit.

b. Any authorized emergency vehicle.

c. Any taxicabs for hire, public transit buses or other vehicles being operated for business purposes.

4. TEMPORARY DESIGNATED AREAS. a. The chief of police or her or her designee at or above the rank of sergeant may establish temporary designated areas where cruising is prohibited where one or more of the following conditions exist or are reasonably anticipated at these locations:

a-1. Dangerous and continuous traffic congestion during evening and night hours.

a-2. Excessive levels of noise or air pollution caused by traffic congestion.

a-3. Potential obstruction of streets, sidewalks or access to parking lots caused by vehicular traffic.

a-4. Interference with the use of property or conduct of business by vehicular traffic.

a-5. Obstruction of access to and through the public way for emergency vehicles by vehicular traffic.

a-6. Loud, disruptive or unruly behavior directly related to vehicular traffic.

b. Prior to establishing a temporary designated area, the chief of police or his or her designee shall file a written plan, approved by the chief of police, with the district commander responsible for the area in which the designated area is to be located. A copy of the plan shall also be provided to the common council within 14 days of the date on which the designated area takes effect. The plan shall contain the following information:

b-1. The location of the designated area.

b-2. The date(s) and times during which the designated area will be in effect.

b-3. A statement enumerating the problem or problems listed in par. a that require the creation of the designated area.

b-4. Any instructions given to enforcement officers concerning the designated area.

b-5. The location of the signs posted pursuant to par. c.

c. Every temporary designated area shall be posted with sufficient signs to provide notice of the prohibition against cruising. These signs shall be of such size and shape as shall be deemed appropriate by the commissioner of public works.

5. PENALTY. Any person who violates this section shall upon conviction be subject to the following forfeitures together with the costs of prosecution, and, in default of payment be confined in the county jail or house of correction until such forfeiture and costs are paid, but not to exceed 16 days:

a. Not more than \$100 if the person has not committed a previous violation within 12 months of the violation.

b. Not more than \$200 if the person has committed a previous violation within 12 months of the violation.

c. Not more than \$400 if the person has committed 2 or more violations within 12 months of the violation.

101.20.7 Spectating at Illegal Race Contest or Exhibition of Speed.

1. INTENT. It is the intent of the common council in the interest of public safety and welfare to prevent illegal street racing contests and spectating at those illegal events.

2. DEFINITIONS. In this section:

a. "Racing event" means any unauthorized motor vehicle speed contest or exhibition of speed prohibited under s. 346.94 (2), Wis. Stats.

b. "Spectator" means any person who is present at a racing event for viewing, observing, watching, or witnessing the event as it progresses. The term includes any person at the location of the event without regard to the means by which the person arrived.

c. "Preparations" means any of the following acts done for a racing event:

c-1. The arrival of a group of motor vehicles and persons at a predetermined location.

c-2. The presence of a group of individuals along one or both sides of a public highway.

c-3. The impeding of one or more person's free use of a public highway by action, word, or physical barrier for conducting the racing event.

c-4. The presence of one or more motor vehicles with motors running for a racing event.

c-5. The revving-up of motor vehicle engines or spinning of motor vehicle tires by drivers on a public highway in preparation for a racing event.

c-6. The appearance of an individual stationed near one or more motor vehicles as a race starter.

3. SPECTATING PROHIBITED. No individual shall knowingly be present as a spectator at a racing event or where preparations are being made for a racing event, with the intent to be present at the racing event. An individual shall be considered to be present if that individual is within 150 feet of the racing event or where preparations are being made for a racing event.

4. PENALTY. Any person who violates this section shall be subject to a penalty of not less than \$20 and no more than \$400 together with the costs of prosecution, and, in default of payment thereof, shall be imprisoned as provided by law.

101-21. Emergency Traffic Powers.

1. REGULATION. Whenever the common council or the mayor declares a state of emergency under the authority of s. 166.23, Wis. Stats., it shall be unlawful to violate any traffic regulation promulgated thereunder.

2. PENALTY. Any person in violation of a traffic regulation so established shall upon conviction be subject to a forfeiture of not less than \$40 nor more than \$100 together with the costs of prosecution and, in default of payment thereof, confinement in the county jail or house of correction until such forfeiture and costs are paid, but not to exceed 6 months.

101-21.5. Designation and Marking of Bicycle and/or Bus Lanes.

1. AUTHORIZATION; LOCATIONS. The commissioner of public works is authorized to mark, by appropriate marks and signs, the area or space set apart within the roadway for the exclusive use of bicycle and/or bus traffic, and it shall be unlawful to operate or park an unauthorized motor vehicle thereon unless otherwise indicated by official signs.

Specific locations of bicycle and/or bus lanes are to be found in the common council proceedings; the official record on file in the city clerk's office; and the code on file in the legislative reference bureau.

2. OTHER TRAFFIC. The operator of an unauthorized motor vehicle shall not drive upon any portion of a bicycle and/or bus lane, except for one of the following purposes:

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a. To cross a bicycle and/or bus lane at an intersection with a highway.

b. As a means of approaching an intersecting highway for the purpose of executing a turn thereon.

c. As a means of approaching a driveway for the purpose of ingress or egress to a private or public premises.

d. As a means of ingress or egress to a parallel parking space or designated loading zone adjacent to the bicycle and/or bus lane.

e. In the case of a public transit bus or school bus being driven on an exclusive bicycle lane, as a means of executing a curbside stop to board or discharge passengers.

3. PENALTY. a. Any person violating any of the provisions of this section shall upon conviction thereof be required to forfeit a sum as provided in the penalty provision of s. 346.17, Wis. Stats., 1979, which are adopted and made applicable to the bicycle and/or bus lanes and operators of vehicles thereon, together with the costs of prosecuting such action, except that the violator shall not receive an alternative or included time of imprisonment, but may be sentenced to a term in the county jail or the house of correction upon his failure to pay the forfeiture until the same is paid, but not to exceed a period of 30 days.

b. The operator of a motor vehicle violating any of the provisions of this section shall upon conviction thereof be required to forfeit a sum in accordance with the provisions of s. 346.17, Wis. Stats., 1979, together with the costs of prosecuting such action, except that the violator shall not receive an alternative or included imprisonment, but may be sentenced to a term in the county jail or the house of correction upon failure to pay the forfeiture until the same is paid, but not to exceed 60 days.

101-22. Designation of One-way Streets, Alleys and Driveways. **1. ONE-WAY STREETS.** The commissioner of public works shall erect and maintain signs indicating the direction of traffic at every intersection or entrance to certain portions of streets, as officially listed, upon which vehicles are required to be operated in one specific direction.

2. ONE-WAY ALLEYS. The commissioner of public works shall erect and maintain signs indicating the direction of traffic at every intersection or entrance to certain portions of alleys, as officially listed, or alleys upon which vehicles are required to be operated in one specific direction.

3. ONE-WAY DRIVEWAYS (BUSINESS). The commissioner of public works shall erect and maintain signs in the public way indicating the direction of traffic at certain driveways, as officially listed, upon which vehicles are required to operate in one specific direction.

Specific locations and designations are to be found in the common council proceedings; the official record on file in the city clerk's office; and the code on file in the legislative reference bureau.

101-22.5. Parking and Traffic Restricted in Recreational Areas. **1. RESTRICTIONS.** No person shall operate any motor vehicle on or through, or park any motor vehicle upon any driveway, service road, service area or parking area of any city playground, playfield or totlot, or in the Havenwoods environmental and recreational area where appropriate signs have been erected prohibiting such activities; provided, however, that the above provisions shall not apply to any person, city employee or officer whose vehicle displays proper authorization and identification furnished by the appropriate department in charge of or in control of said playgrounds, playfields and totlots.

Specific locations are to be found in the common council proceedings; the official record on file in the city clerk's office; and the code on file in the legislative reference bureau.

2. PENALTY. Any person found violating sub. 1 relating to the operation of a motor vehicle on or through such areas shall be punished by a fine not to exceed \$100 or in lieu of payment thereof imprisonment in the county jail or house of correction, such imprisonment not to exceed 30 days. For parking penalty clause, see s. 101-34.

101-23. Erection of Parking Signs. 1. TO ERECT AND MAINTAIN. The commissioner of public works shall erect appropriate signs on all highways setting forth the following prohibitions, time limitations, restrictions or exceptions, as required by s. 349.13, Wis. Stats., 1969.

2. NO STOPPING OR PARKING PERMITTED.

3. NO PARKING.

4. RESTRICTED PARKING:

- a. Fifteen minute parking
- am. Twenty-five minute parking
- b. Half hour parking
- c. One hour parking
- d. Two hour parking
- e. Three hour parking
- f. Four hour parking
- g. Five hour parking
- h. Ten hour parking
- i. Twelve hour parking
- j. Twenty-four hour parking
- k. Parking for the physically disabled

5. LOADING ZONES.

6. ANGLE PARKING.

7. PARKING PROHIBITED IN SPECIFIC PLACES. It shall be unlawful for the operator of a vehicle to park such vehicle in any of the following places except to comply with the direction of a traffic officer or traffic control signal or sign: a. Parking Restricted Near Schools.

a-1. Upon the near side of a highway adjacent to an elementary schoolhouse during the hours of 7:00 a.m. to 4:30 p.m., during school days, and upon the near side of highway adjacent to a high school, junior high school, college or university during the hours of 7:00 a.m. to 4:30 p.m. during school days, where official signs are posted.

a-2. Exceptions. The provisions of subd. 1 shall not apply to the designated portions of the following streets.

Specific locations are to be found in the common council proceedings; the official record on file in the city clerk's office; and the code on file in the legislative reference bureau.

b. Playground Areas. On the near side of a street adjacent to a playground between the hours of 7:30 a.m. and 10:00 p.m.

c. Bus Stops, Posting of Signs. Every common motor carrier of passengers and every owner of any motor bus operation providing free transportation to the public shall install and maintain, during the term of the operation of such vehicle at every regular stop along the route on which the same is operated in the city, a suitable no parking stop sign indicating the location where

the vehicle will stop for the loading and discharging of passengers, such signs to be constructed and installed subject to the approval of the commissioner of public works. The commissioner of public works may designate the location of bus stops for any motor bus operation providing free transportation to the public. Said authorization may include bus stop locations established by common motor carriers of passengers. Bus stops shall have proper No Parking signs placed under the following conditions:

- c-1. Near Side Stop - 80 feet.
- c-2. Mid-block Stop or Far Side Stop - 120 feet.
- c-3. Articulated Bus Stops. c-3-a. After March 1, 1985, all present stops used for articulated bus service and all new bus stops shall comply with the following bus stop lengths:

Curb Loading Zones	Length of Zone Single Bus	Additional Length for Second Bus
Near Side	bus length plus 55 feet	bus length plus 5 feet
Far Side	bus length plus 40 feet	bus length
Mid-block	bus length plus 90 feet	bus length

c-3-b. The length of the zone shall be increased by 15 feet for near side zones where buses are required to make a right turn.

c-4. Special Conditions. The commissioner of public works may, whenever he deems it necessary under normal operating schedules, arrange for bus stop dimensions different than those referred to in subds. 1 and 2.

d. Bridges, etc. Parking prohibited on any bridge, viaduct or underpass at any time except on designated portions of certain streets as listed in official files.

e. Service Roads. Parking prohibited on any service road on the side adjacent to the main roadway.

8. TAXICAB STANDS; REGULATIONS. a. Established. The public safety and health committee, subject to approval of the common council, may designate certain locations as taxicab stand areas to comply with the regulations set forth in this section.

a-1. Width of Roadway. Taxicab stands may be created and maintained in certain areas of the city. Taxicab stands shall be confined to places alongside the curb and along the center of any street where the roadway,

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exclusive of the sidewalk, is 40 feet in width or more.

a-2. Signs. The public safety and health committee shall arrange to provide suitable signs which shall clearly designate taxicab stands and shall be attached to a post adjacent to the stands.

a-3. For Cabs Only. No person shall park, stop, or leave standing in any taxicab stand any vehicle where the stand is designated by official sign, except a taxicab duly operating under a permit issued by the common council.

b. Number Of Cars At Each Stand. Only taxicabs in such numbers as are set forth on the sign may remain at the stand while waiting for employment, and only in single file pointed in accordance with traffic regulations.

c. Locations Of Stands. Locations of specific stands are to be found listed in the common council proceedings, the official record on file in the city clerk's office, and the code on file in the legislative reference bureau.

9. HORSE AND SURREY STANDS.

a. Horse and surrey stands shall be established by the common council subject to the following regulations:

a-1. Width of Roadway. Horse and surrey stands shall be confined to places alongside the curb and along the center of the street where the roadway, exclusive of the sidewalk, is 40 feet in width or more.

a-2. Signs. Horse and surrey stands shall be clearly designated by signs attached to posts adjacent to the stands.

a-3. For Horse and Surrey Liveries Only. No person shall park, stop or leave standing in any horse and surrey stand any vehicle except a horse and surrey livery duly operating under a permit issued by the common council.

a-4. Number of Liveries at Each Stand. Only liveries in the number set forth on the sign may remain at a horse and surrey stand while waiting for employment, and only in single file pointed in accordance with traffic regulations.

a-5. Stand Locations. Locations of specific stands are to be found listed in the proceedings of the common council, the official record on file in the city clerk's office and the code on file in the legislative reference bureau.

9.5. FOOD PEDDLER VEHICLE ZONE. a. Limited operation food peddler vehicle zones, as defined in s. 68-37-1-b, shall be established by the common council subject to the following regulations:

a-1. Width of Roadway. Limited operation food peddler vehicle zones shall be confined to places alongside the curb and along

the center of the street where the roadway, exclusive of the sidewalk, is 35 feet in width or more.

a-2. Designation. The location of limited operation food peddler vehicle zones shall be designated by signs attached to posts adjacent to the zones. The location of food peddler vehicle spaces on a block face within a Type 2 limited operation food peddler vehicle zone shall be determined by the department of public works in consultation with the local council member and the police department. These spaces shall be marked with signage or paint markings.

a-3. Time Limit in Type 1 Time-Limited Zone. A food peddler vehicle shall not park in a Type 1 time-limited food peddler vehicle zone more than 6 hours in a 12-hour period, and shall park in the zone only during the hours of operation set forth on the sign.

a-4. For Food Peddler Vehicles Only. No person shall park, stop or leave standing any vehicle in a Type 2 density-limited food peddler vehicle parking space except a food peddler vehicle operating under a permit issued under s. 68-37-1-e-2-a.

a-5. Food Peddler Vehicle Parking by Permit Only. No food peddler vehicle may park in a Type 2 density-limited food peddler vehicle zone unless operating under a permit issued under s. 68-37-1-e-2-a and within a designated space.

a-6. Locations. Locations of specific zones are to be found listed in the proceedings of the common council, the official record on file in the city clerk's office and the code on file in the legislative reference bureau.

9.6. NO PARKING OF FOOD PEDDLER VEHICLES. A food peddler vehicle shall not be left parked within 50 feet of a restaurant without drive-through facility. Notwithstanding the foregoing, this provision may be waived by the common council.

10. NO PARKING DURING WINTER MONTHS. a. One Side Parking. There shall be no parking from 8 p.m. on December 1 of any year to March 1 of the following year at certain locations within the city of Milwaukee.

Specific locations to be found in common council File #85-968, on file in the office of the city clerk; and the code on file in the legislative reference bureau.

c. Alternate Monthly Parking. There shall be no parking from 9 a.m. on December 1 of any year to 6 a.m. on January 1 of the following year and from 9 a.m. on February 1 to 6 a.m. on March 1 on the side of the street so designated; and from 9 a.m. on January 2 to 6 a.m. on

February 1 on the opposite side at certain locations within the City of Milwaukee.

Specific locations to be found in common council File #85-968, on file in the office of the city clerk; and the code on file in the legislative reference bureau.

d. Extensions. The parking regulations in pars. a and c may be extended by emergency order of the commissioner of public works.

11. HEAVY TRUCK PARKING PROHIBITED. a. No semitrailer or truck tractor as defined in s. 340.01(57) and (73), Wis. Stats., or any vehicle in excess of 3 tons may park on any through highway which permits heavy traffic. Specific locations shall be designated by the common council. A list of locations may be found in the common council's proceedings, the official record on file in the city clerk's office and in the code on file in the legislative reference bureau.

b. This subsection does not prohibit the temporary parking of such vehicles while they are being used to perform a service or make a delivery.

101-23.2. Vehicles Prohibited from Parking or Standing.

1. DEFINITIONS. a. "Vehicle" means a motor vehicle, motor truck, motor bus, wagon, trailer, or another means of conveyance, but does not include a dumpster or other container permitted pursuant to ss. 115-10 to 115-11.5.

b. "Junk" has the meaning provided in s. 92-3-10.

c. "Valuable metal" has the meaning provided in s. 93-3-30.

d. "Waste tire" has the meaning provided in s. 93-3-31.

2. PROHIBITED. Vehicles used in activities subject to licensure under ch. 93 and in which junk, valuable metal, waste tires or other material regulated under ch. 93 is collected or stored shall not be parked or left standing on the highways of the city.

3. EXCEPTIONS. To the extent that a vehicle is otherwise in compliance with the code, such vehicle may be parked or left standing on the highways of the city while actively engaged in loading or unloading and such vehicle is not left unattended for a period greater than 10 minutes.

101-23.5. Parking on Private Property. No person shall, without the permission of the owner or lessee of any private property, leave or park any motor vehicle thereon, contrary to a posted sign thereon, if there is in plain view on such property a No Parking sign, or a sign indicating

limited or restricted parking. Owners or lessees of such property may prohibit parking, may restrict or limit parking and may permit parking by certain persons and prohibit it or limit it as to other persons. All signs installed shall comply with applicable provisions of the code.

101-23.7. Loading and Unloading Zone Permits.

1. DEFINITIONS. In this section:

a. "Commercial vehicle" means a motor vehicle used primarily for the movement of property or special-purpose equipment as opposed to persons, or a motor vehicle that is designed to carry 10 or more persons. Such vehicles shall display permanently painted or sealed/adhered and plainly marked, the name of the business owning or utilizing the vehicles. Commercial vehicles include vehicles commonly called delivery vans, buses and other similar vehicles.

b. "Disabled person" means an individual who submits, at the time an original or renewal loading zone permit is applied for, a statement from a physician or chiropractor licensed to practice in any state or a Christian Science practitioner residing in the state of Wisconsin certifying the individual meets any of the following, though specifically omitting any descriptions, list of symptoms, diagnosis or any other details of the exact nature of the individual's physical or mental ailment:

b-1. The individual is a person with a disability that limits or impairs the ability to walk. If this condition is temporary, the statement shall indicate the approximate date on which the disability will end.

b-2. The individual is blind, meaning the individual has central visual acuity that does not exceed 20/200 in the better eye with correcting lenses or a visual field that subtends an angle no greater than 20 degrees. If this condition is temporary, the statement shall indicate the approximate date on which the disability will end.

b-3. The individual is visually impaired, meaning the individual has a loss of vision that can reasonably be expected to lead to blindness or a loss of vision that represents a handicap to employment or other major life activity. If this condition is temporary, the statement shall indicate the approximate date on which the disability will end.

b-4. The individual has a disability, such as, but not limited to, Alzheimer's disease, delayed mental development or brain injury, which compromises the individual's problem-

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solving or reasoning skills and which makes it necessary for the individual to receive assistance in moving safely between the individual's residence and any vehicle that transports the individual. If this condition is temporary, the statement shall indicate the approximate date on which the disability will end.

c. "Nonprofit organization" means a federal, state or local unit of government or agency thereof, a public or private elementary, secondary or post-secondary school, or an organization that is described in s. 501(c)(3) of the internal revenue code of the United States of America and is exempt from taxation under s. 501(a) of this code.

2. POLICY. a. Loading and unloading zones are for the use of the general public and are not restricted solely for the use of the permit holders or their patrons.

b. Loading and unloading zones are to be used for the purpose of, and while actively engaged in, loading or unloading property or passengers. Loading zones are not considered parking spaces.

3. LOADING-UNLOADING PRIVILEGE. Permits setting aside curb space for loading and unloading zones in front of commercial establishments may be granted only to the owners of such property and only upon application therefore and the decision of the common council. Residential loading zone permits may only be granted to households containing disabled persons and shall be for 30-foot loading zones only and only upon application therefore and the decision of the common council.

4. APPLICATION. a. Any person, firm, corporation or organization desiring a loading and unloading zone shall, before an original or renewal permit is issued, file a written application with the city clerk on a form provided therefor. The application shall require:

a-1. The name of the person, firm, corporation or organization seeking the loading and unloading zone permit. If the applicant is a corporation or limited liability company, the name of the corporation shall be set forth exactly as it is set forth in its articles of incorporation.

a-2. The exact location and extent of the building in front of which the loading and unloading zone is to be located as well as the proposed length and hours of operation of the loading and unloading zone.

a-3. The reason or reasons for which the loading and unloading zone permit is being sought.

a-4. The name, address and phone number of a contact person. The contact person shall be the applicant, if an individual; a partner, if a partnership; a duly authorized agent or officer, if a corporation; or a duly authorized agent or member, if a limited liability company. The application shall be signed by the contact person.

b. Copy for Council Member. The city clerk shall, upon receipt of a written application for a loading and unloading zone permit, serve a copy of the application upon the common council member in whose district the permit is sought. If a disabled person is applying for the transfer of a loading and unloading zone permit to a new location pursuant to s. 81-70-6, the city clerk shall serve a copy of the application upon the common council member in whose district the new loading and unloading zone would be located.

5. ISSUANCE. a. Applications shall be referred to the commissioner of public works who shall cause an investigation to be made and prepare a recommendation to the common council as to whether the requested permit should be granted. In addition, the common council member in whose district the permit is sought shall file his or her recommendation with respect to the requested permit with the city clerk. In all cases, the standard for determining the appropriateness, location and size of any regulated loading and unloading zone shall be the public welfare.

b. In preparing their recommendations regarding loading and unloading zones, the commissioner of public works and the common council member may consider any of the following:

b-1. The nature of land use in the block in which the loading and unloading zone is requested.

b-2. The availability of parking in the block in which the loading and unloading zone is requested.

b-3. The roadway geometrics in the block in which the loading and unloading zone is requested.

b-4. The hours of the day or night when use of the loading and unloading zone is necessary or most convenient.

b-5. The likely impact of the requested loading and unloading zone on the surrounding neighborhood.

b-6. In the case of residential loading and unloading zones for disabled persons, the validity of the disability claimed.

c. If both the common council member and the commissioner recommend in favor of an application, the application shall be forwarded to the common council for approval. If either the common council member or the commissioner recommends against an application, no permit shall be issued unless the applicant requests, in writing, an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the recommendation of the commissioner and the common council member. Appeals shall be forwarded to the licensing committee for its recommendation as to whether each permit should be granted. The committee shall hold a hearing on whether to grant each permit for which an appeal has been requested. No hearing shall be heard unless the city clerk's office has provided written notice to the applicant. The notice shall be served upon the applicant so that the applicant has at least 7 days' notice of the hearing. The notice shall contain:

c-1. The date, time and place of the hearing.

c-2. A statement to the effect that the possibility of denial of the permit application exists and the reasons or possible denial.

c-3. A statement that an opportunity will be given to the applicant to respond to and challenge any reason for denial and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

c-4. A statement that the applicant may be represented by an attorney of the applicant's choice at the applicant's expense, if the applicant so wishes.

d. At the hearing, the committee chair shall open the meeting by stating that a notice was sent and read the notice into the record unless the applicant admits notice. The chair shall advise the applicant that the applicant has an option to proceed with a due process hearing, represented by counsel, with all testimony both direct and cross-examination under oath, or that the applicant may simply make a statement to the committee.

e. A due process hearing shall be conducted in the following manner:

e-1. All witnesses will be sworn in.

e-2. The chair shall ask those opposed to the granting of the permit to proceed first.

e-3. The applicant shall be permitted an opportunity to cross-examine.

e-4. After the conclusion of the opponents' testimony, the applicant shall be

permitted to present the applicant's own witnesses, subject to cross-examination.

e-5. Committee members may ask questions of witnesses.

e-6. Both proponents and opponents shall be permitted a brief summary statement.

f. The recommendations of the committee regarding the applicant must be based on evidence presented at the hearing. Probative evidence concerning whether the permit should be granted may be presented on the following subjects:

f-1. Whether the applicant meets the municipal requirements.

f-2. Any of the factors enumerated in par. b.

g. The committee may make a recommendation immediately following the hearing or at a later date. Written notice of the committee's decision will be provided if the decision is made at a later date or if the applicant was not present or represented. The committee shall forward its recommendation in writing to the common council for vote at the next meeting at which such matter will be considered.

6. FEES. See s. 81-70 for the required permit fees, terms and refunds.

7. RENEWAL OF PERMITS.

a. Procedure for Renewal. Applications for renewal of loading and unloading zone permits shall be made to the city clerk. The application shall be referred to the common council for approval unless a written objection has been filed with the city clerk at least 30 days prior to the date on which the permit expires. This objection may be filed by any interested person. If a written objection is filed, or if a determination is made by either the city clerk or the commissioner that the applicant no longer meets the permitting qualifications, the application shall be forwarded to the licensing committee for its recommendation to the common council.

b. Procedure for Non-Renewal. If there is a possibility that the committee will not recommend renewal of a permit, the procedures for notice, hearing and review by the common council provided in sub. 9 shall govern.

c. Hearings. All hearings held and committee recommendations prepared pursuant to this subsection shall be conducted as set forth in sub. 9.

d. Disqualification. Whenever any permit is denied renewal, it shall be entered on the record by the city clerk and no loading and unloading permit shall be granted to the same person for that location for a period of 12 months following the date of non-renewal.

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e. Surrender. When any permit is surrendered in lieu of a pending non-renewal proceeding, no other loading and unloading permit shall be granted to the same person for that location for a period of 12 months following the date of its surrender.

8. REVOCATION OF PERMITS.

Any permit issued under this section may be revoked or suspended for cause by the common council. Suspension or revocation proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police, or upon a sworn written complaint filed with the city clerk by any interested party.

9. DUE PROCESS HEARING AND COMMON COUNCIL REVIEW.

a. Committee Hearing and Review. If there is a possibility that the permitting committee will not recommend renewal of the permit, or if revocation or suspension proceedings are initiated, the procedures for notice and committee hearing and for the committee report, recommendations and common council consideration provided in ss. 85-3 to 85-5 shall apply.

b. Grounds for Non-renewal. The recommendation of the committee regarding the permit shall be based on evidence presented at the hearing. Probative evidence concerning non-renewal or revocation may include evidence of:

b-1. Failure of the permittee to meet the municipal qualifications.

b-2. Permitting the loading and unloading zone to be used as a parking space by vehicles not actually engaged in loading or unloading.

b-3. The death of the disabled person for whom the loading and unloading zone permit was issued.

b-4. Evidence related by the department of public works that the circumstances for which the permit was first issued no longer pertain.

b-5. Any other factor which reasonably relates to the public health, safety and welfare.

10. REQUEST TO SURRENDER A PERMIT. If a permittee wishes to surrender his or her permit after receiving a notice for a hearing on non-renewal or revocation, the permittee must request, in writing, permission from the licensing committee to do so prior to the commencement of the hearing. The committee may approve the request, or deny the request and proceed with the hearing.

11. CHANGE OF CIRCUMSTANCE.

a. When a disabled person for whom a loading and unloading zone permit is issued dies or is no longer disabled as defined by this section, the loading and unloading zone permit issued for this person shall be surrendered to the city clerk within 30 days of the change of circumstance, unless the permit is transferred under s. 85-19.

b. Any permittee wishing to alter the length of an existing loading and unloading zone or alter the hours during which an existing loading and unloading zone is in effect, shall file a new application and pay the appropriate fee as required by sub. 4.

12. TRANSFER OF LICENSE OR CHANGE OF NAME.

a. See s. 85-19 for provisions relating to the transfer of licenses and change of licensee names.

b. Except for permits issued to disabled persons, permits issued under this section shall not be transferred from one premises to another under s. 85-19-2. The common council may approve the transfer of a loading zone permit issued to a disabled person to another location in the city at no charge if the permittee moves to a different residence during the period for which the permit was issued and the permittee submits a new loading zone permit application to the city clerk.

c. A loading zone permit issued to a disabled person may be transferred to another member of the person's household at no charge. Such transfer may occur only if the permittee or the person to whom the permit is being transferred submits to the common council evidence that the person to whom the permit is being transferred is a disabled person as defined in s. 101-23.7-1-b.

101-24. Creation and Marking Tow-away Zones.

1. LOCATIONS. There shall be no stopping or standing of vehicles in the following locations which shall be defined as "tow-away zones" which shall be in effect during the times indicated and as "snow emergency tow-away zones" which shall be in effect during a snow emergency declared under s. 101-26. The provisions of s. 101-27-3-a relating to alternate side parking do not apply to these locations. Specific locations are to be found in the common council proceedings; the official record on file in the city clerk's office, and the code on file in the legislative reference bureau.

2. POSTING OF SIGNS.

The commissioner of public works is directed to post signs at appropriate places in each such area to inform the public of the provisions of this section.

101-24.1. Blocking a Driveway. It shall be unlawful for any vehicle to be parked on or blocking the entrance to any private driveway or garage without the consent of the owner of such driveway so as to prevent free passage of vehicles.

101-24.2. Blocking Traffic. It shall be unlawful for any vehicle to be parked or left standing on a highway in such a manner as to obstruct traffic.

101-24.5. Vehicle Identification Numbers.

1. DEFINITION. In this section:

a. "Chief of police" means the police chief or any employee of the police department acting on the chief's behalf.

b. "Commissioner of public works" means the commissioner of public works or any employee of the department of public works acting on the commissioner's behalf.

c. "Identification number" means the numbers, letters or combination of numbers and letters assigned by the manufacturer of a vehicle or vehicle part or by the Wisconsin department of transportation and stamped upon or affixed to a vehicle or vehicle part for the purpose of identification. This term does not include the letters, numbers or combination thereof on vehicle license plates.

d. "Owner" shall include the lessee of a vehicle if the vehicle is registered or required to be registered by the lessee pursuant to ch. 341, Wis. Stats.

2. PROHIBITED.

a. No person may remove, alter or obliterate an identification number.

b. No person may make it impossible to read a motor vehicle's identification number from outside the vehicle.

3. REMOVAL OF VEHICLE.

If the chief of police or commissioner of public works finds, on any alley, street, highway or public place within the city, any vehicle on which the identification number has been removed, altered, obliterated or made impossible to read,

including any vehicle on which the identification number is not readily visible when observed from outside the vehicle, the chief or commissioner may have the vehicle immediately removed to a suitable place of impoundment. If the identification number cannot be identified, the impounded vehicle shall be presumed to be contraband. If the identification number can be identified, a notice informing the registered owner of the location of the vehicle, the procedure for reclaiming the vehicle and the availability of an informal hearing before the city attorney shall be sent to the registered owner's last known address as registered by the owner with the state department of motor vehicles within 72 hours after removal.

4. DISPOSAL OF UNCLAIMED VEHICLES. As soon as practical after removal and impoundment of a vehicle under sub. 3, a duly authorized representative of the commissioner of public works shall appraise the value of such motor vehicle based on the prevailing market. Such vehicle shall be disposed of according to s. 105-65.

5. OWNER RESPONSIBLE FOR COSTS. The owner of any motor vehicle on which the identification number has been removed, altered, obliterated or made impossible to read, or is not readily visible from outside the vehicle, is responsible for all costs of impounding and disposing of the vehicle. Costs not recovered from the sale of the motor vehicle may be recovered in a civil action by the city against the owner.

6. RELEASE OF VEHICLE; CONDITIONS. Notwithstanding sub. 4, the owner of a vehicle that is impounded under this section may secure release of the vehicle by doing all of the following:

a. Paying any forfeiture imposed for violation of this section established pursuant to s. 101-34 and the reasonable costs of impounding the motor vehicle.

b. Providing satisfactory evidence that the motor vehicle is currently registered in the state of Wisconsin or that, at the time of impoundment, a complete application for registration of the vehicle, including evidence of inspection under s. 110.20, Wis. Stats., when required, accompanied by the required fee had been delivered to the Wisconsin department of transportation or deposited in the mail properly addressed with prepaid postage, or the vehicle is exempt from registration under ch. 341, Wis. Stats.

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c. Providing a current, valid driver's license and current certificate of title for the vehicle. If the vehicle's owner does not have a valid driver's license, the vehicle may be released to another person with a valid driver's license provided the licensed individual is accompanied by the vehicle's owner or can present a signed affidavit from the vehicle's owner authorizing the vehicle's release to the licensed individual.

d. If the vehicle's identification number was removed, altered, obliterated or otherwise made impossible to read, even from inside the vehicle, providing satisfactory evidence that an application to replace the identification number has been made to the Wisconsin department of transportation pursuant to s. 342.30(1m), Wis. Stats.

101-24.7 Unregistered Motor Vehicles.

1. DEFINITIONS. In this section:

a. "Improperly registered motor vehicle" means an unregistered motor vehicle for which an application and payment for registration are current and complete as reflected in the records of the Wisconsin department of transportation, but which does not display evidence of current registration or registration expiring within the preceding 31 days.

b. "Unregistered motor vehicle" means any motor vehicle that is located upon any alley, street, highway, public way or thoroughfare and that is not displaying valid registration plates, a temporary operation plate, or other evidence of registration as provided under s. 341.18(1), Wis. Stats., for the vehicle's current registration period or for a registration period for the vehicle that expired within the immediately preceding 31 days.

2. PROHIBITED AND PENALTIES.

a. Prohibition of Unregistered Vehicles. No unregistered motor vehicle may be located upon any alley, street, highway, public way or thoroughfare within the city. The stipulated forfeiture provided in s. 101-34-2-j and the penalty provided in s. 101-34-7-j shall apply, except as provided in par. b.

b. Prohibition of Improperly Registered Vehicles. No improperly registered vehicle may be located upon any alley, street, highway, public way or thoroughfare within the city. If a showing is made by any party that the records of the Wisconsin department of

transportation contain information that application and payment for registration of the motor vehicle were complete and current at the time of the violation, the stipulated forfeiture provided in s. 101-34-2-a and the penalty provided in s. 101-34-7-a shall apply.

3. REMOVAL OF VEHICLE; NOTICE. a. The chief of police or the commissioner of public works or any person acting on their behalf may cause any unregistered motor vehicle located upon any alley, street, highway or public place or thoroughfare within the city to be removed to a suitable place of impoundment.

b. A notice informing the owner of the location of the vehicle, the procedure for reclaiming the vehicle, and the availability of an informal hearing before the city attorney shall be mailed to the owner's last known address within 24 hours after removal.

4. OWNER RESPONSIBLE FOR COSTS. The owner of any unregistered motor vehicle shall be responsible for all costs of impounding and disposing of the motor vehicle. Costs not recovered from the sale of the motor vehicle may be recovered in a civil action by the city against the owner.

5. RELEASE OF VEHICLE. Notwithstanding sub. 6, the owner of an unregistered motor vehicle that is impounded under this section may secure release of the motor vehicle by paying any forfeiture imposed for violation of this section and the reasonable costs of impounding the motor vehicle and providing satisfactory evidence of one of the following:

a. That the motor vehicle is currently registered in the state of Wisconsin.

b. That a complete application for registration for the motor vehicle, including evidence of inspection under s. 110.20, Wis. Stats., when required, accompanied by the required fee has been delivered to the Wisconsin department of transportation or deposited in the mail properly addressed with postage paid.

6. DISPOSAL OF UNCLAIMED VEHICLES AND TRAILERS. As soon as practical after the removal, a duly authorized representative of the commissioner of public works shall appraise the value of such motor vehicle based on the prevailing market. Such vehicle shall be disposed of according to s. 105-65.

7. PROCEDURE. Notwithstanding the provisions of sub. 6, a vehicle removed and impounded pursuant to this section shall not be disposed of under s. 105-65 while an informal hearing, requested following notice under sub. 3-b, is pending or before the expiration of 30 days. Neither shall disposition of the vehicle be made prior to the conclusion of court proceedings where timely application is made to the municipal court or other court of competent jurisdiction contesting the basis for removal of the vehicle or seeking to secure the release of the vehicle. In addition to the forfeiture provided in s. 101-34, the owner shall pay the city to cover the city's cost of impoundment, storage or disposal of the motor vehicle, or both.

101-24.9. Impounding vehicles used in reckless driving offenses. **1. AUTHORITY.** Under the authority of s. 349.115, Wis. Stats., law enforcement officers may impound any vehicle used in the commission of reckless driving, as defined under s. 346.62, Wis. Stats. or a local ordinance in strict conformity with s. 346.62, Wis. Stats.

2. REQUIREMENTS. Vehicles used in the commission of a violation of s. 346.62, Wis. Stats., or a local ordinance in strict conformity with s. 346.62, Wis. Stats., may be impounded by law enforcement officers provided the person cited with the violation meets each of the following conditions:

- a. The person is the owner of the vehicle.
- b. The person has a prior conviction for violation of s. 346.62, Wis. Stats. or a local ordinance in strict conformity with s. 346.62, Wis. Stats.
- c. The person has not fully paid the imposed forfeiture.

3. RECOVERY OF IMPOUNDED VEHICLE. The city shall return an impounded vehicle to the owner provided each of the following criteria have been met:

- a. The owner has completed payment of the unpaid forfeiture specified in sub. 2-c.
- b. The owner has completed payment of any additional costs associated with impounding the vehicle specified in sub. 2-c, including towing, transportation and storage fees in accordance with s. 101-25-1-b.

4. DISPOSAL OF IMPOUNDED VEHICLE. The city may dispose of any vehicle impounded under sub. 2 in accordance with s. 342.40, Wis. Stats., provided the impounded vehicle remains unclaimed for more than 90 days

after the disposition of the reckless driving citation for which the vehicle was impounded.

101-25. Towing Away of Vehicles.

1. AUTHORITY.

a. General. Whenever any police officer, the commissioner of public works or any of the commissioner's designees finds a vehicle standing upon any highway in violation of s. 101-3, 101-22.5, 101-23, 101-23.2, 101-24, 101-24.1, 101-24.2, 101-26, 101-26.5, 101-26.7, 101-27, 101-27.8, 101-29 or 101-32, the officer, commissioner of public works or commissioner's designee is authorized to remove the vehicle to a secure impound lot or to a place where parking is permitted. The removal may be performed by or under the direction of the officer, the commissioner of public works or the commissioner's designee, or a towing contractor under contract with the city. Any removal under this section to a location other than a secure impound lot by a towing contractor under contract with the city shall be performed under the direction of the officer, the commissioner of public works or the commissioner's designee. Nothing in this section shall prohibit removing a vehicle to a secure impound lot that has previously been removed to a place other than a secure impound lot.

b. Removal to a Secure Impound Lot. The vehicle reclamation charge that is imposed in order to reclaim a vehicle under this section from a secure impound lot shall be \$150. The charge for outdoor storage shall be \$20 for each day of storage, and the charge for indoor storage shall be \$30 per vehicle for each day of storage. An additional reclamation charge shall be imposed for the actual costs, including costs of labor incurred in the treatment, disposal, removal or abatement or any substance, chemical or other material contained within or upon a vehicle when, in the judgment of the commissioner or the commissioner's designee, such action is necessary to render the vehicle into a safe and sanitary condition. The vehicle reclamation charge shall be paid to the commissioner of public works at the storage facility and the vehicle may be released from storage upon payment of all vehicle reclamation charges and presentation of proper identification. A notice informing the owner of the location of the vehicle, the procedure for reclaiming the vehicle and the availability of a review before the city attorney shall be mailed to the last known address within 72 hours after removal.

c. Removal to a Place Other Than a Secure Impound Lot. Whenever a vehicle is removed to a place other than a secure impound lot, the removed vehicle shall be immediately retrievable by the owner or the owner's designee. The vehicle removal charge that is imposed under this section shall be no more than \$150 per vehicle. The vehicle removal charge may be placed on the citation upon which removal is authorized or may be charged separately. When practical, a notice with instructions for identifying and locating a vehicle towed under this section shall be posted near to the place from which the vehicle was removed.

2. CITATION RELEASE OR DISMISSAL. Whenever the citation upon which removal and storage is authorized is released by the chief of police, or by the city attorney after a review, or whenever the charge for which the citation upon which removal and storage is authorized is dismissed by the court, the commissioner of public works shall release the vehicle without payment of vehicle reclamation charges and shall refund any vehicle reclamation charges or vehicle removal charges for such vehicle which shall have previously been paid.

3. RELEASE OF REGISTERED VEHICLES. Notwithstanding sub. 6, the owner of a motor vehicle impounded under this section that is properly registered under Wisconsin law shall secure release of the motor vehicle by paying any forfeiture imposed for violation of this section, unless contested and scheduled before municipal court, and any reclamation charges imposed under sub. 1-b.

4. RELEASE OF UNREGISTERED VEHICLES. Notwithstanding s. 101-24.7-6, the owner of a motor vehicle impounded under this section that is not properly registered under Wisconsin law shall secure release of the motor vehicle by paying any forfeiture imposed for violation of this section, except a citation contested and scheduled before municipal court, paying any reclamation charges imposed under sub. 1-b. and providing satisfactory evidence of one of the following:

a. That the motor vehicle is currently registered in the state of Wisconsin.

b. That a complete application for registration for the motor vehicle, including evidence of inspection under s. 110.20, Wis. Stats., when required, accompanied by the required fee has been delivered to the Wisconsin department of transportation or deposited in the mail properly addressed with postage paid.

5. RECLAMATION CHARGE ADJUSTMENTS. The commissioner of public works, the commissioner's designate and the city attorney may, solely at their discretion, from time to time reduce reclamations charges imposed under sub 1, para. b, and the city attorney may enter into repayment agreements with owners of vehicles impounded under this section for the payment of citations issued under this section and reclamation charges imposed under sub. 1-b. to facilitate repayment of the forfeiture and the reclamation charges.

6. UNCLAIMED VEHICLES. As soon as practical after the removal to a secure impound lot, a duly authorized representative of the commissioner of public works shall appraise the value of such vehicle based on the prevailing salvage market. Such vehicle shall be disposed of according to the provisions of s. 105-65.

7. ADDITIONAL CHARGES. a. There shall be an additional charge of \$25 for a vehicle that must be moved from the lot.

b. There shall be an additional towing charge for a vehicle that is unusually large or is not readily accessible.

101-25.5. Contract for Towing Away of Vehicles. 1. BY COMMISSIONER. The commissioner of public works may enter into contracts for and behalf of the city for the towing away and storage of vehicles under s. 101-25. The commissioner may divide the city into designated areas and contract for towing away in each specific area.

2. REQUIREMENTS. Any such contract shall provide that the towing company have adequate equipment and facilities and have personnel available 24 hours a day, and that such company furnish the city an indemnification agreement supported by a performance bond and indemnity bond, and, in lieu thereof, a certification of insurance to hold the city harmless from any claims for damage or theft of the vehicles and personal property therein contained when the same are towed away. The commissioner of public works shall further provide the rules, regulations, specifications and conditions under which such contracts shall be let.

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101-26. Snow Emergency Parking.

1. EMERGENCY DECLARED. There is declared an emergency to exist in the city of Milwaukee by reason of a snowstorm whenever snow falls during any period of 24 hours or less to a depth which is determined and declared by the commissioner of public works to constitute a public hazard impairing transportation, the movement of food and fuel supplies, medical care, fire, health, and police protection, and other vital facilities of the city. Such emergency is declared by the commissioner of public works until such time as snow-plowing operations have been declared completed by the commissioner of public works.

2. PARKING REGULATIONS DURING EMERGENCY. It shall be unlawful for any person to park or suffer to be parked any vehicle upon any street marked by temporary No Parking signs. Between the hours of 10 p.m. and 6 a.m., inclusive, it shall be unlawful for any person to park or suffer to be parked any vehicle upon any street over which there is operated a duly authorized motor bus route or upon any street which is a through highway and not designated for night parking under s. 101-27-9. Between the hours of 10 p.m. and 6 a.m., inclusive, it shall be unlawful for any person to park or suffer to be parked any vehicle on the even-numbered side of the street on those nights bearing an odd calendar date during the portion thereof before midnight and on the odd-numbered side of the street on those nights bearing an even calendar date during the portion thereof before midnight upon streets which are not through highways or upon through highways designated for night parking under s. 101-27-9.

3. TO ERECT TEMPORARY SIGNS; LOCATIONS. Pursuant to the provisions of s. 349.13, Wis. Stats., 1969, "Emergency Powers Granted to Cities of the First Class," the commissioner of public works is authorized to erect temporary No Parking signs during the existence of an emergency created by a snowstorm or snowstorms or excessive snow fall which impair or prevent the full use of any highway, street or roadway for transportation. A current list of streets where such signs have been erected and the date of erecting of such signs shall be sent by the commissioner of public works to the city clerk, the legislative reference bureau and the district police station.

6. SNOW EMERGENCY FUND. All revenues derived by the city from this section, including parking citations, towing, and storage of

vehicles shall be entered by the city treasurer in a special account to be designated the snow emergency fund. The fund shall be used to support snow operations.

101-26.7. Street Sweeping Streets.

1. PURPOSE. The common council finds that certain streets experience high demand for parking which restricts the accessibility of street sweeping brooms to the curb line. The common council further finds that it is necessary to prohibit parking between certain hours on certain streets on the day street sweeping operations occur in order to increase the effectiveness and efficiency of street sweeping operations.

2. TO ERECT AND MAINTAIN. The commissioner of public works shall erect and maintain signs prohibiting parking between certain hours on certain streets on the day street sweeping operations occur.

Designated streets are to be found in the common council proceedings, the official record on file in the city clerk's office, and the code on file in the legislative reference bureau.

3. EXCEPTIONS. This section shall not apply to any of the following:

a. An emergency vehicle, including but not limited to an ambulance, fire department vehicle or police department vehicle.

b. Any vehicle, including but not limited to a delivery, utility or service vehicle, which is being used by a person engaged in the provision of services or delivery of goods to a property located on the designated street, provided the name of the commercial enterprise or public utility vehicle providing the service or delivering the goods is clearly identified on the vehicle.

101-27. All Night Parking. 1. RESTRICTIONS.

a-1. No vehicle shall be permitted to stand in one place on a highway for more than 24 hours.

a-2. The restriction provided in subd. 1 shall be suspended to permit vehicles to remain in one place on a highway in designated areas for not more than 48 hours consecutively, except when the department of public works announces snow-plowing operations or other public works operations are underway. All other parking restrictions and parking permit requirements currently in force or which may be enacted shall remain in effect in the designated areas. The designated parking program areas to

which these provisions apply include those bounded by and including both sides of the boundary streets:

a-2-a. E. Edgewood Ave, from its eastern terminus in a line continuing on E. Keefe Ave., N. Pierce St., E. Meinecke Ave., N. Bremen St., E. North Ave., N. Humboldt Blvd., to the Milwaukee River, E. Juneau Ave., N. Broadway, E. Ogden Ave., N. Franklin Ave., N. Prospect Ave., E. Kane Pl., N. Summit Ave., E. Lafayette Pl., E. Lafayette Hill Rd., N. Lincoln Memorial Dr. to 2300 N. Lincoln Memorial Dr., and east to the city limits.

a-2-b. 2300 N. Lincoln Memorial Dr. from the east city limits, N. Lincoln Memorial Dr., E. Lafayette Hill Rd., E. Lafayette Pl., N. Summit Ave., E. Kane Pl., N. Prospect Ave., N. Franklin Ave., E. Ogden Ave., N. Broadway, E. Juneau Ave., to the Milwaukee River, E. Wells St., continuing east to the city limits.

a-2-c. E. Keefe Ave., N. Holton Blvd., to the Milwaukee River, N. Humboldt Blvd., E. North Ave., N. Bremen St., E. Meinecke Ave., N. Pierce St.

a-2-d. N. 27th St., W. St. Paul Ave., I-94, N.16th St., S. 16th St., W. Pierce St., S. 20th St., W. Mitchell St., S. 19th St., W. Rogers St., S. 20th St., railroad right of way, W. Forest Home Ave., W. Pabst Ave., at 3400 W. Pabst a line south to the railroad right of way, railroad right of way, W. Lincoln Ave., W. Lincoln Ave. east to the city limits, following the city limits to S. 44th St., N. 44th St., I-94, and exempted from alternate side parking by sub. 3-b-1.

a-2-e. W. Becher St., Kinnickinnic River, to eastern border of the City limits, S. Whitnall Ave. at S. Clement Ave., E. Howard Ave., S. Chase Ave., E Morgan Ave., W. Morgan Ave., S. 4th St., W. Holt Ave., W. Morgan Ave., S. 15th St., railroad right of way, S. 14th St., W. Cleveland Ave., S. 10th St., W. Hayes Ave., S. 6th St., and exempted from alternate side parking by sub. 3-b-1.

a-2-f. N. 16th St., Menomonee River, Milwaukee River, Kinnickinnic River, W. Becher St., S. 6th St., W. Hayes St., S. 10th St., W. Cleveland Ave., S. 14th St., railroad right of way, S. 20th St., W. Rogers St., S. 19th St., W. Mitchell St., S. 20th St., W. Pierce St., S. 16th St.

a-2-g. E. Wells St. from the eastern city limits, Milwaukee River, W. Juneau Ave., W. Winnebago St., W. Vliet St., N. 31st St., W. Cherry St., railroad right of way, W Vliet St., N. 35th St., I-94, N. 27th St., W. St. Paul Ave., I-94, N. 16th St., Menomonee River, Milwaukee River east to the city limits, and exempted from alternate side parking by sub. 3-b-1.

a-2-h. I-43 from the city limits, W. Capitol Dr., N. 24th Pl., W. Nash St., N. 26th St., W. Hopkins St., N. 25th St., W. Townsend St., W. Hopkins St., N. 20th St., W. Locust St., I-43, W. Fond Du Lac Ave., N. 12th St., W. Winnebago St., W. Juneau Ave., Milwaukee River, N. Holton St., E. Keefe Ave., east to the Milwaukee River, and exempted from alternate side parking by sub. 3-b-1.

a-2-i. N. 44th St. from its south terminus, including a line south to the city limits, Interstate 94, N. 35th St., W. Wisconsin Ave., Menomonee River northwest to the railroad right-of-way, W. Highland Blvd., W. Vliet St., Wisconsin Hwy 175, W. Washington Blvd., N. 47th St., W. Lloyd St., N. 51st St., W. Burleigh St., N. 53rd St., W. Concordia Ave., N. 54th St., W. Keefe Ave., N. 60th St., W. Melvina St., N. 67th St., W. Capitol Dr., N. 76th St. south to the city limits and continuing along the city limits to the point of beginning, and exempted from alternate side parking by sub. 3-b-1.

b. No vehicle of any kind or description shall be parked on any highway between:

b-1. The hours of 2 a.m. and 6 a.m., except as otherwise restricted or permitted in this section.

b-2. The hours of 11 p.m. and 6 a.m. the following day when the department of public works announces snow-plowing operations or other public works operations are underway, except as otherwise restricted or permitted in this section.

2. SPECIAL PERMIT. a. A vehicle may be parked between the hours of 2 a.m. and 6 a.m., or between the hours of 10 p.m. and 6 a.m. during a declared snow emergency, provided a special privilege permit for the vehicle is first obtained online or from any facility the city may designate for the sale of such permit, after filing an application and paying a permit fee, all as required under this section, and shall be parked as authorized by such permit, as provided in sub.5.

b. The owner of any motor truck with valid license plates issued by the Wisconsin department of transportation, division of motor vehicles, but not used for commercial purposes, and which is not larger than 21 feet in length, 7 feet in width, and 7 feet in height and which has no more than 2 single-tired wheels on the front axle and no more than 2 single-tired or double-tired wheels on the rear axle, shall be eligible to purchase a special privilege permit for said vehicle as provided in this section.

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c. Any vehicle for which a person is applying for a special privilege permit may be inspected for purposes of determining eligibility for the permit as provided in this section.

d. Vehicles displaying special privilege permits must also display while parked valid motor vehicle license plates.

3. ALTERNATE SIDE PARKING.

a. On odd and even numbered days. Except as provided in par. b, any vehicle parked pursuant to this section shall be parked only on the even numbered side of the street on those nights bearing an even calendar date during the portion thereof before midnight, and on the odd numbered side of the street on those nights bearing an odd calendar date during the portion thereof before midnight, except that where parking is normally permitted only on one side of the street, vehicles parked pursuant to the aforesaid provisions may be parked on that side of the street only, on every night of the week.

b. Exceptions to alternate side parking.

b-1. Except when parking is prohibited on one side, vehicles may be parked on both sides of designated streets from March 1 to November 30. These streets shall be designated when an overnight survey conducted by the commissioner of public works indicates that the demand for curb space for parked vehicles meets certain criteria determined by the commissioner to warrant 2-side parking, the commissioner of public works recommends the area to the common council and the common council approves the recommendation of the commissioner.

b-2. Designated streets are to be found in the common council proceedings, the official record on file in the city clerk's office, and the code on file in the legislative reference bureau.

b-3. Except when parking is prohibited on one side, vehicles may be parked on both sides of streets in designated parking areas described in sub. 1-a-2 on any night, except when the department of public works announces snow plowing operations or other public works operations are underway.

4. CERTAIN VEHICLES NOT ELIGIBLE. Motor trucks, except as provided elsewhere in the code, luxury limousines, as defined in s. 100-3-11, motor buses, motor delivery wagons, trailers, semitrailers, camping trailers, motor homes, mobile homes and tractors shall not be eligible for such special privilege parking permits.

5. APPLICATION AND PERMIT.

a. Application Listing. The application listing shall contain the name and city of Milwaukee address of the permit applicant, the license number and state of issuance of valid motor vehicle license plates, the expiration date of the permit applied for and any other reasonable and pertinent information the department may from time to time require. A statement shall be included in the application that the vehicle for which application is made does not violate subs. 2-b and d, and 4.

b. Permits. The permits shall be numbered and contain the expiration date.

c. Display. While the motor vehicle is in a parked position between the hours of 2 a.m. to 6 a.m., the permit shall be displayed in the manner designated by the police department.

6. PARKING FUND. All revenues derived by the city from said permit fees shall be entered into account in accordance with the code.

7. EXCEPTIONS. When Night Parking Permitted. Except as provided in ss. 101-26 and 101-31, this section shall not be effective and in force for the following:

a. Holidays. On the morning of the 1st day of each week, Sunday; and on the morning of, and the morning following, the 1st day of January, New Year's Day; 3rd Monday in January, Dr. Martin Luther King, Jr. Day; last Monday in May, Memorial Day; July 4, Independence Day; 1st Monday in September, Labor Day; 4th Thursday in November, Thanksgiving Day; December 25, Christmas Day, in any year.

b. Shift Worker's Parking Permit. Provided further, that in the case of night workers who are not provided with off-street parking facilities by their employers, such condition shall constitute an emergency, and the chief of police shall, subject to the approval of the common council, designate suitable locations where, notwithstanding the provisions of this section, such night workers shall be permitted to park their automobiles during the period of their employment, and on permit of the chief of police which permit shall be displayed in the lower left hand corner of the windshield pursuant to sub. 5-c. The chief of police, under this authority, may also issue the shift workers permit to car-pooling

workers who must park on-street as a necessary part of their car-pooling arrangement.

c. Emergencies. This section shall not apply to licensed physicians and surgeons or ordained clergy in emergency situations.

d. Night Business Establishment Areas. Parking shall be permitted during prohibited hours (2 a.m. to 6 a.m.) for a period of time not to exceed 90 minutes in the same block of a business establishment licensed by the city and open for business during such otherwise prohibited hours. For penalty, see s. 101-34-2-b.

e. Temporary Permission. The chief of police may temporarily suspend the enforcement of night parking restrictions specified herein when exceptional conditions are determined to exist. The chief of police shall record all such occasions, and report the dates and circumstances to the commissioner of public works.

f. Notification. The commissioner of public works may, when necessary, grant an individual overnight parking permission if the department of public works is notified prior to 1:00 a.m.

g. Disabled Drivers. Vehicles bearing current registration plates for disabled drivers issued under s. 341.14(1), (1a), (1m), or (1q), Wis. Stats., or a motor vehicle under which a current special identification card issued under s. 343.51, Wis. Stats., is displayed, excepting motor buses and motor trucks, shall be exempt from purchasing overnight parking permits, but shall be required to park in accordance with all other provisions contained herein.

h. If an online permit application is made 7 days or less before the start of a new 4-month period, the vehicle for which the permit is issued shall be permitted to park for up to 7 days without displaying the permit.

8. WINTER REGULATIONS. After 8 p.m. as of December 1 to March 1 inclusive, unless otherwise extended by emergency order of the commissioner of public works, of the year following, no special permits shall be issued for parking upon any through highways referred to in s. 101-16-2, nor upon those portions of any street upon which there is operated a motor bus route, except upon any snow route tow-away zone as referred to in s. 101-24-1, and except as provided in sub. 9.

9. EXCEPTIONS; LOCATIONS WHERE NIGHT PARKING IS PERMITTED. The provisions of sub. 8 relating to winter regulations shall not apply to certain locations referred to below and listed in official files. Specific locations

where exceptions to winter night parking apply shall be found in the common council proceedings, the official record on file in the city clerk's office, and the code on file in the legislative reference bureau.

11. PERMIT RECIPROCITY. a. St. Francis. Where S. Brust Avenue, Clement Avenue, Hanson Avenue, Kansas Avenue, and Nevada Street; and E. Norwich Street lie on the boundary between the city of Milwaukee and the city of St. Francis, all night parking permits issued by the city of St. Francis shall become valid in the city of Milwaukee to the same extent as if such permit had been issued by the city of Milwaukee provided, however, that the provisions of this paragraph shall be effective only during such time as the city of St. Francis authorizes, by ordinance, a reciprocal privilege on such streets for all night parking permits issued by the city of Milwaukee.

b. West Milwaukee. Where S. 38th Street and W. Greenfield Avenue lie on the boundary between the city of Milwaukee and the village of West Milwaukee, all night parking permits issued by the village of West Milwaukee shall become valid in the city of Milwaukee to the same extent as if such permit had been issued by the city of Milwaukee provided, however, that the provisions of this subsection shall be effective only during such time as the village of West Milwaukee authorizes, by ordinance, a reciprocal privilege on such streets for all night parking permits issued by the city of Milwaukee.

101-27.5. Residential Daytime Parking Privilege for Nonconforming Residential Uses.

1. Any person who qualifies under sub. 2 may apply by means approved by the commissioner of public works for a special privilege parking permit authorizing the applicant to park one vehicle in excess of any posted time limits on the street in the block where the applicant lives during those hours when all-night parking regulations are not in effect. If an applicant lives in a block where parking limits are regulated by meters, the applicant will be assigned to the nearest block available without metered parking as determined by the department of public works.

2. In order to qualify for a special privilege parking permit, the applicant's residence must have been erected prior to October 27, 1970, and one of the following provisions must apply:

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a. The applicant's residence is located in a dwelling that does not provide at least one off-street parking space per dwelling unit.

b. The physical dimensions of the parking space provided for the applicant's dwelling unit are inadequate to accommodate the applicant's vehicle. The applicant shall provide physical dimensions of the parking space and of the applicant's vehicle, including photographs of each.

c. The applicant's vehicle is needed to transport a person with a mental or physical disability. The applicant shall provide a statement from a physician for a disabled person that the applicant's vehicle is needed to transport that person.

3. The application form shall contain the name, address and Wisconsin driver's license number of the owner or operator of each vehicle, as well as the make, model and registration number of each vehicle. At the time of application, the applicant shall present a current and valid motor vehicle registration for each vehicle listed on the application, as well as a valid Wisconsin driver's license with the same address as that stated on the application, a valid Wisconsin driver's license and a utility bill with the same address stated on the application, or a valid Wisconsin driver's license and another form of identification which verifies residency which is approved by the commissioner of public works. Each vehicle shall have valid Wisconsin motor vehicle license plates. Temporary plates issued by the state of Wisconsin are valid and it is the responsibility of the permit applicant to request a plate change if different plates are issued. Permits will not be issued for vehicles without current license plates.

4. If the applicant owns or operates 2 vehicles, both may be registered on one permit; however, the permit may be used in only one vehicle at a time.

5. Under no circumstances shall the residents of a single dwelling unit be eligible to park more than 2 vehicles on the street at the same time.

6. In those cases where the department of public works is unable to determine if an applicant meets all the requirements of sub. 2-b, the application shall be referred to the department of neighborhood services for verification. Such verification shall be completed within 5 business days and a report made to the department of public works.

7. Upon verification that the applicant meets all requirements under this section and payment of the applicable fee under ch. 81, the department of public works shall issue a permit as soon as practicable for up to one year from the date of issuance. The permit shall display the number, date of issue, and expiration date of the permit, the license number, make and year of each vehicle, and the block in which the permit allows parking. The permit shall be placed in the lower left hand corner of the windshield or in such other conspicuous place as the department of public works may designate, while the motor vehicle is in a parked position. At the sole discretion of the commissioner of public works, a permit holder may be issued either a physical permit to be displayed on the vehicle named in the permit application or a paperless permit solely held by and on file with the department of public works.

8. Permits issued under this section shall not be construed as a guarantee of a parking space, shall not be transferable to other persons, vehicles or dwelling units, or be applicable to any other parking restriction exemptions.

9. Falsification of any of the information required under this section shall be grounds for the immediate revocation of the parking permit.

101-27.7. Residential Daytime Parking Privilege for Commuter Parking Impacted Areas.

1. ESTABLISHED. There is declared the necessity to establish a permit system whereby vehicles bearing a valid special parking permit issued pursuant to this section may, park in excess of the posted time limits on specifically designated streets within certain areas during those hours when all-night parking regulations are not in effect.

2. DEFINITIONS. a. "Residential area" shall mean a contiguous or nearly contiguous area containing public highways or parts thereof primarily abutted by residential property or residential and nonbusiness property, such as schools, parks, churches, hospitals and nursing homes.

b. "Commuter vehicle" shall mean a motor vehicle parked in a residential area by a person not resident thereof.

c. "Commissioner" shall mean the commissioner of public works.

3. IMPACTED AREAS. A residential area shall be deemed eligible for residential

permit parking if, based on objective criteria considered by the commissioner, parking therein is impacted by commuter vehicles during those hours when all-night parking regulations are not in effect.

4. ELIGIBILITY. a. The commissioner or a common council member may request a public hearing to determine if an area identified as eligible for residential permit parking shall be designated as commuter impacted if the following criteria are met:

a-1. Unmetered limited time parking restrictions have been in effect in the affected area for at least one year.

a-2. The affected area consists of not less than 1,800 linear feet.

a-3. There is a public transit route within a one-quarter mile proximity of the affected area.

a-4. There is a likelihood of alleviating traffic congestion, illegal parking and related health and safety hazards.

b. At the discretion of the commissioner, a license plate survey may be conducted to determine whether at least 20% of the parked vehicles in the affected area are registered to persons who are non-residents of the affected area.

5. HEARING. a. Upon approval of a public hearing date by the appropriate common council committee, notice shall be published in a newspaper designated as the official city paper. Such notice shall state the specific purpose of the hearing, the exact location and boundaries of the commuter impacted area under consideration and the reasons why its proposed designation as a residential permit parking area is being either considered or withdrawn. Similar notice shall be mailed to each household which reasonably can be identified within the affected area.

b. The hearing shall be conducted either at a meeting of the appropriate common council committee or at a site determined by the commissioner. If held at a site determined by the commissioner, a report of both oral and written citizen comments shall be presented by the commissioner to the common council for action.

6. JURISDICTION. At said public hearing, the commissioner shall recommend by report to the council, based upon the record of his or her investigation, whether or not to designate the area under consideration as a residential permit parking area or to retain or remove the designation in the case of an established residential permit parking area. The council shall

approve or disapprove the recommendation of the commissioner at its next meeting.

6.5. EXCEPTION. The provisions of subs. 3 to 6 shall not be applicable to the designation of a residential area as a commuter parking impacted area if the area to be designated had commuter parking impacted area designation at any time in the previous 5 years.

7. ISSUANCE OF PERMIT. Following council approval of the designation of a residential permit parking area, the department of public works shall issue appropriate permits and shall cause parking signs to be erected in the area, indicating the time, locations and conditions under which parking shall be by permit only. A permit shall be issued upon application and payment of the applicable fee, only to the owner or the operator of a motor vehicle who resides on property immediately adjacent to a street, avenue or other location within the residential permit parking area.

8. APPLICATION AND PERMIT.

a. **Number of Vehicles per Permit.** Only one residential parking permit shall be issued per household; however, each household may register 2 vehicles on the same permit provided they are both owned and operated by permanent residents of the household and only one vehicle utilizes the permit at a time.

b. **Application and Permit Information.**

b-1. The application form shall contain the name, address and Wisconsin driver's license number of the owner or operator of each vehicle, as well as the make, model and registration number of each vehicle. At the time of application, the applicant shall present a current and valid motor vehicle registration for each vehicle listed on the application, as well as a valid Wisconsin driver's license with the same address as that stated on the application, a valid Wisconsin driver's license and a utility bill with the same address stated on the application, or a valid Wisconsin driver's license and another form of identification which verifies residency which is approved by the commissioner of public works. Each vehicle shall have valid Wisconsin motor vehicle license plates. Temporary plates issued by the state of Wisconsin are valid and it is the responsibility of the permit applicant to request a plate change if different plates are issued. Permits will not be issued for vehicles without current license plates.

b-2. The permit shall display the hundred block, directional and street name of the applicant's residence, the date of issuance,

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expiration date, and permit number, along with the license number, make and year of each car and the commuter parking impacted area in which the permit holder resides.

b-3. Permits may be renewed annually by means approved by the commissioner of public works.

b-4. A permit holder may be issued, at the sole discretion of the commissioner of public works, a physical permit to be displayed on the vehicle named in the permit application, or a paperless permit solely held by and on file with the department of public works.

c. Lost or Stolen Permit. If a valid permit is lost or stolen, the permit shall be replaced free of charge provided the permit holder submits an affidavit attesting that, to the best of the permit holder's knowledge, the permit has been lost or stolen.

9. PARKING AREA LOCATIONS. a. Parking Permitted. The holder of a residential parking permit shall be permitted to stand or park the vehicle to which the permit applies in a commuter parking impacted area for a period of time in excess of posted time limits. Such standing or parking shall be permitted only within the commuter impacted parking area of which the permit holder is a resident. While a vehicle for which a residential parking permit has been issued is so parked, such permit shall be displayed so as to be clearly visible through the lower left side of the windshield of the vehicle. A residential parking permit shall not guarantee or reserve to the holder a parking space within a commuter parking impacted area.

b. Compliance. A residential parking permit shall not authorize the holder thereof to stand or park a motor vehicle in such places or during such times as the stopping, standing or parking of motor vehicles is prohibited or set aside for specified types of vehicles, nor exempt the holder from the observance of any traffic regulation other than the specified hourly parking limit.

c. Locations of Commuter Parking Impacted Areas. After adoption by the common council, an area map showing all streets of the impacted parking area shall be prepared by the department of public works. The map showing all streets of the impacted parking area, as adopted by the common council shall be found in the common council proceedings, the official record on file in the city clerk's office, and the code on file in the legislative reference bureau.

c-1. Alverno College Impacted area, bounded by both sides of S. 37th St. from the north line of W. Morgan Ave. to the south line of W. Ruskin St., both sides of W. Ohio Ave. from S. 37th St. to S. 39th St. and both sides of S. 39th St. from the south line of W. Euclid Ave. to the north line of W. Morgan Ave.

c-2. Bay View High School impacted area, S. Adams and E. Potter.

c-3. W. Capitol Drive and N. Sherman Blvd., business area.

c-4. Cutler Hammer impacted area, along N. 24th St. between W. Capitol Dr. and W. Hope Ave.

c-5. Cutler Hammer impacted area, N. 27 St. and W. Congress St.

c-6. Globe Union, Inc., impacted area, bounded by E. Keefe Ave. and N. Humboldt Blvd., E. Townsend St. and N. Booth St.

c-7. Harley Davidson plant impacted area, N. 35 St. and W. Highland Blvd.

c-8. Harnischfeger plant impacted area, bounded by both sides of S. 36th Street from the north line of W. National Avenue to W. Pierce Street, both sides of W. Pierce Street from S. 36th Street to the center line of S. 39th Street (city limits), south along the center line of S. 39th St. to the north line of W. National Avenue.

c-9. John Marshall High School-W. Capitol Drive Business Area.

c-10. North Division High School impacted area, N. 9th St. to N. 12th St., W. Hadley to W. Wright St.

c-11. W. North Avenue and N. 44 St. business area.

c-12. N. Prospect Ave. - E. Ogden Ave., impacted area, bounded by N. Prospect Ave. on the east, E. Ogden Ave. on the north, N. Milwaukee St. on the west and E. Wells St. on the south.

c-13. Pulaski High School impacted area, S. 27 St. and W. Oklahoma Ave.

c-14. Saint Francis Hospital impacted area, bounded by S. 15th St. on the east, S. 20th St. on the west, W. Oklahoma Ave. on the north and W. Holt Ave. on the south, excluding both sides of the 3300 block of S. 19th St. bounded by W. Ohio Ave. on the north and W. Holt Ave. on the south.

c-15. Saint Joseph's Hospital impacted area, N. 47 St. and W. Hadley St.

c-16. Saint Luke's Hospital impacted area, S. 28 St. and W. Lakefield Ave.

c-17. A. O. Smith Corporation impacted area, N. 24 Pl. and W. Capitol Dr.

c-18. University of Wisconsin impacted area, N. Cambridge and E. Edgewood Ave.

c-19. Washington High School impacted area, N. Grant Blvd. and W. Center St.

10. PARKING OF SERVICE VEHICLES.

a. Service Vehicle Parking Permitted. Clearly-identifiable service vehicles shall be allowed to park within commuter parking impacted areas in excess of posted limits between the hours of 7 a.m. and 9 p.m., Monday through Friday, provided a property owner within a commuter parking impacted area first notifies the commissioner that the vehicle will be present in the area to perform services at his or her property. A property owner shall provide his or her address as well as such information as may be required by the commissioner to properly identify the service vehicle. Notice shall be provided to the commissioner no less than 24 hours prior to the time the vehicle is to be in the commuter parking impacted area. If the vehicle is to be in the commuter impacted parking area on more than one day, separate notice to the commissioner shall be required for each day the vehicle is parked on the street.

b. Effective Area. The provisions of this subsection shall only apply to the University of Wisconsin impacted area as described in sub. 9-c-18.

11. RESIDENT-ONLY PARKING PERMIT. a. Established. Within the University of Wisconsin-Milwaukee impacted area described in sub. 9-c-18, in addition to the residential parking privileges otherwise provided in this section, resident-only parking zones are created whereby vehicles bearing valid resident-only parking permits issued pursuant to this subsection may be parked without regard to posted parking prohibitions on specifically designated streets within the area.

b. Locations of resident-only parking zones. Resident-only parking zones shall be designated in the manner provided in subs. 5 and 6. Resident-only parking zones may only be designated on one side of a roadway on streets where parking is available on both sides of the roadway. The locations and hours of designated resident-only parking zones shall be found in the common council proceedings, the official record on file in the city clerk's office and the code on file in the legislative reference bureau.

c. Parking Permitted. c-1. A person whose residence lies within a resident-only parking zone may apply for a

resident-only parking permit. During designated times, the holder of a resident-only parking permit shall be permitted to stand or park the vehicle to which the permit applies in a resident-only parking zone on the street in the block where the applicant lives or in a resident-only parking zone on a block immediately adjacent to the block where the applicant lives without regard to posted parking prohibitions. While a vehicle for which a physical resident-only parking permit has been issued is so parked, the permit shall be displayed so as to be clearly visible through the lower left side of the windshield of the vehicle. A resident-only parking permit shall not guarantee or reserve to the holder a parking space within a resident-only parking zone.

c-2. Any person eligible for a special privilege parking permit under s. 101-27.5 and whose residence lies within a resident-only parking zone may obtain 2 parking permits for parking 2 vehicles in the resident-only parking zone.

d. Application, Issuance, Revocation, and Transferability. Application for resident-only parking permits shall be made, and such permits issued and revoked, in the same manner provided in subs. 7, 8 and 12. Resident-only parking permits are transferable to the same extent as provided in sub. 12.

e. Compliance. A resident-only parking permit shall not authorize the holder thereof to stand or park a motor vehicle within a resident-only parking zone in places where parking or stopping is otherwise prohibited by ss. 346.52 and 346.53, Wis. Stats., and ss. 101-23, 101-23.7, 101-26.5, 101-26.7 and 101-27, nor exempt the holder from the observance of any traffic regulation other than the posted parking prohibition.

f. Service Vehicle and Guest Parking Permitted. Service vehicles and guests shall be allowed to park within a resident-only parking zone without regard to posted parking prohibitions provided that single day parking permission has been obtained as provided in s. 101-27-10. A vehicle license plate and an applicable address within the resident-only parking permit zone shall be recorded. Permission may be granted for the same license plate for not more than 3 days per month.

12. TRANSFERABILITY. a. Only the registered motor vehicle named on the residential parking permit shall be eligible to display this permit. Any transference of this permit to a vehicle other than that named on the permit shall constitute a violation of this regulation.

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b. It shall constitute a violation of this regulation for any person to falsely represent himself as eligible for a residential parking permit or to furnish any false information in an application in order to obtain a residential parking permit.

c. The department of public works is authorized and directed to revoke the residential parking permit of any permittee found to be in violation of this regulation and, upon written notification thereof, the permittee shall surrender the permit. Failure, when so requested, to surrender a residential parking permit so revoked shall constitute a violation of this regulation.

101-27.8. Electric Vehicle Recharging Stations.

1. FINDINGS. The common council finds the use of electric vehicles promotes the health and welfare of residents by enhancing air quality, and finds further that locating electric recharging stations in the city for the exclusive use of recharging electric vehicles promotes the use of electric vehicles.

2. DEFINITIONS. a. "Electric vehicle" means any vehicle locomoting solely or partially under electric power provided by a rechargeable battery or other electric power storage device.

b. "Electric vehicle recharging station" means any parking space, either in a parking facility or on the street, or other site set aside by the city with electric recharging facilities for the exclusive use of electric vehicles when recharging the batteries or other devices used to store electric power for locomoting such electric vehicles.

3. RESTRICTIONS. No vehicle shall be permitted to park, stop or stand in an electric vehicle recharging station except an electric vehicle actively recharging the batteries or other electric power storage devices used to locomote the vehicle.

4. SIGNAGE. The commissioner of public works shall post appropriate signs at each electric vehicle recharging station stipulating the parking restrictions and designating each as a tow-away zone.

5. PENALTY. Any vehicle in violation of the restrictions of this section shall be subject to forfeiture as set forth in s. 101-34 and tow away provisions set forth in s. 101-25.

101-28. Time Limits on Parking Regulations.

1. EXCEPTIONS. Except as otherwise provided, time limitations on parking, including parking meter zones, shall not be in

force between the hours of midnight and 7 a.m. or on Sundays and holidays.

2. HOLIDAYS. The term holiday shall include the 1st day of January, New Year's Day; the 3rd Monday in January, Dr. Martin Luther King, Jr. Day; the last Monday in May, Memorial Day; the 4th day of July, Independence Day; the 1st Monday in September, Labor Day; and the 25th day of December, Christmas; and the day designated by the President of the United States as a day of Thanksgiving.

101-29. Vehicles For Sale On Public Property.

1. FINDINGS. The common council finds that a disproportionate number of vehicles that are for sale on public property are unlicensed, unregistered or are offered for sale by individuals who have no legal authority to do so, and that, further, the sale of stolen vehicles to unsuspecting individuals victimizes not only those from whom the vehicles are stolen but those who purchase them. This section is established pursuant to the responsibility of the common council to legislate for the protection of the health, safety and welfare of the people of the city of Milwaukee.

2. DEFINITION. For the purpose of this section "motor vehicle" means a vehicle as defined in s. 340.01(35), Wis. Stats.

3. CERTIFICATE REQUIRED. No person shall leave any motor vehicle that is for sale on public property without first applying for and receiving a certificate from the department of public works. Each vehicle that is for sale shall require a separate certificate.

4. APPLICATION. a. Certificates shall be obtained from the department of public works or other facilities authorized by the common council.

b. Applicants for certificates shall fill out the appropriate application and pay the fee set forth in ch. 81.

c. Vehicles for which certificates are sought shall be inspected by the commissioner of public works or his or her designee. No certificate shall be issued for a vehicle that does not meet all of the following criteria:

c-1. The vehicle shall be the property of the person applying for the certificate as demonstrated by title or the applicant shall present the vehicle's title as well as a signed affidavit from the vehicle's owner authorizing the vehicle's sale by the applicant.

c-2. The vehicle's vehicle identification number shall not have been altered in such a way as to render it illegible.

c-3. While a motor vehicle that is for sale is on public property, the certificate shall be displayed in the manner designated by the department of public works.

5. VEHICLES TO BE LEGALLY PARKED. A certificate issued pursuant to this section shall not permit the vehicle for which it is issued to be parked in a manner contrary to any other provision of the code.

101-30. Leaving of Ignition Keys in a Parked

Auto. 1. LOCK REQUIRED. Every passenger motor vehicle except a common carrier of passengers is required to be equipped with a lock suitable to lock either the starting lever, throttle, steering apparatus, gear shift lever, brake system or ignition system.

2. ON PUBLIC STREET. No person may permit a motor vehicle in his custody to stand or remain unattended on any street, alley or in any other public place, except an attended parking area, unless either the starting lever, throttle, steering apparatus, gear shift, brake system or ignition of said vehicle is locked and the key for such lock is removed from the vehicle. This subsection shall not apply to motor trucks when the engine must be kept running while the truck is standing or parked in order to provide power for auxiliary devices, appliances, accessories or machinery that are or is related to nondriving occupational operations, provided that the operator of the motor truck is in the near vicinity of the truck engaged in assigned or related duties while the engine is running, and further provided that the vehicle must be equipped with positive neutral position brake locks plus a safety override, or similar appropriate safety features.

101-31. Civil Defense Emergency Regulations.

1. DECLARATION OF EMERGENCY. A civil defense emergency is declared to exist requiring special regulation of vehicular traffic and parking, whenever there shall be declared by the authorities responsible for so doing, either a civil defense alert, whether strategic or tactical, or a civil defense test exercise, necessitating either the evacuation of persons from the city or the movement of persons to special places of shelter in order to properly provide for the public safety under such conditions. Such emergency is declared to continue for a period of 24 hours after the announcement of any strategic alert, and for a period commencing 2 hours before and extending

until 4 hours after the conclusion of any announced test exercise.

2. TO CONTROL TRAFFIC. The chief of police is authorized to promulgate appropriate detailed orders relative to control or immobilization of traffic during a civil defense emergency and, upon the filing thereof with the city clerk, such requirement shall be a part of emergency and, upon the filing thereof with the city clerk, such requirements shall be a part of this section, of the same force and effect, and the penalties hereinafter prescribed shall apply to any violation of such orders.

3. PENALTY. Any person violating this section shall upon conviction thereof be subject to forfeiture of not less than \$10 nor more than \$100 together with the cost of prosecution, and in default of payment thereof, shall be imprisoned in the county jail or the house of correction until such fines and costs are paid, such imprisonment not to exceed 15 days.

101-32. Parking Meter Regulations and Zones.

1. PURPOSE. As a means of partially relieving traffic congestion in certain sections of the city caused by the increased volume of traffic, general abuse of parking privileges, and the limited number of parking spaces available in said sections; to afford better control and regulation of traffic moving to and from said congested sections, and to establish a more efficient system for the enforcement of parking regulations; to facilitate greater freedom for vehicle operators in transacting business requiring a relatively short period of time, and as an exercise of the police power, the installation, use and maintenance of parking meters in the city is authorized.

2. DEFINITIONS. The following words and phrases, when used in this section, shall have the meaning respectively ascribed to them except in those instances where the context clearly indicates a different meaning:

a. "Parking meter." Any mechanical device or meter, not inconsistent with this section, placed or erected for the regulation of parking by the authority of this section including, single space and multi-space parking meters.

b. "Single Space Parking Meter." Any parking meter installed upon the curb or sidewalk immediately adjacent to a parking space.

c. "Multi-Space Parking Meter." Any parking meter that accepts payment in the form of coins, credit and debit cards for vehicles parked in spaces designated with space markers.

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d. "Space Marker." Any marker installed, in parking meter zones that have multi-space parking meters, upon the curb or sidewalk that designates the number of the parking space immediately adjacent to the space marker.

e. "Parking meter zone." Any restricted area, street, alley, avenue, road, highway, lane, off-street parking area or structure, upon which parking meters are authorized to be installed.

f. "Parking meter space." Any space within a parking meter zone adjacent to, and within 2 feet of, a parking meter or space marker.

3. PARKING METER ZONES. a. Parking meter fee rates in parking meter zones shall be set, solely at the discretion of the commissioner, between \$0.25 and \$5.00 per hour, except for event parking when meter fee rates shall be set between \$5.00 and \$50.00 per event. Parking meter fees shall be paid as required by the directions on the meter.

b. Restrictions on the maximum time a vehicle may be legally parked in a parking meter zone shall be set solely at the discretion of the commissioner for each parking meter zone. The commissioner's authority to set maximum parking restriction in a parking meter zone is limited to the following restrictions:

- b-1. Fifteen minutes.
- b-2. Twenty-five minutes.
- b-3. Thirty minutes.
- b-4. One hour.
- b-5. Two hours.
- b-6. Three hours.
- b-7. Five hours.
- b-8. Ten hours.

c. Specific locations of parking meter zones are to be found in the common council proceedings; the official record on file in the city clerk's office; and the code on file in the legislative reference bureau.

4. DESIGNATION OF PARKING METER SPACES. The commissioner of public works is directed to mark off parking meter spaces of appropriate length in parking meter zones.

5. OPERATION OF PARKING METERS. The commissioner of public works shall install single-space parking meters or space markers nearby upon the curb, sidewalk or surface area immediately adjacent to each metered or marked space. Where space markers are used to designate a space number, a multi-space parking meter should be within

approximately a one-block distance that regulates the designated space. The commissioner shall be responsible for regulation, control, operation and maintenance of such parking meters and the space markers. Each single-space parking meter shall be set so as to display automatically a signal showing legal parking upon the deposit therein of the required coin or coins of the United States for a period of time prescribed by ordinance. Each single-space meter shall be so designed that it will indicate by an appropriate visible signal that the lawful parking period has expired. Each multi-space parking meter shall indicate the time parking in the designated space will expire upon payment with coin or coins of the United States, or MasterCard or Visa credit or debit cards. The multi-space meters shall offer the option of printing a receipt showing the space number, date paid and expiration time.

6. USE OF PARKING METERS. The operator of every vehicle, upon entering a parking meter space adjacent to which a parking meter or space number is located shall deposit into the single-space meter or a multi-space meter nearby the proper coin or coins of the United States, or MasterCard or Visa debit or credit cards as required by the directions on the meter and to remove his or her vehicle therefrom prior to the expiration of the maximum legal parking time of the parking meter zone. Adding an additional payment in excess of the maximum time limit designated for a particular space is prohibited.

101-32.4. Damaging or Tampering With Parking Meters or Space Markers. Any person who, without lawful authority, opens, removes or damages any parking meter or space marker, or possesses a key or device specifically designed to open or break any parking meter, or possesses a drawing, print or mold of a key or device specifically designed to open or break any parking meter within the limits of the city of Milwaukee, shall be fined not less than \$50 nor more than \$500 or, upon default of payment thereof, be imprisoned in the house of correction of Milwaukee county for not more than 30 days.

101-33. Parking Lot and Off-Street Parking Regulations. **1. TO INSTALL PARKING GATES.** Whenever the common council has designated the municipal off-street parking lots which shall be controlled and regulated with the use of parking gates, the commissioner of public works

is authorized and directed to install such gates, and in conjunction with the police department to control and regulate the use of such lots having parking gates. Parking gates shall be so constructed as to take coins of the United States of America for such period or periods of time as may be established by resolution or ordinance from time to time. Such parking gates shall also be wired so that if desired by the common council and the common council has so authorized, token acceptors or card slots may be adapted to such parking gates.

2. TO INSTALL METERS. Whenever the common council by resolution or ordinance has designated a municipal off-street parking lot to be controlled and regulated with the use of parking meters, the commissioner of public works is directed to install and maintain such meters and to mark appropriate parking meter spaces to comply with the limitations or restrictions provided in the resolution or ordinance and, in conjunction with the police department, to control and regulate the use of such lots.

3. PERMIT PARKING. a. Off-street Parking Lots. With respect to the following municipal off-street parking lots controlled and regulated by the issuance of permits, the commissioner of public works is directed to supply such permits and mark and maintain appropriate parking spaces and, in conjunction with the police department, to control and regulate the use of such lots. The police department is directed to administer the sale of such permits and to provide enforcement for the lots. See ch. 81 for the required fees.

b. Locations. Specific locations of off-street parking lots to be found in the common council proceedings; the official records on file in the city clerk's office; and the code on file in the legislative reference bureau.

4. TO ERECT SIGNS. The commissioner of public works is directed to erect and maintain, on any municipal off-street parking lot, appropriate signs indicating the limitations or restrictions on parking provided in the resolution or ordinance for such lot, including signs designating particular parking spaces for snow storage or electric vehicle parking. A vehicle may be parked in a municipal lot from 2 a.m. to 6 a.m. provided that the vehicle owner has obtained a night parking permit as governed by s. 101-27-5. A vehicle may not remain in the same parking space for more than 24 hours, unless permitted via a lease. A vehicle in excess of 3 tons is prohibited from standing, stopping or parking in a municipal off-street parking lot. A vehicle may not

be parked in a lot unless the vehicle displays the required registration per Wisconsin state statute.

4.5 COMMISSIONER AUTHORITY. The commissioner of public works may change permissible parking hours, metered parking restrictions, and time restricted parking for specific parking lots based on the parking needs and conditions of particular geographic areas.

5. SEPARATION AND USE OF FUNDS. The city treasurer shall deposit said funds in a separate and special fund or funds to be known as "parking meter fund." Said fund shall be used to help defray expense of the purchase and installation of parking meters, the maintenance, repair and operation of parking meters, the purchase, maintenance and repair of equipment for handling coins collected from parking meters and off-street parking sites, construction of off-street parking structures or facilities, and the amortization and payment of interest on revenue bonds issued for off-street sites, structures or facilities.

101-33.5. City-Owned Bicycle Lockers.

1. PERMIT AND USE REGULATIONS. The commissioner of public works is authorized and directed to develop, implement and administer a program for the permitted use of bicycle lockers installed by the city in city-owned off-street parking lots, public right-of-way or city buildings, on other city grounds or on property owned by Milwaukee county, the state of Wisconsin or the United States of America. No bicycle lockers shall be installed on property that is not owned by the city unless the common council approves an agreement between the city and the property owner that specifies the terms and conditions of installation, maintenance, repair, relocation or removal of such lockers. The commissioner is further authorized and directed to control and regulate the use of city-installed bicycle lockers and to erect and maintain appropriate signs indicating the limitations or restrictions on use of such lockers. The police department is authorized and directed to provide enforcement of bicycle locker regulations.

2. FEES. The commissioner of public works shall collect permit fees for the use of city-installed bicycle lockers. See ch. 81 for the required fees.

101-34. Stipulation or Contestation Procedure; Nonmoving Traffic Violations. **1. PROCEDURE.** a. Any person to whom a citation has been issued for a nonmoving traffic violation

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in this section shall do either of the following within 65 days of the issuance of the citation:

a-1. Enter into a stipulation with the city of Milwaukee providing for a forfeiture of money which may be paid at the city's violation bureau's payment centers.

a-2. Schedule an appearance in municipal court to answer the charges as set forth in the citation.

b. Any person to whom a citation has been issued for a nonmoving traffic violation in this section who fails to either stipulate to the forfeiture or schedule an appearance in municipal court to answer the charges within 65 days of the issuance of the citation may have a default judgment entered against that person for the forfeiture, plus appropriate fees, costs and surcharges as allowed under this section.

c. A citation for a nonmoving traffic violation shall include the date on which the municipal court may enter a default judgment against the person to whom the citation has been issued.

d. The owner of a vehicle involved in a nonmoving traffic violation shall be jointly liable for the violation.

2. FORFEITURE SCHEDULE. The forfeiture upon stipulation under this section shall be in accordance with the following schedule:

a. Citations issued for violation of ss. 101-27 except sub. 1-a, 1-b-2, 4 and 7-d; and s. 101-24.7-2-b: \$20.

b. Citations issued for violation of ss. 101-27-7-d, 101-27.8, 101-30 and 101-32-6: \$22.

c. Citations issued for violation of s. 101-23-4-a to h: \$25.

d. Citations issued for violation of s. 101-23-6: \$30.

e. Citations issued for violation of ss. 101-27-4, 101-29 and 101-33: \$33.

f. Citations issued for parking in prohibited zones, whether required to be posted or not, excluding violation of s. 101-27: \$35.

g. Citations issued for violation of ss. 101-23-9-a-3, 101-23.5, 101-26.7, 101-27-1-a and 101-27-1-b-2: \$40.

h. Citations issued for violation of ss. 101-23-10, 101-26 and 101-27 during a snow emergency declared under s. 101-26: \$50 for the first violation, \$100 for the second violation, \$150 for the third and each subsequent violation.

i. Citations issued for violation of s. 101-25: \$55.

j. Citations issued for violation of ss. 101-18, 101-23-11, 101-23.2, 101-24,

101-24.1, 101-24.2, 101-24.5 and 101-24.7-2-a: \$60.

k. Citations issued for violation of s. 346.505, Wis. Stats., adopted by s. 101-3: \$200.

L. Citations issued for violations of ss. 101-23, 101-23.5, 101-24, 101-24.1 and 101-24.2 occurring between the hours of 8:00 p.m. and 5:00 a.m. and occurring upon a street designated as a cruising area under s. 101-20.5 including the land within the street lines whether or not improved: the forfeiture upon stipulation for violations of these provisions shall be increased by \$11.

m. Citations issued for violation of s. 101-23-9.5 and 9.6: \$50 for the first violation, \$100 for the second violation, \$200 for the third violation, and \$450 for the fourth and each subsequent violation.

3. PAYMENT AFTER 14 DAYS. Except in circumstances where state statutes are applicable, the forfeiture shall be increased as follows, unless for good cause shown the city attorney, chief of police or his or her designee or the commissioner of public works, or the commissioner's designee, extends the time limit:

a. If a stipulation is not entered into within 14 days commencing at 6:00 p.m. on the day the citation is issued, the forfeiture shall be increased by \$5.

b. If a stipulation is not entered into within 28 days commencing at 6:00 p.m. on the day the citation is issued, the forfeiture shall be increased by \$15.

c. If a stipulation is not entered into within 58 days commencing at 6:00 p.m. on the day the citation is issued, the forfeiture shall be increased by \$30. Two dollars and fifty cents of the increased forfeiture amount may be used to pay the cost of using the Wisconsin traffic violation and registration program.

4. STIPULATION DEPOSIT. a. The amount of the forfeiture for such violations shall be paid in cash, money order, bank check or by other means acceptable to the city of Milwaukee and shall be made payable to the city of Milwaukee. Such payment may be made by mail as provided on the citation.

b. No officer or city authority shall be personally or officially responsible for payment of any dishonored check in payment for any forfeiture.

5. DEPOSIT WITH THE CITY TREASURER. The forfeiture received shall be deposited with the city treasurer.

6. FAILURE TO PAY FORFEITURE. If the alleged violator fails to pay the amount of

the forfeiture as provided herein or to schedule an appearance in court within 65 days after the issuance of a nonmoving traffic citation, the city may take any or all of the actions authorized under s. 345.28, Wis. Stats.

7. PENALTY. Any person found in violation of the provisions of this section shall upon conviction be subject to a forfeiture in accordance with the following ranges plus all taxable fees and costs for each such violation:

a. Violations of s. 101-27 except sub. 1-a, 4 and 7-d; and s. 101-24.7-2-b: \$20 to \$50.

b. Violations of ss. 101-27-7-d, 101-27.8 and 101-30: \$22 to \$52.

c. Violations of s. 101-23- 4-a to h: \$25 to \$55.

d. Violations of s. 101-23- 6: \$30 to \$40.

e. Violations of ss. 101-27-4, 101-29 and 101-33: \$33 to \$63.

f. Parking in prohibited zones, whether required to be posted or not, excluding violation of s. 101-27 and s. 346.505, Wis. Stats., adopted by s. 101-3: \$35 to \$40.

g. Violations of ss. 101-23-9-a-3, 101-23.5, 101-26.7 and 101-27-1-a: \$40 to \$70.

h. Violations of ss. 101-23-10, 101-26, 101-27 during a snow emergency declared under s. 101-26: \$50 to \$80.

i. Violations of s. 101-25: \$55 to \$85.

j. Violations of ss. 101-18, 101-23-11 and 101-23.2, 101-24, 101-24.1, 101-24.2, 101-24.5 and 101-24.7-2-a: \$60 to \$90.

k. Violations of s. 346.505, Wis. Stats., adopted by s. 101-3: \$200 to \$300.

L. Violations of ss. 101-23, 101-23.5, 101-24, 101-24.1 and 101-24.2 occurring between the hours of 8:00 p.m. and 5:00 a.m. and occurring upon a street designated as a cruising area under s. 101-20.5 including the land within the street lines whether or not improved: the lower extent of the range for violations of these provisions shall be increased by \$17.

m. Violations of s. 101-32-6: \$22 to \$55.

n. Violations of s. 101-23-9.5 and 9.6: \$50 to \$500

8. COSTS. Pursuant to ss. 345.28(4)(d) and 800.10(6), Wis. Stats., in any case where a defendant is convicted of violating any of the provisions of this section, and notice to the Wisconsin department of transportation was submitted pursuant to s. 345.28(4), Wis. Stats., by the city or pursuant to s. 345.47(1)(d), Wis. Stats., by the court, the

disbursed cost of each such notice shall be taxed as an item of costs.

9. PARKING CITATION PAYMENT PLAN ADMINISTRATION FEE. The parking citation payment plan fee shall be \$10.

101-37. Implied Consent. The city of Milwaukee adopts ss. 343.01 and 343.305, Wis. Stats. (1969), and all subsequent amendments thereto.

101-40. Transfer of Title. 1. ADOPTION OF STATE LAW. The city of Milwaukee adopts s. 342.15(4) and (7), Wis. Stats., 1969, and all subsequent amendments thereto including the penalties to be imposed.

2. VIOLATIONS. Upon conviction of a violation of said section so adopted, the court shall enter a judgment of forfeiture against the violator, payable to the city, within the range of forfeitures provided in s. 342.15(7), Wis. Stats., 1969, for violation of such section, in addition to taxable costs, and in default of payment thereof order confinement in the county jail or house of correction until such forfeiture and costs are paid but not to exceed 30 days.

101-41. Permitting Unauthorized Person to Drive.

1. ADOPTION OF STATE LAW. The city of Milwaukee adopts s. 343.45, Wis. Stats., 1969, and all subsequent amendments thereto.

2. VIOLATIONS. Upon conviction of a violation of said section so adopted, the court shall enter a judgment of forfeiture provided by s. 343.45(3), Wis. Stats., in addition to taxable costs, and in default of payment thereof order confinement in the county jail or house of correction until such forfeiture and costs are paid, but not to exceed 30 days.

101-41.5. Driving After License Revocation or Suspension. 1. ADOPTION OF STATE LAW. The city of Milwaukee adopts s. 343.44(1), (2)(a)1 and (3), Wis. Stats., and all subsequent amendments thereto.

2. APPLICABILITY. This section is applicable only to first time violations of operating a motor vehicle after revocation or suspension and does not apply if either the revocation or suspension is the basis of a violation imposed as a result of a conviction under ss. 346.04(3), 346.63(1) or (2), 346.67, 940.06, 940.08, 940.09 or 940.25, Wis. Stats., or for any felony in the commission of which a motor vehicle was used.

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3. PENALTY. Upon conviction of a violation of said section so adopted, the court shall enter a judgment of forfeiture provided by s. 343.44(2)(a)1, Wis. Stats., in addition to taxable costs and in default of payment thereof order confinement in the county jail or house of correction until such forfeiture and costs are paid, but not to exceed 30 days.

101-42. Miscellaneous Highway Provisions.

1. ADOPTION OF STATE LAW. The city of Milwaukee adopts the following sections of ch. 86, Wis. Stats., 1977, and all subsequent amendments thereto including the penalties to be imposed:

- a. 86.01 Materials left in highway.
- b. 86.02 Injury to highway.
- c. 86.021 Cultivation in highway.
- d. 86.022 Obstructing highway with an embankment or ditch.
- e. 86.025 Camping on highway.
- f. 86.03 Trees on highways.
- g. 86.06 Highway closed to travel.
- h. 86.07 Digging in highways or using bridges for advertising.
- i. 86.19 Unauthorized signs on highway.

2. PENALTY. Upon conviction of the sections so adopted herein, the court shall enter a judgment of forfeiture within the range provided in each section enumerated in addition to taxable costs, and in default of payment thereof order confinement in the county jail or house of correction until such forfeiture and costs are paid, but not to exceed the number of days specified in each case.

101-43. Traffic Signs, Defacement or Removal.

1. PROHIBITED. No person may injure, deface or remove any sign, guideboard, traffic control or marker, barricade or any other traffic control device erected by a political corporation, governmental subdivision or agency thereof for the warning, instruction or information of the public.

2. DEFINITION. In sub. 3, the meaning of "possess" includes the presence of any sign, guideboard, traffic signal or marker, barricade or any other traffic control device on premises owned or controlled by the person, including but not limited to a rented apartment, rented room, dormitory room or garage.

3. MAY NOT POSSESS. No person may possess any sign, guideboard, traffic signal or marker, barricade or any other traffic control device erected by a political corporation,

governmental subdivision or agency thereof for the warning, instruction or information of the public unless such person proves by a preponderance of the evidence that he or she has legal title thereto.

4. NOTIFICATION. Persons who voluntarily notify a law enforcement agency or the city of the presence on the premises of such a sign, guideboard, traffic signal or marker, barricade or any other traffic control device shall be exempt from the prosecution under sub. 3.

5. PENALTY. A violation of any provision of this section shall be punishable upon conviction by a fine of not less than \$100 nor more than \$500, or in lieu of nonpayment or default of such fine, costs and disbursements, by imprisonment in the house of correction of Milwaukee county for a period of not less than 10 days and not more than 60 days. A second or subsequent violation of any provision of this section shall be punishable upon conviction by a fine of not less than \$250 nor more than \$500, or in lieu of nonpayment or default of such fine, costs and disbursements, by imprisonment in the house of correction of Milwaukee county or a period of not less than 25 days and not more than 60 days.

101-44. Bus Stop Locations and Regulations.

1. LOCATIONS. No operator of a duly authorized common carrier of passengers may regularly stop on any highway within the limits of this city for the purpose of receiving or discharging passengers except at such locations approved by the common council following receipt of a recommendation from the transit stop technical advisory committee. The committee shall make this recommendation within 30 days of the date on which the city clerk refers to the committee the proposed bus stop location. If the committee fails to make a recommendation within 30 days of referral, the common council may act on a proposed bus stop location without the committee's recommendation. The infrastructure services division of the department of public works shall keep and maintain an appropriate record of such locations approved by the common council.

2. DISCHARGING OF PASSENGERS. Motor buses when stopping to discharge or take on passengers, other than at a marked safety zone, shall stop in such a manner that any person alighting or boarding shall be able to do so directly from the sidewalk or curb line without entering on or upon the public highway; provided that the latter is free from obstructions

which prevent proper approach, and that the normal angle of approach is not disturbed by other street obstructions, such as a double-parked vehicle or street construction.

3. PENALTY. Any person violating this section shall, upon conviction, forfeit not less than \$10 nor more than \$100 together with the costs of prosecution, or upon default of payment, be imprisoned in the county house of correction not to exceed 10 days, or until such forfeiture costs are paid.

101-50. Fees for Special Parking Signs, Meters, etc. The applicant shall pay the commissioner of public works the fees required for the following services:

1. The fee for the installation of church directional signs which are authorized by the commissioner of public works shall be that amount required in s. 81-108.

2. The fee for removal of parking meters to accommodate facilities other than loading zones shall be the amount required in s. 81-82.

3. The fee for the traffic signal timing schedule information and copy per intersection shall be that amount required in s. 81-128.

3.5. The fee for a "no parking to driveway" sign requested by the owner, lessee, manager or tenant of the property involved shall be the amount specified in s. 81-109.

4. No sign, box or decoration may be attached to any city-owned poles or similar facilities without first obtaining a permit from the commissioner of public works. See s. 81-107 for the required permit fee.

5. The revenue received from fees paid for the removal of parking meters shall be credited to the city's parking fund.

101-51. Use of Low-speed Vehicles On City Streets.

1. "Low-speed vehicle" means a motor vehicle that conforms to the definition and requirements for low-speed vehicles as adopted in the federal motor vehicle safety standards for low-speed vehicles under 49 CFR 571.3(b) and 571.500. Low-speed vehicle does not include a golf cart, as defined in s. 340.01(27h), Wis. Stats.

2. REQUIREMENTS. Low-speed vehicles shall be 4-wheeled and have a speed range of at least 20 miles per hour and not more than 25 miles per hour on a paved surface, and have a gross vehicle weight rating that is less than 3,000 pounds. Low-speed vehicles shall have:

a. Headlamps.
b. Front and rear turn signals.
c. Stop lamps.
d. Reflex reflectors: one red on each side as far to the rear as practicable, and one red on the rear.

e. An exterior mirror mounted on the driver's side and either an exterior mirror on the passenger side or an interior rearview mirror.

f. Parking brake.

g. Windshield that conforms to the requirements of the federal motor vehicle safety standard on glazing materials as provided in CFR 571.205.

h. A vehicle identification number that complies with federal law as provided in 49 CFR 565.

i. A type 1 or type 2 seatbelt assembly conforming to 49 CFR 571.209, and federal motor safety standard No. 209, for each designated seating position.

j. Meets the general test conditions under 49 CFR 571.

3. LICENSE. Low-speed vehicles shall be registered, titled and licensed by the state of Wisconsin.

4. PERMITTED USERS. To use a low-speed vehicle on the streets of the city of Milwaukee, the operator shall have a valid Wisconsin driver's license.

5. PERMITTED USE. Under the authority of s. 349.26, Wis. Stats., a licensed individual may operate a low-speed vehicle on those city streets having a posted speed limit of 35 miles per hour or less, and headlamps must be on during operation.

6. OPERATION. The operation of low-speed vehicles as permitted herein shall in all respects be in compliance with ch. 101.

101-53. Dockless Mobility Systems.

1. DEFINITIONS.

a. "Dockless mobility system" means a system of self-service mobility devices, made available for shared use to individuals on a short-term basis, which may be rented through a smart-phone app, vendor website, vendor customer service number, or a pre-paid PIN and which do not require structures at permanent, fixed locations where rides must begin and end.

b. "Mobility device" means a vehicle, whether motorized or not, including a bicycle, a scooter, a skateboard, or any other micro-mobility vehicle which is exempt from state registration under ch. 341, Wis. Stats.

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c. "Operator" means any person who owns, leases, offers to rent, collects, distributes, repairs, services, charges or otherwise controls a dockless mobility system.

d. "Person" means any individual, firm, corporation, limited liability company, partnership or association acting in a fiduciary capacity.

2. PROHIBITED. No person may operate a dockless mobility system in the city upon the highway including public streets and sidewalks.

3. EXCEPTION. Notwithstanding the foregoing, the operation of a dockless mobility system shall be permitted if the operator participates in a dockless mobility system pilot study administered by the department of public works. Participation in the pilot study may only occur upon application and approval of the department of public works.

4. REMOVAL OF DOCKLESS MOBILITY DEVICES. If the chief of police or commissioner of public works finds on any alley, street, highway or public place within the city, any dockless mobility device belonging to an operator who is in violation of this section, or in violation of the pilot program requirements, including, but not limited to, improper parking of a mobility device, the chief, the commissioner or other authorized agent of the city may have the dockless mobility device immediately removed to a suitable place of impoundment. If the operator can be identified, a notice informing the operator of the location of the dockless mobility device and the procedure for reclaiming the dockless mobility device, shall be sent to the operator's corporate headquarters within 24 hours after removal.

5. PERIOD OF IMPOUNDMENT. Upon impoundment, a dockless mobility device shall be held a minimum of 30 days unless earlier redeemed by the owner or owner's representative upon payment of the redemption fee provided in s. 81-43.7.

6. DISPOSITION OF UNREDEEMED DOCKLESS MOBILITY DEVICES. The commissioner of public works may dispose of impounded dockless mobility devices that are not redeemed within 30 days in any of the following ways:

- a. Public auction or sale.
- b. Donation to a suitable nonprofit organization for charitable, educational or other eleemosynary purposes.

c. Scrapping a dockless mobility device that cannot be disposed of through any other reasonable means.

7. OWNER RESPONSIBLE FOR COSTS. The owner of any dockless mobility device removed under this provision shall be responsible for all costs of impounding and disposing of the dockless mobility device. Costs not recovered from the sale of the dockless mobility device may be recovered in a civil action by the city against the operator. The city assumes no responsibility for damage to dockless mobility devices impounded under this section.

8. PENALTY. Any person violating the provisions of this section shall, upon conviction thereof, be subject to a forfeiture of not less than \$50 nor more than \$500 per day for each dockless mobility device operated or parked upon the highway including public streets and sidewalks. For each second or subsequent conviction, the forfeiture shall be not less than \$500 nor more than \$1,000.

101-55. Streetcar Mass Transit Way.

1. DEFINITIONS. In this section:

a. "Bar signal" means a 2- or 3-aspect indicator showing either a horizontal, vertical, or diagonal bar oriented within a traffic signal placed or erected by the city to regulate or guide the movement of a streetcar.

b. "Streetcar" means an electrically-driven rail public transit vehicle designed for public transportation that runs on rail and is powered by electricity from batteries or from overhead wire.

2. DESIGNATION OF THE MASS TRANSIT WAY. The following named roadways or parts of roadways in the city of Milwaukee are established under the provisions of s. 349.22, Wis. Stats., to constitute a mass transit way:

a. Vel R. Phillips Avenue between West Clybourn Street and West Saint Paul Avenue.

b. West St. Paul Avenue between Vel R. Phillips Avenue and North Plankinton Avenue.

c. East St. Paul Avenue between North Plankinton Avenue and North Milwaukee Street.

d. North Broadway between East St. Paul Avenue and East Kilbourn Avenue.

e. North Milwaukee Street between East St. Paul Avenue and East Kilbourn Avenue.

f. East Kilbourn Avenue between North Broadway and North Jackson Street.

g. North Jackson Street between East Kilbourn Avenue and East Ogden Avenue.

h. East Ogden Avenue between North Jackson Street and North Prospect Avenue.

i. East Clybourn Street between North Milwaukee Street and North Lincoln Memorial Drive.

j. East Michigan Street between North Milwaukee Street and North Lincoln Memorial Drive.

3. RULES OF THE ROAD APPLICABLE TO THE STREETCAR.

a. Applicability of Existing State Laws. a-1. In addition to the regulations established pursuant to other sections of these ordinances, a streetcar shall be considered a "vehicle" under s. 340.01(74), Wis. Stats., and a "motor vehicle" under s. 340.01(35), Wis. Stats., for the purposes of ss. 346.04 (2t)-(4), 346.07(2), 346.08, 346.09, 346.14, 346.175, 346.18, 346.19, 346.20, 346.23, 346.24, 346.25, 346.26, 346.27, 346.34(1)(b), 346.34(2), 346.38, 346.39, 46.455, 346.46, 346.52, 346.57, 346.63, 346.64, 346.67, 346.68, 346.69, 346.87, 346.88, 346.89, 346.90, 346.91, 346.915, 346.92, 346.93, 346.94(5), (9), (10), (11), (17), and (20), Wis. Stats., as adopted under this chapter, and amended from time to time, with respect to vehicles and pedestrians and traffic on the mass transit way established under sub. 2.

a-2. Upon conviction of a violation of subd. 1, the court shall enter a judgment of forfeiture against the violator within the range of forfeitures provided by statute for a violation of the statute associated with the violation and in default of payment thereof, order imprisonment as provided by law.

b. Meeting a Streetcar. b-1. The operator of a vehicle, as defined by s. 340.01(74), Wis. Stats., proceeding in a direction opposite a streetcar shall pass a streetcar to the right on the mass transit way established under sub. 2.

b-2. Upon conviction of a violation of subd. 1, the court shall enter a judgment of forfeiture against the violator within the range of forfeitures provided by statute for a violation of s. 346.06, Wis. Stats., and in default of payment thereof, order imprisonment as provided by law.

c. Overtaking and Passing a Streetcar. c-1. If the operator of a motor vehicle, as defined by s. 340.01(35), Wis. Stats., overtakes a streetcar which is stopped on the right side of the roadway and is receiving or discharging passengers on the mass transit way established under sub. 2, the operator shall pass

to the left of the streetcar and shall not turn right in front of the streetcar. If the operator of a motor vehicle as defined by s. 340.01(35), Wis. Stats., overtakes a streetcar which is stopped on the left side of the roadway and is receiving or discharging passengers on the mass transit way established under sub. 2, the operator shall pass to the right of the streetcar and shall not turn left in front of the streetcar.

c-2. Upon conviction of a violation of this subd. 1, the court shall enter a judgment of forfeiture against the violator within the range of forfeitures provided by statute for a violation of s. 346.075, Wis. Stats., and in default of payment thereof, order imprisonment as provided by law.

d. Traffic Control Signals. d-1. A streetcar shall be considered a "vehicle" under s. 340.01(74), Wis. Stats., as applied to ss. 346.04(2) and 346.37, Wis. Stats., on the mass transit way established under subd. 2, and the operator of a streetcar shall follow all rules regarding traffic control signals unless a bar signal indicates differently, in which case a streetcar shall proceed in the manner required by the bar signal.

d-2. For the purposes of subd. 1, a horizontal bar contained within the bar signal indicates a streetcar shall stop before entering the crosswalk on the near side of an intersection, or if none, then before entering the intersection or at such other point as may be indicated by a clearly visible sign or pavement marking and shall remain standing until a bar signal permitting movement is shown.

d-3. For the purposes of subd. 1, a bar contained within the bar signal that runs diagonally beginning in the bottom left and running upwards to the upper right of the bar signal indicates a streetcar shall proceed by turning right but shall yield the right-of-way to vehicles, pedestrians, personal delivery devices, bicyclists, and riders of electric personal assistive mobility devices lawfully within a crosswalk and to other traffic lawfully using the intersection.

d-4. For the purposes of subd. 1, a bar contained within the bar signal that runs diagonally beginning in the bottom right and running upwards to the upper left of the bar signal indicates a streetcar shall proceed by turning left but shall yield the right-of-way to vehicles, pedestrians, personal delivery devices, bicyclists, and riders of electric personal assistive mobility devices lawfully within a crosswalk and to other traffic lawfully using the intersection.

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d-5. For the purposes of subd. 1, a vertical bar contained within the bar signal indicates a streetcar shall proceed straight through the intersection.

4. SIGNAGE. The department of public works shall erect appropriate signs along the mass transit way established under sub. 2 giving notice of all priorities and regulations established hereunder.

For legislative history of chapter 101, contact the Municipal Research Library.

CHAPTER 102 BICYCLES AND SNOWMOBILES

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SUBCHAPTER 2 SNOWMOBILES

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SUBCHAPTER 1 BICYCLES

102-1. Adoption of State Laws. The city of Milwaukee adopts chs. 340, 341, 342, 343, 345, 346, 347, 348, 349, 350, Wis. Stats., and all subsequent amendments thereto defining and describing regulations with respect to bicycles for which the penalty is a forfeiture only, including but not limited to provisions for stipulation, conditions of deposit for bail, penalties for violation, unless other provisions for stipulation, conditions of deposit or bail, or penalties for violation are expressly provided in this chapter.

102-3. Definitions. In this subchapter:

1. BICYCLE means any vehicle propelled by the feet acting upon pedals and having 2 or more wheels, any 2 of which are more than 14 inches in diameter.

2. BICYCLE DEALER means any business establishment, shop or store that, as part of its trade is involved in the retail selling of new or used bicycles.

3. BICYCLE LANE means that portion of a roadway set aside by action of the common council for the exclusive use of

bicycles, electric assistive personal mobility devices, electric scooters, and other vehicles specified by the common council under the authority of s. 349.23, Wis. Stats.

4. BICYCLE WAY means any path or sidewalk, or portion of a path or sidewalk, designated by the common council for the use of bicycles.

5. ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE means a self-balancing, 2-nontandem-wheeled device that is designed to transport only one person and that has an electric propulsion system that limits maximum speed of the device to 15 miles per hour or less, the operation of which is accorded the same rights and responsibilities as the operation of bicycles under state statutes.

6. HOURS OF DARKNESS means the period of time from one-half hour after sunset to one-half hour before sunrise and all other times when there is not sufficient natural light to render clearly visible any person or vehicle upon a highway or bicycle way at a distance of 500 feet.

7. JUNK BICYCLE means a bicycle which is incapable of operation or use upon a highway and has no resale value except as a source for parts or scrap and includes any bicycle for which the cost of repairs necessary to make the bicycle operational exceed the estimated fair market value.

8. PEDAL PUSHCART means a bicycle with a container, not including a bicycle basket or bag that is securely fastened or incorporated at the front of the bicycle for carrying one or more persons or property.

9. RIGHT-OF-WAY means the privilege of the immediate use of the roadway.

10. ROADWAY means that portion of a highway between the regularly established curb lines or that portion that is improved, designed or ordinarily used for vehicular travel, excluding the berm or shoulder.

11. ELECTRIC SCOOTER means a device weighing less than 100 pounds that has handlebars and an electric motor, is powered solely by the electric motor and human power, and has a maximum speed of not more than 20 miles per hour on a paved level surface when powered solely by the electric motor.

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12. TRAILER means a device designed and manufactured to be securely fastened to a bicycle for the purpose of towing one or more persons or property, but does not include a sled, toboggan, ski or similar device.

13. VEHICLE means every device in, upon, or by which any person is transported or drawn upon a highway, except railroad trains. A snowmobile or electric personal assistive mobility device shall not be considered a vehicle except for those purposes made specifically applicable by state statute.

102-5. License. 1. MANNER OF ISSUANCE. The city clerk shall provide license stickers without fee or charge to be used as evidence of bicycle registration with the city. License stickers may be made available to the public at locations that include city libraries, the department of public works, police district stations, bicycle dealers, public schools and other locations and businesses convenient to the public, and shall be offered together with instructions about placement of the license sticker on the upper portion of the down or seat tube of the bicycle facing forward. Persons wishing to register bicycles shall also be provided with copies of city bicycle regulations or advised that the regulations in this chapter are available on the city website.

2. REGISTRATION. Registration shall be completed on a form provided on the city website and shall include the name and address of the bicycle owner, telephone number or other contact information, the make and color of the bicycle, serial number on the frame of the bicycle, and other information that the city clerk may require.

3. REMOVAL OR ALTERATION. License stickers may only be removed by the owner or with the consent of the owner of the registered bicycle, or by police in the event that the owner of a lost, stolen, abandoned or otherwise recovered bicycle cannot be contacted or successfully identified within 30 days of recovery. No person may alter or mutilate a license sticker in a manner that changes or obscures the information on the license sticker except upon removal of the license sticker by the owner or with the consent of the owner.

4. TRANSFER, CONVEYANCE OR SALE. The owner of a registered bicycle shall notify the city clerk within 10 days of transfer, conveyance or sale of the bicycle to a new owner, and shall provide such information as the city clerk may require to appropriately identify the bicycle and the registration.

102-7. Bicycle Regulations. 1. RIDING ON PUBLIC WAYS. a. Operation of bicycles or electric scooters. No bicycle or electric scooter shall be operated upon any public sidewalk, or any pedestrian path in a public park.

b. Exceptions. This subsection shall not apply to:

b-1. Bicycles operated by police officers in the necessary discharge of their official duties.

b-2. Sidewalks or sidewalk areas designated by the common council and identified by signs or other clear markings as a bicycle way.

c. Children. Children less than 10 years of age may ride on any sidewalk that does not abut a building.

d. Disabled persons. Any disabled person may ride upon any public sidewalk.

e. Right-of-way. When operating a bicycle on a bicycle way, every driver shall yield the right-of-way to any pedestrian and shall exercise due care and give an audible signal when passing a bicycle driver or pedestrian proceeding in the same direction.

2. OPERATING 2 OR MORE ABREAST. Persons riding bicycles or electric personal assistive mobility devices may ride 2 abreast in a single lane if the flow of traffic is not impaired, and may ride 2 or more abreast in a substandard width lane if the lane does not allow for safe passing of a single bicycle or electric personal assistive mobility device by an automobile. Persons may ride 2 abreast on a roadway in which 2 or more lanes permit traffic in the same direction but shall ride within a single lane. Persons may ride 2 or more abreast upon any path, trail, lane or other way set aside for the exclusive use of bicycles or electric personal assistive mobility devices including roadways temporarily set aside for racing, touring or similar permitted events.

3. RECKLESS OPERATION OF BICYCLES. The following rules apply to the operation of bicycles on all highways, bicycle lanes and bicycle ways:

a. Full Control. No person operating a bicycle shall remove both hands from the handlebars, or feet from the pedals, or practice any acrobatic or fancy riding on any street.

b. Operating upon or astride seat. No person operating a bicycle shall ride other than upon or astride a permanent and regular seat attached to the bicycle.

c. **Passengers.** No person operating a bicycle shall transport or carry more persons than the bicycle was designed to carry except a bicycle otherwise designed to carry only the operator may be used to carry or transport a child seated in an auxiliary child's seat designed for attachment to the bicycle if the seat is securely attached to the bicycle according to the directions of the manufacturer of the seat.

d. **Attaching to vehicles.** No person operating or riding upon a bicycle shall attach himself or herself or his or her bicycle to any vehicle upon a roadway.

e. No parent or guardian of a child shall authorize or knowingly permit the child to violate any provision of this subsection.

4. BICYCLE TRAILERS. No person shall operate a bicycle-trailer combination on any highway or bicycle lane or bicycle way unless such trailer is specifically designed to be attached securely to a bicycle and is attached in the manner recommended by the manufacturer of the trailer.

5. OPERATING WHERE PROHIBITED. No person may operate or use a bicycle on a highway or public path when a sign has been erected indicating that bicycle riding is prohibited.

6. ADDITIONAL RULES OF THE ROAD. a. **Right-of-way.** Every operator of a bicycle shall, upon entering on a highway, yield the right-of-way to motor vehicles. Every operator of a bicycle crossing a highway at a point other than a marked or unmarked crosswalk shall yield the right-of-way to any vehicle upon the roadway.

b. **Exceptions.** b-1. At intersections or crosswalks on divided highways or highways provided with safety zones where traffic is controlled by traffic control signals or by a traffic officer, the operator of any vehicle shall yield the right-of-way to bicyclists who have started to cross the roadway from the center strip near curb or shoulder, from the center dividing strip, or in a safety zone in compliance with a green "Walk" signal.

b-2. At intersections or crosswalks that are not controlled by traffic signals or a traffic officer, the operator of any vehicle shall yield the right-of-way to any person operating a bicycle in a manner consistent with the safe use of the crosswalk by pedestrians crossing the highway within a marked or unmarked crosswalk.

c. **Traffic Control Signals.** Every operator of a bicycle shall comply with all traffic signals with the exception that, upon waiting at a red light for more than 45 seconds, a bicyclist may proceed through the intersection with caution and upon yielding the right-of-way to any other vehicular or pedestrian traffic.

d. **Bicycle Signaling.** Any person operating a bicycle on the highway or any bicycle way shall signify turns, stops, and significant decreases in speed with an appropriate hand signal and in a manner which permits the safe operation of the bicycle while providing reasonable notice to other vehicle operators and pedestrians.

e. **Passing Vehicles.** Any person operating a bicycle upon a roadway shall exercise due care when passing a standing or parked vehicle proceeding in the same direction and, when passing a standing or parked vehicle that is a school bus that is displaying flashing red warning lights shall allow a minimum of 3 feet between the bicycle and the school bus.

f. **Parking.** Where possible without impeding the flow of pedestrian traffic, a bicycle may be parked on a sidewalk or in a bike rack or other similar area designated for bicycle parking.

7. RESPONSIBILITIES OF MOTOR VEHICLE OPERATORS AND PASSENGERS.

a. No person may open any door of a motor vehicle located on a highway without first taking due precaution to ensure that his or her act will not interfere with the movement of traffic or endanger any other person or vehicle.

b. The operator of a motor vehicle located on a highway may not permit any person under 16 years of age to open any door of the motor vehicle without the operator first taking due precaution to ensure that opening the door will not interfere with the movement of traffic or endanger any other person or vehicle.

102-9. Equipment on Bicycles. 1. BRAKES.

No person shall operate a bicycle on a highway, bicycle lane or bicycle way unless it is equipped with a brake in good working condition, adequate to control the movement of and to stop the bicycle whenever necessary.

102-11 Bicycles and Snowmobiles

2. EQUIPMENT WHILE OPERATING DURING HOURS OF DARKNESS. No person shall operate a bicycle on a highway, bicycle lane or bicycle way during hours of darkness unless the bicycle is equipped with, or the operator is wearing, a lamp emitting a white light visible from a distance of at least 500 feet from the front of the bicycle. The bicycle shall also be equipped with a red reflector that has a diameter of at least 2 square inches of surface area mounted on the rear and maintained in a manner to be visible from all distances from 50 to 500 feet to the rear of the bicycle when directly in front of lawful upper beams of headlamps on a motor vehicle. A red lamp or flashing amber light may be used, but shall not be a substitute for a rear reflector.

3. SIRENS AND COMPRESSION WHISTLES. No bicycle may be equipped with, and no person operating or riding upon a bicycle shall use, any siren or compression whistle.

4. TRAILER EQUIPMENT. No bicycle with an attached trailer shall be operated during hours of darkness if the trailer obscures the rear bicycle reflector unless a reflector meeting the requirements of sub. 2 is attached at the rear of the trailer.

5. BICYCLE DEALERS. All bicycle dealers, including any business that is involved in the retail selling of new or used bicycles, shall provide information to the purchaser of any new or used bicycle setting forth the bicycle equipment requirements of this subchapter.

102-11. Disposition of Lost, Stolen and Abandoned Bicycles. **1. ABANDONMENT PROHIBITED.** No person shall abandon any bicycle on any highway or on any public or private property within the city, and no person shall leave any bicycle unattended on any highway or property within the city for such time and under such circumstances as to cause the bicycle reasonably to appear to have been abandoned.

2. PLACARDING. Whenever it should appear that a bicycle has been abandoned or lost on a highway or any public place, the chief of police or commissioner of public works or persons authorized by the chief of police or commissioner of public works shall placard the bicycle with a suitable sign or sticker providing

notice that the bicycle may be removed and impounded by the police department after the expiration of 7 days unless otherwise claimed by the owner or owner's representative. Any person placing a placard upon a bicycle on authority of the commissioner of public works shall notify the police department of the time and place of such placarding. The notice shall inform the owner, or person acting on behalf of the owner of the bicycle, the manner in which police may be contacted if the bicycle is not abandoned.

3. REMOVAL AND IMPOUNDMENT WITHOUT PLACARD. If a bicycle is locked or otherwise attached to any item in a manner that impedes vehicular or pedestrian traffic on a public way, or if a bicycle is parked, locked or left on the public way in a manner that blocks or impedes entrance or exit to a building or lawfully parked motor vehicle, or in a manner that constitutes a threat to public health or safety, the bicycle may be immediately removed in the absence of the bicycle owner or person authorized by the owner to operate or have possession of the bicycle. The bicycle may be removed by persons acting under the authority of the chief of police or the commissioner of public works and shall be impounded in facilities designated by the police department.

4. BICYCLES ABANDONED UPON PREMISES. a. Whenever it appears, based upon condition of disrepair or other circumstances, that a bicycle has been discarded or abandoned upon any premises, any person acting under authority of the commissioner of neighborhood services, the chief of police or the commissioner of public works may treat the discarded or abandoned bicycle in the same manner as is provided in s. 79-12 for litter deposited on any premises and may issue orders and citations to the property owner or other responsible person. Special charges may be assessed if the bicycle is removed by the city due to failure of the owner or responsible party to do so within a reasonable time.

b. If the owner or person responsible for the premises fails to comply with an order to remove a discarded or abandoned bicycle, and if the bicycle is removed by any person authorized to do so by the commissioner of neighborhood services, chief of police or commissioner of public

works, a determination will be made whether the bicycle is serviceable or can be made serviceable with reasonable repair. A serviceable bicycle, or a bicycle that could be made serviceable with reasonable repair, shall be impounded by the police department and treated in the same manner as other lost, stolen or abandoned bicycles. All other bicycles removed under this paragraph shall be considered junk bicycles and treated as scrap.

5. PERIOD OF IMPOUNDMENT.

a. Upon impoundment by the police department, a bicycle shall be held a minimum of 30 days unless earlier redeemed by the identified owner or person acting on behalf of the identified owner upon payment of the redemption fee provided in s. 81-11.5. The redemption fee may be waived if the bicycle is determined to have been stolen and is redeemed within 10 days of impoundment.

b. During impoundment, the police department shall make reasonable effort to identify and notify the owner utilizing the serial number on the frame of the bicycle, license information, if any, and any other means.

c. If an impounded bicycle is determined to be a junk bicycle by any member of the police department, the bicycle may be scrapped at any time after impoundment.

6. DISPOSITION OF UNREDEEMED BICYCLES. The chief of police may dispose of impounded bicycles that are not redeemed within 30 days in any of the following ways:

a. Public auction or sale.

b. Donation to a suitable nonprofit organization for charitable, educational or other eleemosynary purposes.

c. Maintaining the bicycle for police purposes.

d. Scrapping a bicycle that cannot be disposed of through any other reasonable means.

7. PUBLIC AUCTION OR SALE. The department of public works shall provide assistance as requested by the police department in organizing and implementing any sale or auction of impounded bicycles, and is authorized to accept the proceeds of such sale for deposit in the police bicycle equipment special purpose fund created under s. 304-25.5.

102-13. Penalties. Any person violating any of the provisions of s. 102-1 may upon conviction thereof be subject to a forfeiture within the range of forfeitures provided by statute for violation of the section. For a conviction for violating any of the provisions of s. 102-7-1 to 6, a person may be subject to a forfeiture of not less than \$10 nor more than \$20. Any person violating the provisions of s. 102-7-7 may upon conviction thereof be subject to a forfeiture of not less than \$20 nor more than \$40 for the first offense and not less than \$50 nor more than \$100 for the 2nd or subsequent conviction within a year.

102-15. Bicycle Riding Permitted on Designated Sidewalks, Bicycle Lanes and Bicycle Ways. **1.** The common council designates the following sidewalk areas as bicycle ways:

a. All sidewalk areas within the Hank Aaron State Trail.

b. All sidewalks on grated bridges that are not equipped with bicycle surface plate lanes.

c. All sidewalks on the viaducts and roadways over the Menominee River Valley on 6th Street, 16th Street, 27th Street and 35th Street.

d. All sidewalks along Commerce Ave. in areas designated the Beerline bike trail.

e. All sidewalks on bridges over the Milwaukee River on East North Avenue and East Locust Street except the sidewalk on the north side of the Locust Street bridge.

2. The common council may designate additional sidewalks as bicycle ways in the same manner as bicycle lanes within the roadways are designated under s. 101-21.5.

3. Except for those sidewalks set aside for the use of children less than 10 years of age as provided in s. 102-7-1, the commissioner of public works shall cause signs to be erected identifying all bicycle ways designated by the common council after which time bicycles may be operated on the bicycle way. The department of public works shall maintain a listing of all designated bicycle ways.

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SUBCHAPTER 2
SNOWMOBILES

102-21. Adoption of State Laws and Penalties. In this subchapter: 1. The city of Milwaukee adopts chs. 340, 341, 342, 343, 345, 346, 347, 348, 349, 350, Wis. Stats., and all subsequent amendments thereto defining and describing regulations with respect to snowmobiles for which the penalty is a forfeiture only, including but not limited to provisions for stipulation, conditions of deposit or bail, penalties unless another provision for such penalties, provisions for stipulation, conditions of deposit or bail is provided in this subchapter.

2. Any person who violates any provision of this subchapter may be fined not more than \$250, except that any person violating s. 102-25-5-c may be fined not more than \$200.

102-23. Definitions. 1. FERMENTED MALT BEVERAGE has the meaning designated in s. 125.02(6), Wis. Stats.

2. HEAD LAMP has the meaning designated in s. 340.01(21), Wis. Stats.

3. HIGHWAY has the meaning designated in s. 340.01(22), Wis. Stats.

4. HOURS OF DARKNESS has the meaning designated in s. 340.01(23), Wis. Stats.

5. INTOXICATING LIQUOR has the meaning designated in s. 125.02(8), Wis. Stats.

6. NARCOTIC DRUGS has the meaning designated in s. 961.01(15), Wis. Stats.

7. SNOWMOBILE has the meaning designated in s. 340.01(58a), Wis. Stats.

8. STATE TRUNK HIGHWAY has the meaning designated in s. 340.01(60), Wis. Stats.

9. STREET has the meaning designated in s. 340.01(64), Wis. Stats.

10. TAIL LAMP has the meaning designated in s. 340.01(66), Wis. Stats.

102-25. Snowmobile Regulations.

1. CROSSING HIGHWAYS. No person shall operate a snowmobile upon any highway or cross highway, except as provided for in sub. 3, other than to drive directly across a 2 or 3-lane highway, and then only after stopping and yielding the right-of-way to all vehicles operating upon the highway.

2. IN VICINITY OF HIGHWAY. No person shall operate a snowmobile on any highway, but a snowmobile may be operated outside the ditchline on a 2 or 3-lane highway except as provided in sub. 1.

3. PERSON UNDER 16. There shall be no age limitation for the operation of a snowmobile except that no person under the age of 16 shall drive a snowmobile across any highway, and no person under the age of 16 shall drive a snowmobile across any state trunk highway or connecting street thereto.

4. OWNER PERMITTING OPERATION. No owner or person having charge or control of a snowmobile shall knowingly authorize or permit any person to operate such snowmobile who is incapable, by reason of age, physical or mental disabilities, or is under the influence of intoxicating liquor, fermented malt beverage, narcotics or other drugs.

5. MISCELLANEOUS PROVISIONS. No person shall operate a snowmobile in the following manner:

a. At a rate of speed that is unreasonable or improper under the circumstances.

b. In any careless way so as to endanger the person or property of another.

c. While under the influence of intoxicating liquor, fermented malt beverages, narcotics, or other drugs.

d. In such a way that the exhaust of the motor makes an excessive or unusual noise.

e. Without a functioning muffler.

6. HOURS OF OPERATION. No person shall operate a snowmobile in the city between the hours of 10:00 p.m. and 6:00 a.m.

102-27. Equipment on Snowmobiles. Any snowmobile crossing or driving along the right-of-way, operated during hours of darkness, shall display a lighted head lamp and tail lamp.

For legislative history of chapter 102 contact the Municipal Research Library.

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Pages 562-572 are blank.

CHAPTER 104 FIRE SAFETY

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104-1. Power to Tear Down Buildings to Check Fire. The chief engineer and his assistants may direct the firemen to remove, tear down, or otherwise dispose of any building, erection or fence, when it shall become absolutely necessary to do so for the purpose of stopping or checking the progress of the fire.

104-3. Fires in Neighboring Municipalities and Beyond County Limits. 1. In case of a fire or other emergency in any municipality of the county of Milwaukee, the chief engineer of the fire department may, in his discretion, permit or direct any officer or member of the fire department to go to the fire or other emergency with or without an engine or other fire apparatus under his or their care, provided, that previously thereto arrangements shall have been made satisfactory to the mayor and the chief of the fire department for the payment of a specified consideration for the use of such engines or other apparatus.

2. The chief of the fire department may send equipment and personnel in excess of that which is specified in the reciprocal fire service agreements to other municipalities when such aid is requested. The fee specified in s. 81-52.5 shall be charged to any city, town or village for every engine (pumper), truck (hook & ladder), rescue squad, water tower, water tank truck, special equipment, or wrecker, together

with its regularly assigned personnel, which may be requested by the respective municipality which is in excess of that determined by the chief of the Milwaukee fire department to be the amount eligible for reciprocal fire service or a no-charge basis.

3. The chief engineer shall also have the power to grant permission to any officer or member of the fire department to go with or without any engine or other fire apparatus to any municipality of the county for civil defense exercises, demonstrations, or training, and to be absent such lengths of time as he may direct.

4. The chief engineer shall also have the power to grant permission to any officer or member of the fire department to go with or without any engine or other fire apparatus beyond the limits of the county of Milwaukee for civil defense exercises, demonstrations, or training, or for fire fighting purposes, disasters, or other emergencies, to be absent such length of time as he may direct; and any officer who shall take, permit or suffer any engine or other fire apparatus under his charge to be taken beyond the limits of the county of Milwaukee without such order or permission shall for each offense forfeit a penalty of not less than \$10 nor exceeding \$25.

104-5. Interference with Fire Department While Making Inspections. Any person interfering with any inspection made in accordance with the laws of the state of Wisconsin by the chief engineer of the fire department or the officers or members of the fire department shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$5 nor more than \$25, or by imprisonment in the house of correction of Milwaukee county for a period of not exceeding 30 days.

104-7. False Alarm; Meddling with Apparatus.

1. It shall be unlawful for any person to give, or cause to be given a false alarm, with intent to deceive, or to pull the lever of any signal box, except in accordance with regulations established for its use, or to tamper, meddle, or to interfere in any way with said boxes, or any part thereof, or to cut, injure, break, deface, or

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remove any of said boxes, or any of the wires or supports thereof connected with any part of said system; or to make any connection or communication therewith so as to interrupt or interfere with the proper working of said system, or with evil intent to injure, break or destroy any machinery or fixtures connected with said systems.

a. Any person guilty of the violation of any of the provisions of this section shall, upon conviction thereof, be fined a sum not less than \$100, nor more than \$500, or by imprisonment in the house of correction for not less than 30 days, nor more than one year, or by both such fine and imprisonment, at the discretion of the court, with costs of prosecution.

b. Conviction for repetition of the violation of any of the provisions of this section shall make imprisonment mandatory for a period of not less than 30 days, nor more than one year, and may be further fined a sum of not less than \$100, nor more than \$500, for each offense, at the discretion of the court, with costs of prosecution.

104-9. Driving Over Fire Hose Prohibited. If any wagon, car, street railway car, or other vehicle be driven over the hose belonging to the fire department of the city of Milwaukee, laid in the streets at the occurrence of any fire in the city, or at any alarm of fire, the driver or owner or drivers of such vehicle shall be subject to prosecution, and upon conviction shall be fined in any sum not exceeding \$25 for the first offense, and upon any subsequent conviction for the same offense shall be subject to a fine of not more than \$50, in the discretion of the court, with the cost of prosecution.

104-10. Placing Snow Near Fire Hydrant Prohibited. 1. PROHIBITED. It shall be unlawful for any person to shovel, blow, pile, plow or otherwise place snow or ice into an area within 3 feet of a fire hydrant.

2. EXCEPTION. This provision shall not apply to operators of mechanical equipment removing snow from the public way under the authority of the commissioner of public works.

3. PENALTY. Any person convicted of violating this section shall be subject to a forfeiture of not less than \$25 nor more than \$100 for each violation, and in default of payment thereof shall be imprisoned as provided by law.

104-11. Fire Training Course for Key Hotel Employees. 1. COMPULSORY. The manager, owner or person in charge of any hotel in the city of Milwaukee shall require such number of key persons employed by such hotels as may be designated by the chief engineer of the fire department to enroll and complete within 60 days after the commencement of their employment a course of instruction in fire drills and the use of fire extinguishers and other fire fighting appliances with the Milwaukee fire department. The facilities of the training school of the Milwaukee fire department shall be utilized for such training purposes and the extent of any training course shall be determined by the chief engineer of the fire department.

2. PENALTY. It shall be unlawful for the manager, owner or person in charge of any hotel in the city of Milwaukee to employ any key persons mentioned in this section who fail to comply with the provisions of this section, and any manager, owner or person in charge violating this section shall be subject to a fine of not less than \$10 nor more than \$100 for each and every offense or by imprisonment in the county jail or house of correction for a period of not less than 10 days nor more than 90 days. Each day that any such person shall be employed after the expiration of 60 days without enrolling and completing such training course shall constitute a separate offense.

104-13. Fire Drills in Public, Private or Parochial Schools. 1. REQUIRED. The person having direct charge of any public, private or parochial school shall, at least once each month without previous warning, drill all pupils in the proper method of departure from the building as if in case of fire. The provisions of this section shall be observed except when, in the judgment of the principal or person having such direct charge, he shall deem that the health of the pupils may be endangered by inclement weather conditions.

2. REPORT. The principal or person having direct charge of any public, private or parochial school shall annually render a brief concise report pertaining to the drills provided for in this section on forms furnished by the Milwaukee fire department. Such report shall be submitted to the chief of the fire department.

104-15. Obstructing Firemen or Policemen.

Any person who shall willfully hinder, obstruct or otherwise interfere with the fire or police department, or any member thereof, while engaged in fighting a fire or in traveling thereto or therefrom, or while otherwise engaged in the performance of his duty or any official function, or who shall willfully damage or destroy property belonging to the fire or police department, or any member thereof, while so engaged, or who shall commit an assault, battery, or throw any object which could inflict bodily harm upon a member of the fire or police department while so engaged, shall forfeit not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), and in default thereof be imprisoned in the house of correction for a period of not less than 90 days nor more than six months.

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**LEGISLATIVE HISTORY
CHAPTER 104**

Abbreviations:

am = amended
cr = created

ra = renumbered and amended
rc = repealed and recreated

rn = renumbered
rp = repealed

<u>Section</u>	<u>Action</u>	<u>File</u>	<u>Passed</u>	<u>Effective</u>
Ch. 104	cr	881930	3/7/89	3/25/89
104-10	cr	181757	3/26/2019	4/12/2019
104-17	rn	891785	1/16/90	2/3/90
104-19	rc	870554	4/4/89	7/20/89
104-19	rn	891785	1/16/90	2/3/90

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CHAPTER 105 PUBLIC SAFETY

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105-1. Riots; Unlawful Assemblies.

1. PURPOSE AND FINDINGS. This section is enacted to protect the health, safety and welfare of the public, to preserve order and to prevent harm or injury to persons and property. The city finds that police officers have a duty to suppress unlawful assemblies within their jurisdiction. For that reason

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they may order all persons who are part of an assembly to disperse. It is further found that unlawful assemblies involving motor vehicles increase the risk of harm or injury to persons or property, obstruct or impede lawful travel and commerce, are more difficult to disperse than other assemblies, and significantly increase the costs of enforcement.

2. DEFINITIONS. a. "Unlawful assembly" means an assembly which consists of 3 or more persons and which causes such a disturbance of public order that it is reasonable to believe that the assembly will cause injury to persons or damage to property unless it is immediately dispersed. An "unlawful assembly" includes an assembly of persons who assemble for the purpose of blocking or obstructing the lawful use by another person, or persons of any private or public thoroughfares, property or positions of access or exit to or from any private or public building, or dwelling place, or any portion thereof and which assembly does in fact so block or obstruct the lawful use by any other person, or persons of any such private or public thoroughfares, property or any position of access or exit to or from any private or public building, or dwelling place, or any portion thereof.

b. "Person participating in an unlawful assembly involving motor vehicles" includes any person who acts in a manner contributing to or promoting the disturbance of public order in an unlawful assembly involving 3 or more motor vehicles.

3. FAILURE OR REFUSAL TO WITHDRAW; PENALTIES. a. It is unlawful for any person to fail or refuse to withdraw from an unlawful assembly, which the person knows has been ordered to disperse.

b. Any person convicted of a violation of sub. a shall forfeit not more than \$500 or, upon default of payment of forfeiture and costs, be imprisoned in the county jail or house of correction not more than 20 days.

c. Any person convicted of a violation of sub. a., who intentionally fails or refuses to withdraw from an unlawful assembly involving 3 or more motor vehicles, shall forfeit not less than \$250 nor more than \$1,000 or, upon default of payment of forfeiture and costs, be imprisoned in the county jail or house of correction not more than 40 days.

4. VEHICLES CONSTITUTING A PUBLIC NUISANCE; ABATEMENT. a. A motor vehicle operated 2 or more times in an unlawful assembly is declared to constitute a public nuisance.

b. The city attorney is authorized to initiate proceedings in abatement of a nuisance vehicle used 2 or more times by any operator or operators convicted of a violation of sub. 3-a, and to seek appropriate relief including, but not limited to, removal and sale of the vehicle.

105-1.5. Hiring of Professional Strikebreakers Prohibited.

1. FINDINGS. It is declared that the employment of those individuals, commonly known as professional strikebreakers within the community during the course of a labor dispute, substantially contribute to prolonged industrial strife and to the danger of violent activity endangering the lives and property of the residents of this city, thereby necessitating the prohibitions established by this section, which shall be deemed an exercise of the police powers for the protection of the peace, dignity, health and welfare of the people of the city of Milwaukee.

2. DEFINITIONS. When used in these sections:

a. The term "person" shall include one or more individuals, partnerships, corporations, associations, or firms, and shall include any officer, employee or agent thereof.

b. The term "labor dispute" shall mean a controversy between an employer and his employees which results in a strike or lockout.

c. The term "professional strikebreaker" shall mean any person who customarily and repeatedly secures or seeks to secure gainful occupation by offering to take the place or replacing any employee absent from his position of employment because of a labor dispute.

3. GENERAL PROVISIONS. a. No person shall recruit, procure, supply or refer for purposes of employment any professional strikebreaker in place of any employee involved in a labor dispute in which such person is not directly involved.

b. No person involved in a labor dispute shall either, directly or indirectly:

b-1. Employ in the place of any employee involved in such labor dispute any professional strikebreaker during the course of the labor dispute.

b-2. Contract or arrange with any other person to recruit, procure, supply or refer for purposes of employment any professional strikebreaker in place of employees involved in such a labor dispute.

c. No professional strikebreaker shall take or offer to take the place of any employee involved in a labor dispute during the course of that dispute.

4. EXCEPTIONS. Nothing in this section, other than the employment of any professional strikebreaker, shall be construed to prevent or prohibit a person involved in a labor dispute from conducting business operations during the course of such labor disputes.

5. PENALTIES. Any person who shall violate the provisions of this section shall, upon conviction thereof, be subject to a forfeiture of not less than \$50 nor more than \$500, together with the costs and disbursements of the prosecution, and, in default of payment thereof, shall be imprisoned in the county jail or house of correction of Milwaukee county until such forfeiture, costs and disbursements are paid, such imprisonment not to exceed 30 days.

105-2. Assault and Battery. Any person who shall commit an assault and battery upon another shall be punished by a fine of not more than \$500, and for offenses occurring between the hours of 8:00 p.m. and 5:00 a.m. and upon a street designated as a cruising area under s. 101-20.5, including the land within the street lines whether or not improved by a fine of not less than \$250 nor more than \$500, and in default of payment thereof by imprisonment in the house of correction of Milwaukee county not less than 10 days nor more than 20 days.

105-8. Veteran Grave Markers. 1. USE RESTRICTED. No person, firm, or corporation shall sell, buy, exchange, handle or have in his or its possession any veteran's grave marker unless under and through a duly recognized veterans' post, order or organization.

2. PENALTY. Any person violating this section shall be fined not less than \$25 nor more than \$100 for each and every offense, or in default of payment thereof shall be punished by imprisonment in the house of correction of Milwaukee county for not more than 30 days.

105-16. Icicles on Buildings. 1. NOT TO CREATE DANGEROUS HAZARD. No person shall suffer, permit or allow icicles to remain upon any building in the city in such a manner as to be dangerous to any persons using public streets, alleys or highways. It shall be the duty of every person, firm or corporation owning any such buildings, and where such buildings are occupied by not more than 2 tenants, it shall be the duty of such tenants as well as of the owners to comply with the provisions of this section. It shall also be the duty of every such person, firm or corporation when notified by any city officer or inspector to

forthwith comply with such notice. Failures so to do shall be a violation of this section.

2. PENALTY. Any person, firm or corporation who shall violate the provisions of this section shall be subject to a penalty of not less than \$5 nor more than \$25 for each offense together with the costs of prosecution, and in default of payment of such fine and costs shall be imprisoned in the county jail or house of correction of Milwaukee county for a period not to exceed 60 days or until such fine and costs shall be paid.

105-19. Roller Skates, In-line Roller Skates and Skateboards Restricted. 1. RESTRICTIONS. No person may ride or otherwise use roller skates, in-line roller skates or skateboards upon public sidewalks in the following areas:

a. The area generally bounded on the north by State Street, south by Polk Street, east by the west side of North Harbor Drive and the west side of Lincoln Memorial Drive and west by Interstate 43, including all of the O'Donnell Park facility.

b. The area generally bounded by Downer Avenue between East Park Place on the north and East Webster Place on the south.

c. The area generally bounded by West Mitchell Street between South 5 Street on the east and South 16 Street on the west, including the green market.

d. Those public sidewalks adjacent to Milwaukee public library facilities and upon any Milwaukee public library parking lot.

e. The area generally bounded by East Brady Street between North Van Buren Street on the west and North Prospect Avenue on the east.

f. The area generally bounded by North Oakland Avenue between East Newberry Boulevard on the south and East Linnwood Avenue on the north.

g. The area generally bounded on the north by East Greenwich Avenue, south by East Kenilworth Place, east by North Prospect Avenue and west by North Oakland Avenue.

h. The area designated as North and South RiverWalk Way.

2. PENALTIES. Any person violating this section shall be subject to a forfeiture of not more than \$25.

105-20.5. Baseball Regulations, etc., in Certain Areas. 1. HARDBALL PERMITTED.

a. The playing of baseball shall be permitted on baseball diamonds on the following premises:

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Adams playfield, 495 E. Morgan avenue
Auer Avenue playfield, 2221 W. Auer avenue
Bryant playfield, 5726 N. 89th street
Burnham playfield, 1755 S. 32nd street
Dyer playfield, 151 N. 80th street
Garden Homes playfield, 4456 N. Teutonia avenue
Hampton playfield, 5130 N. 53rd street
Hawthorne Glen, 1130 N. 60th street
Kinnickinnic playfield, 2821 S. Kinnickinnic avenue
Merrill Park playfield, 463 N. 35th street
Riverside Pumping Station, N. Humboldt avenue
and E. Chambers street
Rogers playfield, S. 35th and W. Rogers streets
S. 78th street playfield, 7900 W. Tripoli avenue
Whitman playfield, 4200 S. 54th street
Wick playfield, 4929 W. Vliet street

b. Baseball may be permitted on other turf areas when written permission has been given by the recreation division.

2. SOFTBALL ON TURF DIAMONDS.

a. The playing of softball on turf softball diamonds under the jurisdiction of the board of school directors shall allow for the use of a regulation 12 inch softball or larger on the following premises:

Adams playfield, 495 E. Morgan avenue
Auer Avenue playfield, 2221 W. Auer avenue
Barton playground, 5700 W. Green Tree road
Browning playground, 5575 N. 76th street
Bruce playground, 6453 N. 89th street
Bryant playfield, 5726 N. 89th street
Burbank playfield, 6225 W. Adler street
Burroughs playground, 6700 N. 80th street
Burnham playfield, 1755 S. 32nd street
Carmen playfield, 7320 W. Carmen avenue
Custer playfield, 4001 W. Custer avenue
Dyer playfield, 151 N. 80th street
S. 88th street playground, 3575 S. 88th street
N. 82nd street playground, 3778 N. 82nd street
Enderis playfield, 2938 N. 72nd street
Fairview playfield, 6311 W. Stack drive
N. 53rd street playground, 3618 N. 53rd street
Garden Homes playfield, 4456 N. Teutonia avenue
Hampton playfield, 5130 N. 53rd street
Hawthorn Glen, 1130 N. 60th street
Jefferson playground, 1029 N. Jefferson street
Jewell playfield, 1810 W. Wood avenue
Juneau playfield, 6500 W. Mt. Vernon avenue
Kilmer playground, 3120 W. Green avenue
Kinnickinnic playfield, 2821 S. Kinnickinnic avenue
Lancaster playground, 4931 N. 68th street
Lewis playfield, 1424 E. Pryor avenue

Lincoln playfield, 300 W. Lincoln avenue
Lowell playground, 4360 S. 20th street
Merrill Park playfield, 461 N. 35th street
Parklawn playfield, 4434 W. Marion street
Parkview playground, 10825 W. Villard avenue
Riverside Pumping Station, N. Humboldt avenue
and E. Chambers street
Rogers playfield, S. 35th and W. Rogers streets
S. 78th street playfield, 7900 W. Tripoli avenue
N. 65th street playground, 6600 W. Melvina street
Stark playfield, 4951 N. 40th street
N. 24th street playground, 4950 N. 24th street
Warnimont playground, 3500 S. First street
Whitman playfield, 4200 S. 54th street
Wick playfield, 4929 W. Vliet street

b. The listing playing of softball on the following turf softball diamonds shall be restricted to the use of a 12 inch, rubber-covered restricted-flight softball or a 14 inch softball or larger:

N. 95th street playground, 707 N. 94th street
Victory playground, 2222 W. Henry avenue

3. SOFTBALL ON SURFACED DIAMONDS. The playing of softball shall be restricted to the use of a 12 inch rubber-covered restricted-flight softball or a 14 inch softball or larger on all surfaced softball diamonds on public school grounds, playgrounds, playfields, and other premises under the jurisdiction of the board of school directors, with the exceptions as listed in subs. 4 and 5.

4. BALL PLAYING RESTRICTIONS.

a. Softball Restricted. Ball playing shall be restricted to the use of a 14 inch leather-covered outseam softball or larger on the following premises, excepting only as the respective pupils at such schools may play such games during school hours on school days, but only under the direction of a teacher or some other person designated by the principals of the respective schools:

Doerfler, 3014 W. Scott street
Fourth Street, 1542 N. 4th street
Garfield, 2215 N. Fourth street
Grant, 2920 W. Grant street
Liberty, 4824 S. 27th street
Wisconsin Avenue, 2708 W. Wisconsin avenue

b. Ball Playing Prohibited. Ball playing shall be prohibited on the play areas and practice fields of the following premises, excepting only as the respective pupils at such schools may play such games during school hours, on school days, but only under the direction of a teacher or some other person designated by the principal of the respective schools.

Elementary School Exceptions:

Bartlett, 2964 N. Bartlett avenue
Berger, 3275 N. 3rd street
Browning, 5575 N. 76th street
Douglas Road, 3919 W. Douglas road Emerson,
9025 W. Lawrence avenue
Engleburg, 5100 N. 91st street
Eugene Field, 1226 S. Seventh street
Greenfield, 1711 S. 35th street
Hayes, 2431 S. 10th street
MacArthur, 3151 S. 60th street
Meinecke, 1369 W. Meinecke
Mound, 2148 S. Mound street
New Road, 4707 S. 13th street
Silver Spring, 5073 N. Green Bay avenue
N. 35th Street, 517 W. Courtland avenue
N. 36th, at 3620 W. Rohr avenue
N. 37th, at 1715 N. 37th street
N. 38th, at 2623 N. 38th street
Tippecanoe, 357 E. Howard avenue
Trowbridge, 1943 E. Trowbridge street
Walnut, 2318 W. Walnut street
Whittier, 4382 S. 3rd street

c. Ball Playing Prohibited. Ball playing shall be prohibited at all times on the following playgrounds:

Hillside, 636 W. Plymouth
Wright, 2461 N. 55th street

5. BALL PLAYING ON SECONDARY SCHOOL GROUNDS. a. Prohibited. Ball playing shall be prohibited on the play areas and practice fields of the following premises, excepting only as the respective pupils at such schools may play such games during school hours on school days, but only under the direction of a teacher or some other person designated by the principal of the respective schools.

Exceptions:

Bay View, 2751 S. Lenox street
Boys Tech, 319 W. Virginia street
Edison, 5372 N. 37th street
Juneau, 6415 W. Mt. Vernon avenue
King, 1801 W. Olive street
Lincoln, 816 E. Knapp street North, 1121 W. Center street
Pulaski, 2500 W. Oklahoma avenue
Riverside, 1615 E. Locust street
South, 1321 W. Lapham street
Washington, 2525 N. Sherman boulevard
Washington Annex, 6720 W. Moltke avenue
Wells, 830 N. 19th street
West, 2300 W. Highland avenue

b. Softball Allowed. The playing of softball with a 12 inch regulation softball or larger may be allowed on the following secondary school grounds:

Audubon, 3300 S. 39th street
Bell, 6506 W. Warnimont avenue
Custer, 5075 N. Sherman boulevard
Fritsche, 2969 S. Howell avenue
Hamilton, 6215 W. Warnimont avenue
Kosciuszko, 971 W. Windlake avenue
Madison, 8135 W. Florist avenue
Marshall, 4141 N. 64th street
Morse, 4601 N. 84th street
Muir, 5496 N. 72nd street
Parkman, 3620 N. 18th street
Peckham, 3245 N. 37th street
Sholes, 4965 S. 20th street
Steuben, 2360 N. 52nd street
Walker, 1712 S. 32nd street
Wright, 8400 W. Burleigh street

6. OTHER REGULATIONS. The batting of balls is permissible only from the home plate areas of the painted diamonds. The board of school directors shall prescribe the regulations applicable to the play of hard baseball and softball on all premises under its jurisdiction, and said board shall place one or more signs at least 2 feet square on all public school grounds, playgrounds, and playfields, informing the public as to which kind of ball playing is thereon permitted or prohibited. In the batting of softballs, the use of bats more than 34 inches in length or more than 2-1/8 inches in diameter at the thickest portion of the bat is prohibited. In the batting of hard baseballs, the use of bats more than 42 inches in length or more than 2-3/4 inches in diameter at the thickest portion of the bat is prohibited.

7. PLAY LOTS AND TOT LOTS. The municipally owned play areas (play lots and tot lots) are under the exclusive control and management of the commissioner of public works who shall make all rules and regulations pertaining to the use thereof and post signs prominently in the play areas governing use of the areas. Violation of any of the rules and regulations of the commissioner of public works shall be punishable as prescribed in s.105-20.52.

105-20.52. Penalty, General. Any person of the age of 18 years or more violating any of the provisions of s. 105-20.5 shall, upon conviction thereof, be punished by a fine of not less than \$5 nor more than \$50 together with the costs of prosecution, and in default of payment thereof by imprisonment in the house of correction of Milwaukee county not less than 10 days nor more than 30 days; and any person under 18 years of age violating any of the provisions of said s.105-20.5 shall be deemed to be a delinquent child as defined in s. 48.01, Wis. Stats.

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105-21. Basketball, Baseball and Softball: Regulations.

1. a. Where appropriate signs have been posted, any activity, including the playing of basketball, baseball and softball, and the use of recreational equipment, including basketballs, baseballs and softballs, on play areas, playgrounds and playfields in the city is prohibited between any of the following times:

a-1. Sunset and 8 a.m.

a-2. 8 p.m. and 8 a.m.

a-3. 10 p.m. and 8 a.m.

b. Notwithstanding the provisions of par. a, if a softball or baseball game which is part of an official league authorized by the Milwaukee public schools department of municipal recreation requires an extension of time to finish the game, the game may be completed.

2. The commissioner of public works, in conjunction with the superintendent of Milwaukee public schools or his or her designee, is authorized to create rules and regulations pertaining to the use of municipally owned playfields and playgrounds and Milwaukee public school playgrounds and shall post signs prominently governing the use of these areas.

3. Any person violating this section shall upon conviction be fined not less than \$5 nor more than \$50 together with the costs of prosecution and in default of payment thereof be imprisoned in the house of correction in Milwaukee county not less than one day nor more than 2 days.

105-25. Railroad Quiet Zones.

1. DEFINITION. In this section, "quiet zone" refers to the following areas where the blowing of train horns for non-emergency purposes is prohibited:

a. The area along the Canadian Pacific Railroad's mainline tracks between West Layton Avenue (Milepost 0079.71) and West Holt Avenue/South 6th Street (Milepost 0081.36).

b. The area along the Canadian Pacific Railroad's mainline track within approximately one-quarter mile of the North Plankinton Avenue crossing (between Milepost 85.18 and Milepost 85.68), with the exception of the area along the Canadian Pacific Railroad moveable swing bridge (B-316 ½) over the Menomonee River, and the area along the Amtrak station.

2. PROHIBITION. No railroad company or any of its agents or employees shall blow any horn or whistle within the quiet zone.

3. EXCEPTION. Nothing in this section shall be construed as forbidding or prohibiting the blowing of whistles or horns as signals of warning in

case of peril or fire, collision, or other imminent danger.

105-34. Carrying Dangerous Weapons.

1. PROHIBITED. a. Except as provided under state law and this code, it shall be unlawful for any person except a peace officer to go armed with a concealed and dangerous weapon within the city of Milwaukee.

b. Unlawful carrying of weapons by licensees.

b-1. With the exceptions provided in par. b-2, it shall be unlawful for any licensee or out-of-state licensee to carry a permitted weapon or a firearm that is not a permitted weapon in any of the following places:

b-1-a. Any portion of a building that is a police station, sheriff's office, state patrol station, or the office of a division of criminal investigation special agent of the Wisconsin department of justice.

b-1-b. Any portion of a building that is a prison, jail, house of correction, or secured correctional facility.

b-1-c. Any portion of a building that is a county, state, or federal courthouse.

b-1-d. Any portion of a building that is a municipal courtroom if court is in session.

b-1-e. Any place beyond a security checkpoint in an airport.

b-2. The prohibitions under par. b-1 do not apply to any of the following:

b-2-a. A permitted weapon in a vehicle driven or parked in a parking facility located in a building that is used as, or any portion of which is used as, a location under par. b-1-a.

b-2-b. A permitted weapon in a courthouse or courtroom if a judge who is a licensee is carrying the weapon or if another licensee or out-of-state licensee, whom a judge has permitted in writing to carry a weapon, is carrying the weapon.

b-2-c. A permitted weapon in a courthouse or courtroom if a district attorney, or an assistant district attorney, who is a licensee is carrying the weapon.

1.5. EXEMPTION. This section shall not apply to employees and agents of Milwaukee county while they are on property owned by Milwaukee county under the control of General Mitchell International Airport or Timmerman Field.

2. DEFINITIONS. For purposes of this section:

a. "Carry" means to go armed with.

b. "Dangerous weapon" means any device designed as a weapon and capable of producing death or great bodily harm, any electric

weapon as defined in s. 941.295(1c), Wis. Stats., and any similar electronic control device, or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm. The following are dangerous per se: blackjack, billy, standclub, sandbag, bludgeon, nunchaku sticks, throwing stars, sling shot, slung shot, any instrument which impels a missile by compressed air, spring or other means, any weapon in which loaded or blank cartridges are used, crossknuckles, knuckles of any metal, barbed or blade type arrowhead, bowie knife, dirk knife, dirk, dagger, switch blade knife or any knife which has a blade that may be drawn without the necessity of contact with the blade itself or is automatically opened by pressure on the handle or some other part of the knife and is commonly known as a switch blade knife, straight-edge razor or any other knife having a blade 3 inches or longer.

c. "Handgun" means any weapon designed or redesigned, or made or remade, and intended to be fired while held in one hand and to use the energy of an explosive to expel a projectile through a smooth or rifled bore. "Handgun" does not include a machine gun, a short-barreled rifle or a shortbarreled shotgun, as defined in ss. 941.27 and 941.28, Wis. Stats.

d. "Firearm" means a handgun, rifle or shotgun which acts by force of gunpowder or explosive to expel a projectile through a smooth or rifled bore, excluding air guns, ammunition, antique firearms or any device which is neither designed nor redesigned for use as a weapon including signaling, pyrotechnic, line throwing, safety or fastening devices.

e. "Licensee" means an individual holding a valid license to carry a concealed weapon issued under s. 175.60, Wis. Stats.

f. "Out-of-state license" means a valid permit, license, approval, or other authorization issued by another state as defined in s. 175.60(1)(f), Wis. Stats.

g. "Peace officer" means any person employed by the state of Wisconsin or any political subdivision of the state, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances he or she is employed to enforce.

h. "Permitted weapon" means a handgun, an electric weapon, as defined in s. 941.295(1c), Wis. Stats., a knife other than a switchblade knife under s. 941.24, Wis. Stats., or a billy club, carried lawfully under license as provided in s. 175.60, Wis. Stats.

3. PENALTY. a. Any person violating sub. 1-a shall, upon conviction thereof:

a-1. Forfeit not less than \$200 nor more than \$500, and the costs and disbursements of the prosecution, with respect to going armed with a concealed and dangerous weapon other than a firearm and, in default of payment, may be imprisoned as provided by law.

a-2. Forfeit not less than \$500 nor more than \$1,000, and the costs and disbursements of the prosecution, with respect to going armed with a concealed firearm without a permit, and in default of payment, may be imprisoned as provided by law.

b. Any person violating sub. 1-b shall, upon conviction thereof forfeit not less than \$200 nor more than \$500 and the costs and disbursements of the prosecution and, in default of payment, may be imprisoned as provided by law.

c. For offenses occurring between the hours of 8:00 p.m. and 5:00 a.m. and upon a street designated as a cruising area under s. 101-20.5 including the land within the street lines whether or not improved, forfeit not less than \$300 nor more than \$500, and the costs and disbursements of prosecution, with respect to going armed with a concealed and dangerous weapon other than a firearm pursuant to sub. 1, and in default thereof, may be imprisoned as provided by law.

d. For offenses occurring between the hours of 8:00 p.m. and 5:00 a.m. and upon a street designated as a cruising area under s. 101-20.5 including the land within the street lines whether or not improved, forfeit not less than \$750 nor more than \$1,000, and the costs and disbursements of prosecution, with respect to going armed with a concealed firearm pursuant to sub. 1, and in default thereof, may be imprisoned as provided by law.

4. MISCELLANEOUS FIREARM OFFENSES. a. The following are prohibited:

a-1. The sale, possession, use or transport of any machine gun or other full automatic firearm in violation of s. 941.26, Wis. Stats.

a-2. The sale or offering to sell, transport, purchase, possess or go armed with a short-barreled rifle or short-barreled shotgun in violation of s. 941.28, Wis. Stats.

a-3. Possession of a firearm in violation of s. 941.29, Wis. Stats., prohibiting certain felons and other persons from possessing a firearm.

a-4. Possession of body armor in violation of s. 941.291, Wis. Stats.

a-5. Possession or use of armor-piercing ammunition in violation of s. 941.296, Wis. Stats.

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a-6. The sale, delivery or possession of a firearm silencer in violation of s. 941.298, Wis. Stats.

b. Any person violating par. a shall, upon conviction thereof, forfeit not less than \$1,000 nor more than \$5,000, and the costs and disbursements of the prosecution and in default of payment, may be imprisoned as provided by law.

105-34.4. Use of Fire Bombs. 1. PROHIBITED. No person shall make, carry, possess, sell, give, or use any type of "Molotov cocktail," which is defined to mean a flammable-liquid filled bottle or container with a fuse, wick or any other type of ignition or detonating device, flammable liquid fire bomb, or any other device or missile which can be ignited and cause ignition of any premises or material or which can cause damage by explosion.

2. PENALTY. A violation of this section shall be punishable upon conviction by a fine of not less than \$500 nor more than \$1,000 or in lieu of nonpayment or default of such fine, costs and disbursements, by imprisonment in the Milwaukee county jail or house of correction for a period of not less than 90 days nor more than 180 days.

105-35. Discharge of Firearms. 1. POLICE PERMIT. No person shall fire or discharge any cannon, gun, fowling piece, pistol, firearm, air rifle, air gun of any description, or any instrument which impels a missile or pellet by compressed air, spring or other means, within the limits of the city; provided, however, that the chief of police may from time to time issue to an authorized person or authority a permit for a specified purpose and period of time to use, fire and discharge any of the aforesaid weapons or instruments within the limits of said city.

1.5 EXEMPTION. This section shall not apply to employees and agents of Milwaukee county while they are on property owned by Milwaukee county under the control of General Mitchell International Airport or Timmerman Field.

2. REVOCATION. Any such permit may be revoked by said chief of police at any time. No such permit shall be transferred.

105-36. Archery Ranges (Bow and Arrow).

1. DESIGNATED AREAS ONLY. No person shall shoot with or discharge in or upon any street, alley, public grounds or parks within the city any bow, spring gun or other similar device which is calculated or intended to propel or project an arrow or other projectile, nor in or upon any private grounds or building where the projectile propelled or discharged by the use of such bow or similar device may endanger the life, limb or property of another, or will

traverse any part of any street, alley, public grounds or parks; provided, however, that nothing in this section shall prevent the shooting with or discharging of bows or implements used in the practice of archery or implements for propelling arrows in or upon such properly supervised public areas as may be set aside and designated for that purpose by proper authority having jurisdiction and control over such public areas, or in or upon properly supervised private archery ranges constructed and maintained in such a manner as not to endanger life, limb or property, or to any shooting galleries using air rifles, when such shooting galleries are constructed and maintained as required by the commissioner of neighborhood services so as not to endanger life, limb or property.

1.5. EXEMPTION. This section shall not apply to employees and agents of Milwaukee county while they are on property owned by Milwaukee county under the control of General Mitchell International Airport or Timmerman Field.

2. PENALTY. It shall be mandatory that any person violating this section shall have the bow and arrow confiscated by the police department regardless of whether or not a fine is imposed. Any person violating this section shall be punished by a fine of not less than \$1 nor more than \$10 or by imprisonment in the house of correction of Milwaukee county for not less than 5 days nor more than 30 days, or by both such fine and imprisonment for each offense.

105-37. Hunting with Bow and Arrow or Crossbow. 1. RESTRICTION.

Notwithstanding any other provision of this code to the contrary, no person shall hunt with a bow and arrow or crossbow within the city within 100 yards from a building located on the property of another person's land. This restriction does not apply if the person who owns the land on which the building is located allows the hunter to hunt within the specified distance of the building.

2. DISCHARGE OF ARROW OR BOLT. No person who hunts with a bow and arrow or crossbow shall discharge the arrow or bolt in any direction, except toward the ground.

3. PENALTY. Any person violating this section shall be subject to a forfeiture of not less than \$25 nor more than \$100, and, in default of payment, may be imprisoned as provided by law.

105-39. Regulations for Shooting Galleries (Firearms). 1. LICENSE REQUIRED. No premises shall be used or permitted to be used,

leased or hired as a shooting gallery or place to practice target shooting, wherein firearms shall be discharged, without being duly licensed therefor. No license shall be required for a shooting range located on premises owned or operated by the United States, state of Wisconsin, Milwaukee county or city of Milwaukee and used for professional training purposes.

2. AUTHORIZING AGENT. No corporation, firm, association or club shall be granted a license to conduct in any manner a shooting gallery or place to practice target shooting within the limits of the city except to an agent thereof first duly appointed by it, who is, at the time of filing an application, an officer, manager or member thereof, and who shall have vested in him or her by properly authorized and executed written delegation full authority and control of the premises described in the license and of the conduct of all business and acts therein in any way relating to firearms and the use thereof or the shooting gallery or target shooting and who shall, with respect to his or her qualification, be satisfactory to the chief of police and the common council. Such agent shall be personally responsible for compliance with all the terms and provisions of this section.

4. FEE. See ch. 81 for the regular required license fee.

105-40. Application for License. 2. TO BE FILED WITH CITY CLERK. a. Application for a license for any specific premises sought to be used as a shooting gallery or place to practice target shooting shall be made on forms provided by the city clerk and accompanied by the entire license fee. Said application shall contain the following information:

- a-1. Name and age of applicant, whether a firm, association, corporation or club.
- a-2. Address of applicant.
- a-3. Location and description of premises sought to be licensed.
- a-4. Qualifications of licensee.
- a-5. Name of agent.
- a-6. Qualifications of agent.
- b. No application shall be submitted to the common council unless said application shall have been approved by the chief of police and commissioner of neighborhood services. No premises shall be licensed unless constructed in accordance with the specifications set forth in s. 105-41.

105-41. Specifications. 1. USE AND CONSTRUCTION. The room, place or enclosure wherein the firing of firearms is to take place shall not be used for any other purpose whatsoever during the

progress of firing. The rear wall and side walls in front of the firing line shall be made bullet proof and shall be of at least the following construction:

- a. 8 inch solid masonry or concrete.
- b. 10 inch hollow concrete block.
- c. Wood stud and plaster walls or equivalent construction covered with 1/4 inch steel plate and faced with wood one inch thick.

2. BULLET PROTECTING PLATES.

a. When the floor construction is other than reinforced concrete and there is a room below, such floor in front of the firing line for a distance of at least 10 feet shall be covered with a steel plate not less than 1/4 inch in thickness. When there is no room below such floor, the thickness of such steel plate may be 1/16 inch in order to provide fire protection for unburned powder.

b. When the ceiling construction is of other than reinforced concrete and there is a room above, such ceiling in front of the firing line for a distance of at least 10 feet shall be covered with a steel plate not less than 1/4 inch in thickness.

c. Exposed pipes, conduits, beams, pilasters, columns, lights or any other projecting surface in front of the firing line shall be provided with protecting steel plates not less than 1/4 inch in thickness faced with wood 2 inches in thickness to prevent damage by stray bullets and to prevent injury to persons by ricocheting bullets. These plates shall be set at such an angle that no bullet can possibly return towards the firing point.

3. DOOR AND WINDOW OPENINGS.

a. All door, window or other openings in the range, in front of the firing line, shall be protected with 1/4 inch steel plate faced with wood one inch thick.

b. All doors opening into the range, except those behind the firing line, shall be bolted from the inside.

4. BULLET STOPS. a. The bullet stop shall consist of a steel plate placed at an angle of 45° and running the width of the range. When only .22 caliber ammunition is used, the plate shall be 3/8 inch thick if of structural steel or 1/4 inch thick if of armor plate. The thickness shall be increased to 1/2 inch structural steel or 3/8 inch armor plate if .38 caliber or .45 caliber ammunition is used.

b. The plates of the bullet stop shall be butted tightly together and bolted to an angle or tee at the joints using countersunk heads on the face. Shiplap joints or welded joints can be used also. Targets should not be mounted in front of any joints.

c. The side walls at the bullet stop shall be covered by 1/4 inch steel plate, not less than 2

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feet wide, and slanting with the bullet stop to protect the walls from the splatter of lead.

d. At the base of the inclined bullet stop there shall be provided a box, not less than 5 feet wide and running the width of the range, with not less than 6 inches of clean sand or sawdust to catch the deflected bullets.

5. TARGETS. a. Targets shall be stationary bull's-eye type. All moving targets are prohibited.

b. There shall be provided a target carrier system or device for running the targets back and forth between the firing line and the bullet stop which will eliminate the necessity of anyone going in front of the firing line during the progress of firing for the purpose of changing targets.

6. FIRING LINE. At the firing line a bench, shelf or other separation, not less than 3 feet high and running the width of the range, shall be provided. The lower part of such bench, shelf or other separation shall be open to permit shooting under it in the kneeling, sitting, or prone position. No person, except the person in charge, shall be permitted in front of the firing line during the progress of firing.

7. SOUND QUIETING TREATMENT. Shooting premises, located adjacent to premises used in whole or in part for residence purposes, shall not be offensive by reason of the emission of noise to the outdoors. In such cases, where the noise of firing is conveyed to the outdoors, the walls and ceiling of the shooting premises or range shall be covered with sufficient sound absorbing material to eliminate the nuisance, or sound absorbing boxes, in which the muzzle of the gun is inserted before firing, shall be used.

105-42. Penalty. Any person, corporation, firm, association or club violating the provisions of ss. 105-39 to 105-41 shall be punished by a fine of not more than \$100 for each offense together with the cost of prosecution, and in default of payment thereof shall be imprisoned in the county jail or house of correction of Milwaukee county until such fine and costs are paid, such imprisonment not to exceed 60 days; and in addition thereto a licensee shall forfeit any license issued hereunder without further notice and no license shall thereafter be granted such person, corporation, firm, association or club for a period of one year from the date of such revocation.

105-43.2. Waiting Period Required for Transfer of Handguns. No dangerous weapon dealer shall transfer possession of any handgun to any person other than a dealer for 48 hours following application

for sale or transfer of such handgun unless the period for receipt of a confirmation number from the Wisconsin department of justice is extended as provided in s. 175.35(2g)(c)4.c, Wis Stats., and then not until a confirmation number has been received or the extended period has expired, which first occurs.

105-45. Sale, Possession and Use of Laser Pointers. 1. DEFINITIONS. In this section:

a. "Laser pointer" means any hand-held device that emits light amplified by the stimulated emission of radiation which is visible to the human eye.

b. "Person" means an individual, firm, partnership, corporation or association.

2. PROHIBITED USE. No person may intentionally, and without good cause, direct a beam from a laser pointer at any part of the body of another individual.

3. SALES TO MINORS. No person, except a parent or legal guardian, employer, teacher or other person authorized to supervise minors, may sell or give away or in any way furnish a laser pointer to any person under the age of 18.

4. POSSESSION BY MINORS. No person under the age of 18 may possess a laser pointer in a public or private place, without the express permission of the owner or operator of the property.

5. RETAIL SALES REGULATIONS. Each person that owns, conducts, operates or manages a retail commercial establishment selling laser pointers shall:

a. Place a sign in the direct view of persons responsible for accepting customer payment for laser pointers stating:

SELLING LASER POINTERS TO PERSONS UNDER 18 YEARS OF AGE IS AGAINST THE LAW. VIOLATORS CAN BE FINED UP TO \$5,000 OR IMPRISONED UP TO 90 DAYS.

b. Display laser pointers in one of the following ways:

b-1. Display laser pointers in such a manner as to make them inaccessible to a customer present in the area allocated for customer use without assistance from an employee of the establishment.

b-2. Display laser pointers in such a manner that cameras or personnel can readily observe customers during all times the establishment is open to the public. Observation by personnel may be facilitated by mirrors.

6. PENALTIES. a. Any person convicted of violating sub. 4 shall forfeit \$200 per violation.

b. Any person convicted of violating any provision of this section except sub. 4 shall forfeit not less than \$500 nor more than \$5,000 per violation or, upon default of payment, be imprisoned for not more than 90 days.

105-46. Sale of Motorized Scooters.

1. **DEFINITION.** In this section, "motorized scooter" means a vehicle which is designed and built to be stood or sat upon by the operator and that has 2 small-diameter wheels in tandem, upright t-shaped handlebars, and is powered by an internal combustion engine or electric motor that is capable of propelling the device with or without human propulsion. For the purposes of this section, an electric personal assistive mobility device, a moped, a motor bicycle or a motorcycle, as defined under s. 340.01, Wis. Stats., is not a motorized scooter.

2. **POSTING OF NOTICES TO BUYERS REQUIRED.** Every retail commercial establishment selling motorized scooters shall have posted on the premises in a prominent and conspicuous manner at or near the display of such item a placard stating as follows: "IMPORTANT NOTICE TO POTENTIAL MOTORIZED SCOOTER BUYERS: The operation of motorized scooters upon public roadways, bicycle ways and sidewalks is against the law. Motorized scooters may only be operated with permission on private property, and on private roads and driveways."

3. **SIGNED STATEMENT REQUIRED.** Every retail commercial establishment selling motorized scooters shall obtain from every person buying a motorized scooter a signed statement on forms provided by the city clerk stating that the buyer is aware that motorized scooters cannot be operated within the city on public roadways, bicycle ways and sidewalks, as set forth in chs. 341 and 346, Wis. Stats., as amended. The seller must retain the statement for a period of not less than one year from the date of sale.

4. **PENALTY.** Any person convicted of violating any provision of this section, shall forfeit not less than \$500 nor more than \$5,000 per violation, or upon default of payment be imprisoned in the house of correction or the county jail for not more than 90 days or until such forfeiture costs are paid.

105-47. Fireworks. 1. **SALES, DISCHARGE AND USE PROHIBITED.** No person may sell, expose or offer for sale, use, keep or discharge, or explode in this city any firecracker, bottle rocket, cherry bomb, colored smoke bomb, toy cap, blank cartridge, toy

pistol or cannon in which explosives are used, contrivances using explosive caps or cartridges, sparklers, display wheels, the type of balloon which requires fire underneath to propel it, torpedoes, sky rockets, Roman candles, aerial salutes, American or Chinese bombs or other fireworks of like construction, or any other fireworks containing any explosives of like construction, or any fireworks containing any explosives of flammable compound, or any tablets or other device commonly used and sold as fireworks containing nitrates, chlorates, oxylates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorous, or any compound containing any of the same or other explosives.

2. **STORAGE AND WHOLESALING.** This section does not prohibit any resident, wholesaler, dealer or jobber firm from selling fireworks at wholesale, provided they are shipped or delivered directly outside the city limits.

3. **PENALTY.** a. Any person violating this section shall upon conviction forfeit not less than \$500 nor more than \$1000, and upon default thereof shall be imprisoned in the county jail or house of correction for a period not to exceed 40 days, or until the forfeiture costs are paid.

b. A parent or legal guardian of a minor who consents to the use of fireworks by the minor shall forfeit not more than \$1000, and upon default thereof shall be imprisoned in the county jail or house of correction for a period not to exceed 40 days, or until the forfeiture costs are paid.

105-48. Smoking Prohibited. 1. **ADOPTION OF STATE LAW.** The city adopts the provisions of s. 101.123, Wis. Stats., regulating smoking except as otherwise provided in city provisions not in conflict with s. 101.123, Wis. Stats., or other state statutes or administrative rules.

2. **DEFINITIONS.** In this section:

a. "City building," as referenced in s. 101.123(2)(a)8r, Wis. Stats., means a building, or portion of any building, owned or leased by the city including any enclosed walkway connecting city buildings or structures.

b. "Enclosed place" means all space between a floor and ceiling that is bounded by walls, doors, or windows, whether open or closed, covering more than 50 percent of the combined surface area of 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.

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3. EXCEPTIONS. Prohibitions against smoking shall not apply to any of the following:

- a. A private residence.
- b. A room used by only one person in an assisted living facility as his or her residence.
- c. A room in an assisted living facility in which 2 or more persons reside if every person who lives in that room smokes and each of those persons has made a written request to the person in charge of the assisted living facility to be placed in a room where smoking is allowed.
- d. A retail tobacco store that has been in existence since June 3, 2009, and in which the smoking of cigars and pipes has been allowed.
- e. A tobacco bar that has been in existence since June 3, 2009, and in which only the smoking of cigars and pipes has been allowed.

4. ELECTRONIC CIGARETTES. Prohibitions against smoking under this section shall include use of an electronic smoking device and electronic smoking device paraphernalia, as defined in s. 106-30.2-1.

5. PENALTIES. a. Any person violating the state prohibition against smoking in enclosed places or upon those unenclosed spaces identified in s. 101.123(d) and (e), Wis. Stats., shall be subject to a forfeiture of not less than \$100 nor more than \$250, and upon failure to pay the forfeiture, may be subject to not less than 2 nor more than 5 days of confinement in the county jail or house of correction.

b. Any person in charge of property as defined in s. 101.123(1)(d) Wis. Stats., who violates the provisions of s. 101.123(2m)(b) to (d), Wis. Stats., shall be subject to a forfeiture of \$100 and, upon failure to pay the forfeiture, may be confined in the county jail or house of correction for a period of 2 days. No person may be held subject to more than \$100 total forfeiture for violations occurring on the same calendar day. For violations subject to the forfeiture provided in this paragraph, no citation shall be issued to a person in charge who has not received a prior written warning notice.

c. Any person using an electronic smoking device as defined in s. 106-30.2-1 in a place where smoking cigarettes is prohibited by state law shall upon conviction forfeit not less than \$100 nor more than \$250.

d. Any person using electronic smoking device paraphernalia as defined in s. 106-30.2-1 in a place where smoking cigarettes is prohibited by state law shall upon conviction forfeit not less than \$100 nor more than \$250.

105-49. Smoking Prohibited on City Property.

1. SMOKING PROHIBITED UPON UNENCLOSED CITY PROPERTY. a. The commissioner of public works may designate unenclosed properties owned or leased by the city as areas where smoking is prohibited for the purpose of protecting and preserving the health and comfort of the public.

b. Smoking or carrying, possessing, or being in control of any lit tobacco product is prohibited within 30 feet of any public building owned or leased by the city.

2. STATE SIGNAGE REQUIREMENTS. Signs setting forth the prohibition against smoking shall comply with requirements established by the state of Wisconsin department of safety and professional services, if any, and shall include information reasonably sufficient to inform individuals of the physical area within which smoking shall not be permitted. It is a violation of this section for an individual, following warning by any city employee or by any member of the public, to continue smoking within the posted area.

3. DESIGNATION OF OUTSIDE SMOKING AREAS. Notwithstanding any other provision of this section, any person in charge of a restaurant, tavern, private club or retail establishment may designate an outside area that is a reasonable distance from any entrance to the restaurant, tavern, private club or retail establishment where customers, employees, or persons associated with the restaurant, tavern, private club or retail establishment may smoke as provided in s. 101.123(4m), Wis. Stats., governing local authority to regulate smoking on public property. Any person in charge of a restaurant, tavern, private club or retail establishment that designates an area for smoking which is a reasonable distance from any entrance to a restaurant, tavern, private club or retail establishment shall assure that the designated area is kept free of litter including cigarette butts or other tobacco products.

4. ELECTRONIC CIGARETTES. Prohibitions against smoking on city property under this section shall include use of an electronic smoking device and electronic smoking device paraphernalia, as defined in s. 106-30.2-1.

105-49.5. Use of Smokeless Tobacco Products Prohibited. 1. DEFINITIONS. In this section:

a. "Person in charge" means the person, or his or her agent, who ultimately controls, governs or directs the activities at a sporting event venue where the use of smokeless tobacco is prohibited under this section.

b. "Smokeless tobacco" means any product that contains cut, ground, powdered or leaf tobacco and is intended to be placed in the oral or nasal cavity for purposes other than smoking, including chewing tobacco, dipping tobacco, dissolvable tobacco products, snuff and snus, but does not include any product that has been approved by the U.S. Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

c. "Sporting event venue" means any venue in which sporting events occur. This includes the entire physical area in which the sporting event occurs, including open, semi-open and enclosed spaces and structures, playing fields, dugouts, bullpens, training rooms, locker rooms, team bench areas, spectator seating areas, pedestrian walkways, bathrooms, dining areas, vendor areas, offices, recreational areas, parking lots and designated tailgating areas.

d. "Sporting event" means any professional, collegiate, high school or organized amateur game or athletic competition organized by a league or association of persons, including but not limited to baseball, softball, football, basketball, hockey, track and field, field hockey, lacrosse or soccer.

2. USE OF SMOKELESS TOBACCO PROHIBITED. The use of smokeless tobacco is prohibited at sporting event venues.

3. RESPONSIBILITY OF PERSONS IN CHARGE.

a. No person in charge may allow any person to use smokeless tobacco in violation of sub. 2 at a location that is under the control or direction of the person in charge.

b. A person in charge shall comply with par. a by doing all of the following:

b-1. Posting signs setting forth the prohibition and providing other appropriate notification and information concerning the prohibition.

b-2. Refusing to serve food or drink to a person who is in violation of sub. 2.

b-3. Asking a person who is in violation of sub. 2 to refrain from using smokeless tobacco and, if the person refuses to do so, asking the person to leave the sporting event venue.

b-4. If a person refuses to leave a sporting event venue after being requested to do so as provided in subd. 3, the person in charge shall immediately notify an appropriate law enforcement agency of the violation.

4. PENALTIES.

a. Any person violating the prohibition set forth in sub. 2 shall be subject to a forfeiture of not less than \$100 nor more than \$250.

b. Except as provided in par. c or d, any person in charge who violates sub. 3 shall be subject to a forfeiture of \$100 for each violation.

c. For violations subject to the forfeiture under par. b, if the person in charge has not previously received a warning notice for a violation of sub. 3, the law enforcement officer shall issue the person in charge a warning notice and may not issue a citation.

d. No person in charge may be required under par. b to forfeit more than \$100 in total for all violations of sub. 3 occurring on a single day.

105-50. Synthetic Marijuana 1. POSSESSION, SALE AND USE PROHIBITED. No person shall possess, purchase, display for sale, attempt to sell, sell, give, barter or use any chemical derivative of marijuana, or any other substance, designed to mimic the physical, psychological, intoxicating, narcotic or other effects of marijuana.

2. MEDICAL AND DENTAL USE ALLOWED. Acts prohibited under par. 1 shall not be unlawful if done by or under the direction or prescription of a licensed physician, dentist, or other medical health professional authorized to direct or prescribe such acts, provided use is permitted under state and federal laws.

3. PENALTIES. Persons violating this section shall be subject to a forfeiture of not less than \$100 nor more than \$500 together with the cost of prosecution, and upon default shall be imprisoned in the county jail or house of correction for a period not to exceed 40 days, or until the forfeiture costs are paid.

105-51. Hate Literature. 1. DEFINITIONS. The word "person" when used in this section shall mean any person, individual, firm, partnership, corporation, organization or any officer, employee or agent thereof.

2. ANONYMOUS PUBLICATIONS PROHIBITED. It shall be unlawful for any person to print, post, publish, distribute, exhibit or cause to be printed, posted, published, distributed or exhibited, by any means or in any manner whatsoever, any handbill, dodger, circular, booklet, pamphlet, leaflet, card, sticker, periodical, pictorial print, picture, painting, literature or paper which tends to expose any individual or any racial or religious group to hatred,

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contempt, ridicule or obloquy, or tends to incite religious or racial hatred, unless the same has clearly printed or written thereon:

a. The true name and post office address of the person, individual, firm, partnership, corporation, or organization causing the same to be printed, posted, published, distributed or exhibited; and

b. If such name is that of a firm, corporation, or organization, the name and post office address of any individual acting in its behalf in causing such printing, posting, publication, distribution or exhibition.

3. PENALTY. Any person who shall violate, or cause to be violated, any provisions of this section shall upon conviction thereof be fined not less than \$10 nor more than \$500 together with the costs of prosecution, and, in default of payment of either such fine or costs, shall be confined in the house of correction of Milwaukee county for not less than 10 days and not more than 6 months.

105-52. Kratom and Kava Prohibited

1. POSSESSION, SALE, AND USE PROHIBITED. No person shall possess, purchase, display for sale, attempt to sell, sell, give, barter or use any chemical derivative of kratom or kava.

2. MEDICAL AND DENTAL USE ALLOWED. Acts prohibited under par. 1 shall not be unlawful if done by or under the direction or prescription of a licensed physician, dentist, or other medical health professional authorized to direct or prescribe such acts, provided use is permitted under state and federal laws.

3. PENALTIES. Any person violating this section shall, upon conviction, be subject to a forfeiture of not less than \$100 nor more than \$500 together with the cost of prosecution, and upon default shall be imprisoned as provided by law.

105-53. Entrance to Government Pier.

1. WARNING SIGNS. It shall be unlawful for any person to enter upon or remain on the government breakwater, known as government pier, located in the McKinley beach area at the point where E. Brady Street extended east intersects the shore of Lake Michigan, at such times as warning signals or signs are displayed at or near the entrances indicating admission onto the breakwater as closed to all persons. Such warning devices shall consist of a red

light, the sounding of a siren, or the posting of a sign at or near the entrances to the government breakwater. Nothing contained in this section shall be construed as to interfere with interstate commerce or with the federal government's paramount right to the use of said government breakwater.

2. PENALTY. Any person who violates the provisions of this section shall be punished by a fine of not less than \$10 nor more than \$50 or by imprisonment in the house of correction of Milwaukee county for not more than 30 days.

105-55. Soliciting of Magazines on Public Streets.

1. UNLAWFUL. It shall be unlawful to engage in the business of soliciting or taking subscriptions for any magazines or periodicals for future delivery in or upon any public street or alley, or sidewalk, or in any area or doorway or entranceway immediately abutting thereon.

2. PENALTY. Any person who shall violate any of the provisions of this section shall, upon conviction thereof, be punished by a fine not to exceed \$100, or, in default of payment thereof, be committed to the county jail or house of correction of Milwaukee county not to exceed 30 days or until such fine and costs shall have been paid.

105-55.5. Special Event Permits.

1. DEFINITIONS. In this section:

a. "Class AA event" means a special event authorized by the common council and mayor by separate agreement or resolution for purposes of safely facilitating large public gatherings of people by restricting vehicular and pedestrian access and use within a designated area larger than one contiguous city block and within a defined timeframe in excess of 2 days, and that requires more than 150 hours of services as determined and documented by the police department and the department of public works based on the size, nature and location of the event.

b. "Class A event" means a special event, other than a Class AA event, requiring at least 100 hours of service as determined by the police department, based on the size, nature and location of the event.

c. "Class B event" means a special event requiring a minimum of 25 and a maximum of 99 hours of service as determined by the police department, based on the size, nature and location of the event.

d. "Class C event" means a special event requiring less than 25 hours of service as determined by the police department, based on the size, nature and location of the event.

e. "Class D event" means a special event requiring no hours of service as determined by the police department, based on the size, nature and location of the event, or:

e-1. Special events sponsored by the city or veterans groups.

e-2. Elementary and secondary school events under the direction and supervision of school authorities.

e-3. Demonstrations conducted for the purpose of indicating approval or disapproval of governmental policies or practices, expressing a view on public issues, or bringing into public notice any issue or other matter.

f. "Special event" means any planned extraordinary, temporary use of the public right-of-way or public premises, including sidewalks, streets, alleys, designated parking spaces and loading zones, or any other public space under the jurisdiction of the department of public works, for any of the following:

f-1. A parade, procession, demonstration, race or festival.

f-2. A block party for residents of one contiguous block.

f-3. A photo, film or video shoot.

f-4. The parking, loading, unloading and idling of motor buses, semi-truck tractors and trailers, cargo trucks, passenger or cargo vehicles, or cargo trailers associated with an event at a licensed public entertainment premises or other permitted event, or associated with nearby lodging or a civic, social, familial or business event.

f-5. The storage of equipment, materials or supplies associated with an event at a licensed public entertainment premises or other permitted event or associated with nearby lodging or a civic, social, familial or business event.

f-6. A school recess play area.

f-7. A pedestrian and vehicular traffic safety zone imposing directional requirements and exclusive use and access restrictions.

2. APPLICATION.

a. Filing of Application. Any person, group, organization or association, other than a city official for city business, desiring to hold a special event on the public right-of-way or public premises

shall make written application and file same in duplicate with the commissioner of public works not less than 7 calendar days prior to Class D events, except not less than 2 working days prior to demonstrations as specified in sub. 1-e-3; not more than 365 nor fewer than 60 days prior to Class A, B, and C events; and not more than 365 nor fewer than 90 days prior to Class AA events and to Class A, B and C events classified as "downtown events." For purposes of this section, "downtown events" are those special events to be held on the public right-of-way or public premises in the area bounded by St. Paul Avenue on the south and Juneau Avenue on the north, Prospect Avenue on the east and north 10th Street on the west, and shall also include the Civic Center Plaza, bounded by west Wells Street on the south and west State Street on the north, north 7th Street on the east and north 9th Street on the west.

b. Contents of Application. The application shall contain the following information:

b-1. The name, address, home and business telephone numbers of the applicant, or if the applicant is an organization, the name, address, home and business telephone numbers of the authorized representative of the organization who will be responsible for the conduct of the special event.

b-2. The date on which the special event is to be conducted and the hours when such special event is expected to start and terminate.

b-3. A detailed map of the proposed route.

b-4. The approximate number of persons, animals and vehicles which will be used in the special event and a brief description of the animals and vehicles.

b-5. A description of the portion of the width of the streets proposed to be traversed, and the location by street address of any assembly areas.

b-6. If an applicant for a permit will be conducting a street festival as defined in s. 95-1-2-j, the applicant shall provide a list of all persons and their respective permanent addresses, including peddlers and solicitors, who have obtained permission from the respective festival organization to sell goods or take orders for the later delivery of goods within the barricaded area of the street festival, no later than 2 working days prior to each event for all non-food vendors and 7 working days for food vendors.

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c. Approval or Denial of Permit. Upon receipt of a completed application, the commissioner shall submit the application for review to the chief of police and the common council members in whose districts the event is to occur. The police department, in consultation with the commissioner and the local common council member or members, shall determine the classification of each special event. The commissioner shall have the authority to modify the route, time and place of a special event to facilitate crowd control in the interest of relieving congestion and promoting public safety, provided that the applicant's right of free speech is not denied thereby. The commissioner shall issue a permit unless:

c-1. The special event is of such a size or nature requiring the diversion of so great a number of police officers, ambulances or other emergency services as to deny reasonable emergency services to the city as a whole.

c-2. The time, route, size and nature of the special event will unreasonably disrupt the safe and orderly use of any street or any public place, or material portion thereof, which is ordinarily subject to great congestion or traffic at the proposed time, or substantially interrupt the safe and orderly movement of other traffic.

c-3. The vehicles, equipment or other materials used in the special event do not comply with or meet all applicable health, fire and safety requirements.

c-4. The special event will interfere or conflict with another special event for which a permit has already been issued, or with a construction or public works project.

c-5. The conduct of the special event will be contrary to law, including noise regulations.

c-6. The application for the permit, including any required attachments and submissions, is not fully completed and executed.

c-7. The applicant has not tendered the required application fee with the application or has not tendered the required user fee, indemnification agreement, insurance certificate, or security deposit within the times prescribed by the commissioner of public works.

c-8. The application for permit contains a material falsehood or misrepresentation.

c-9. The applicant is legally incompetent to contract or to sue or be sued.

c-10. The applicant or the person on whose behalf the application for permit was made has on prior occasions damaged city property and has not paid in full for such damage.

c-11. The common council member in whose district the event is to occur, opposes the issuance of the permit based on guidelines specified in subds. 1 to 10.

d. Appeal of Permit Denials. The commissioner of public works shall grant or deny the application for a special event permit and notify the applicant of a denial within 3 working days after the filing of an application for a Class D special event permit, except as soon as possible but not more than one working day for demonstrations as specified in sub. 1-e-3 or within 30 working days after the filing of an application for a Class AA, A, B or C special event permit. Any applicant who has been denied a special event permit may upon written request filed with the city clerk within 10 calendar days of issuance of the denial, have the denial reviewed by the appropriate common council standing committee, which shall forward its recommendation to the common council for affirmation or reversal of the initial action on the application. Such determination by the common council shall constitute final action. If the committee and the common council are unable to convene prior to the proposed date of the special event, the applicant may seek judicial review of the denial.

e. Fees. The applicant for a special event permit shall pay the appropriate fee for the city services set forth in s. 81-114.6, no later than 3 days prior to the date of the special event. The commissioner of public works may establish fees for provision of additional city services requested by the applicant not set forth in s. 81-114-6. Permits shall be issued upon payment of appropriate fees.

f. Exemptions. A permit fee is not required for Class D events. The commissioner of public works may establish fees for provision of additional city services requested by the applicant not set forth in s. 81-114-6.

g. Refunds. Permit fee payments may be refunded, except for a \$50 permit processing fee, if an application for a special event permit is denied by the commissioner of public works or if notification of cancellation of a permitted special event is received by the department of public works is at least 10 working days prior to the scheduled event.

3. CONTENTS OF PERMIT. Each special permit shall state the following information:

- a. The name, address, home and business telephone numbers of the person or organization named on the permit.
- b. A description of activity for which the permit has been issued.
- c. The date, hour and location for the special event.
- d. The expiration time and date.
- e. When possible, the estimated attendance for the special event.
- f. Where applicable, the minimum and maximum speeds, and maximum intervals of space to be maintained by units of a parade.
- g. Portions of the streets that may be occupied by the special event.
- h. Such other information as the commissioner of public works shall find necessary to the enforcement of this section.

4. PERMIT REGULATIONS.

a. City Not Liable. The special event permit application shall contain a statement that: "The applicant agrees to indemnify and save harmless the city from and against all liabilities, claims, demands, judgments, losses and all suits at law or in equity, costs and expenses including reasonable attorney fees, for injury or death of any person or loss or damage to the property of any person, firm, organization or corporation, including both parties thereto and their employees, arising as a consequence of granting of the permit for such special event." No permit may be issued unless the applicant has agreed to the terms of this statement on the written application.

b. Insurance. b-1. Each applicant for a Class AA, A, B or C event shall furnish with the application fee submitted to the department of public works a certificate of insurance written by a company licensed in the state of Wisconsin, approved by the city and covering any and all liability or obligations which may result from the operations by the applicants' employees, agents, contractors or subcontractors, and including worker's compensation coverage in accordance with ch. 101, Wis. Stats. The certificate shall provide that the company will furnish the city with a 10-day written notice of cancellation, non-renewal or material change. The insurance shall be written in comprehensive form and shall protect the applicant and city against all claims arising from injuries to members of the public or damage to property of others arising out of any act or omission of the applicant, its employees, agents, contractors and subcontractors.

b-2. The policy of insurance shall provide minimum combined single limits for bodily injury and property damage of \$1,000,000, or such other insurance as deemed to be adequate by the city attorney.

c. No Discrimination. The special event permit application shall contain a statement that: "The applicant agrees that the sponsoring organization will not exclude any person from the public area described in the permit because of race, color, national origin or handicap." No permit may be issued unless the applicant has agreed to the terms of this statement on the written application.

5. PENALTY. Any person violating the provision of this section, upon conviction, shall forfeit a maximum of \$500 and the costs and disbursements of such action, and in default of payment thereof be confined in the county jail or house of correction for not more than 20 days, or until such forfeiture costs are paid.

105-56. Sales on Public Premises.

1. PURPOSE. It is determined and declared that the use of certain public premises for the specific public purposes to which such premises are intended is preeminent. It is further determined and declared that sales on the designated public premises interfere with their use for their intended purposes. It is further determined and declared that the use of the public sidewalk and streets outside of the entrance to the Wisconsin Center, the Auditorium, the Arena, the Milwaukee Public Museum, the Fiserv Forum, the Performing Arts Center, the Rave/Eagles Club, the Riverside Theater, Summerfest and American Family Field parking facilities, for sales interferes with the orderly ingress and egress to and from those premises and therefore with their use for their intended purposes.

2. REGULATIONS. a. It shall be unlawful for any person to sell or offer for sale any goods, merchandise, foodstuffs, tickets or any other articles of any kind on public premises reserved for specific public purposes and posted as such without the express written consent of the custodian of such premises.

b. It shall be unlawful for any person to sell, or offer to sell, any goods, merchandise, foodstuffs, tickets or any other article of any kind on any public street or public sidewalk within 500 feet of the premises of the Wisconsin Center, the Auditorium, the Arena, the Milwaukee Public Museum, the Fiserv Forum, the Performing Arts Center, the Rave/Eagles

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Club, the Riverside Theater, Summerfest or American Family Field parking facilities, for the period of time beginning 2 hours immediately before the commencement of any scheduled event therein and ending one hour immediately after the conclusion of the event. This paragraph does not apply to any sales or offers to sell on the premises listed.

3. EXCEPTIONS. Nothing in this section shall be construed to prohibit the resale of tickets to entertainment or sporting events at or below face value.

4. PENALTY. Any person convicted of violating any provisions of this section shall be fined not less than \$20 nor more than \$200 for each violation plus costs of prosecution. Each day's violation shall constitute a separate offense.

105-57. Sales on Public Right of Way (Special Events).

1. PURPOSE. It is determined and declared that the use of certain public right of way on the days on which certain special events listed in sub. 2 are scheduled for the specific public purposes to which the right of way is intended is preeminent. It is further determined and declared that sales on the designated public right of way in sub. 2 interferes with their use for their intended purposes. It is further determined and declared that the use of the public sidewalk and streets outside of the designated right of way for events listed in sub. 2 interferes with the orderly ingress and egress to and from those special events and therefore with their use for their intended purposes.

2. SPECIAL EVENTS; DESIGNATED RIGHT OF WAY. The right of way for Jazz in the Park, River Rhythms, the Westown Farmer's Market, and certain special events designated by the commissioner of public works shall be as described in the application for the special event permit issued by the department of public works.

3. REGULATIONS. a. It shall be unlawful for any person to sell, or offer to sell, any goods, merchandise, foodstuffs, tickets or any other article of any kind on any public street or public sidewalk within 500 feet of the right of way for special events designated in sub. 2, for the period of time beginning 2 hours immediately before the commencement of any scheduled event therein and ending one hour immediately after the conclusion of the event. This paragraph does not apply to any sales or offers to sell within the designated right of way of the special events listed in sub. 2.

b. An organization sponsoring a special event specified in sub. 2 shall assign locations to vendors for the event. All vendor vehicles or tents must be located at least 15 feet apart from each other.

4. EXCEPTIONS. Nothing in this section shall be construed to prohibit the resale of tickets to entertainment or sporting events at or below face value.

5. PENALTY. Any person convicted of violating this section shall be fined \$300 plus costs of prosecution, or in default of payment the violator shall be imprisoned for not more than 10 days.

105-59.5. Police Escorts. All requests for police escorts for funerals and other special events shall be made to the police department. Escorts shall be authorized at the discretion of the chief of police.

105-60. Abandoned Iceboxes or Refrigerators.

1. DECLARED A PUBLIC HAZARD. The abandonment or dangerous exposure of any icebox or refrigerator with its door, or doors, in normal latching or locking condition is declared to be a public nuisance and a serious menace to life because of the danger to children entering such iceboxes or refrigerators and becoming locked therein and suffocating.

2. REMOVAL OF LOCKS AND DOORS REQUIRED. It shall be unlawful for any person, firm or corporation to leave outside of any building or dwelling in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator, or any other container of any kind which has an airtight snap lock or other device therein without first removing the said snap lock or doors from said icebox, refrigerator or container.

3. PENALTY. Any person, firm or corporation violating any provisions of this section shall upon conviction thereof be punished by a fine not to exceed \$100, and in default of payment, by imprisonment in the county jail or house of correction of Milwaukee county for a period not to exceed 90 days. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

105-64. Vehicle Parking on Private Property.

1. Except as provided in sub. 2, no motor vehicle shall be left or parked within the front yard or the front, rear street, side street or side setback of the principal building of any residential property, including single family, 2-family and multi-family dwellings.

2. For single and 2-family dwellings, access drives may be used for parking, including access drives on setbacks. For multi-family dwellings, access drives within a front, side street or rear street setback shall not be used for parking.

3. A vehicle owner whose vehicle is parked in violation of this section shall be subject to a forfeiture of not less than \$50 nor more than \$500, together with the costs of prosecution, for each violation.

4. CITATIONS. In addition to other applicable enforcement procedures and pursuant to ch. 800, Wis. Stats., the commissioner of public works and the commissioner's designees may issue citations pursuant to the citation procedure in s. 50-25 to any person violating this section.

105-65. Control of Abandoned Motor Vehicles and Trailers.

1. ABANDONMENT PROHIBITED. No person shall abandon any motor vehicle or trailer on any highway or public or private property within the city, and no person shall leave any motor vehicle or trailer unattended on such highway or property within the city for such time and under such circumstances as to cause such motor vehicle or trailer reasonably to appear to have been abandoned. Motor vehicles or trailers which are in a condition of disrepair and lack valid registration plates shall be deemed to have been abandoned within the meaning of this section. Whenever any other motor vehicle or trailer has been allowed to remain standing on such highway or public property in the city for more than 72 hours after a police officer, or the commissioner of public works or the commissioner's designee placards the motor vehicle or trailer and 48 hours after mailing of a notice to the last known address of the owner, the same shall be deemed to have been abandoned within the meaning of this section. The notice shall inform the owner of the manner of avoiding a declaration of abandonment, of the means of reclaiming the motor vehicle or trailer should it be deemed abandoned, and of the availability of a review before the city attorney.

2. ABANDONED VEHICLES ON PRIVATE PROPERTY. Whenever any motor vehicle or trailer has been allowed to remain on any private property in ordinary public view without the consent of the property owner, or agent, and for longer than 72 hours after a police officer, or the commissioner of public works or the commissioner's designee placards the vehicle, said vehicle or trailer shall be deemed abandoned.

3. REMOVING AND IMPOUND- ING.

The chief of police or the commissioner of public works or any person acting on their behalf is authorized to remove or cause to be removed any motor vehicle or trailer which reasonably appears to be in violation of subs. 1 or 2, except that the removal of a motor vehicle or trailer in violation of sub. 1 may only be performed by or under the direction of a traffic officer or towing contractor under contract to the city. Whenever the vehicle reclamation charges as provided in s. 101-25-1 are paid, the vehicle shall as released to its owner. Whenever the citation upon which removal and storage is authorized is released by the chief of police, or by the city attorney after a review, or whenever the charge for which the citation upon which removal and storage is authorized is dismissed by the court, the commissioner of public works shall release the vehicle without payment of vehicle reclamation charges and shall refund any vehicle reclamation charges for such vehicle which shall have been previously paid.

4. DISPOSAL OF UNCLAIMED VEHICLES AND TRAILERS. a. As soon as practical after the removal, a duly authorized representative of the commissioner of public works shall appraise the value of the motor vehicle or trailer based on the prevailing salvage market.

a-1. If the commissioner or the commissioner's authorized representative determines that towing and storage charges exceed the value of the vehicle or trailer, the vehicle or trailer shall be retained in storage for a period of not less than 15 days after notice has been sent to the last known address of the owner of record to permit reclamation of the vehicle or trailer. The notice shall inform the owner of any rights to reclaim personal property, the amount of storage charges which are accruing and any right to reclaim the vehicle within the appropriate period. The commissioner or the commissioner's duly authorized representative may perform a salvage value appraisal of a vehicle or trailer.

a-2. If the commissioner of public works or the commissioner's authorized representative determines that the value of a motor vehicle or trailer, based on the prevailing salvage market, exceeds the towing and storage charges, or that the vehicle is substantially complete and in excess of 19 model years of age, the vehicle or trailer shall be retained in storage for a period of not less than 30 days after certified mail notice has been sent to the owners and lienholders of record to permit reclamation of the

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vehicle or trailer. The notice shall inform the owner or lienholder of record of any rights to reclaim personal property, the amount of storage charges that are accruing, and any right to reclaim the vehicle within the appropriate period. The notice shall set forth the year, make, model and serial number of the abandoned motor vehicle or trailer, the place where the vehicle or trailer is being held, and that the failure of the owner or lienholder to exercise his or her rights to reclaim the vehicle or trailer under this section shall be deemed a waiver of all right, title and interest in the vehicle or trailer and a consent to the sale or other disposal of the vehicle or trailer in the manner prescribed in par. b. Each retained vehicle or trailer not reclaimed by its owner or lienholder may be sold, scrapped or otherwise disposed of in a manner prescribed by the commissioner.

b. After the motor vehicle or trailer shall have been stored and notice given as provided for in par. a-1, and the vehicle or trailer shall not have been reclaimed, the commissioner of public works or a person authorized by the commissioner may sell or dispose of the vehicle or trailer unless it is a substantially complete vehicle older than 19 model years of age.

b-1. Notice of the sale shall be published in a daily newspaper having a general circulation in the city for 3 consecutive days, but the same notice may include one or more motor vehicles or trailers. Upon sale, the highest bid for any motor vehicle or trailer shall be accepted unless the highest bid is inadequate in the judgment of the commissioner in which event all bids may be rejected. In case all bids are rejected or no bid is received, the commissioner may, in his or her discretion, readvertise the sale or adjourn the same from time to time to a definite date each time, or sell, scrap or otherwise dispose of the motor vehicle or trailer without further public notice.

b-2. After the motor vehicle or trailer shall have been stored and notice given as provided for in par. a, the commissioner is authorized to make any motor vehicle or trailer remaining unclaimed available for use for municipal purposes, when deemed by the central board of purchases to be in the best interests of the city. No city department may use or remove from storage any unclaimed motor vehicle or trailer, for any purpose, without first obtaining approval from the central board of purchases. An inventory shall be maintained pursuant to s. 66.0139, Wis. Stats.

c. At any time prior to the removal of impounded motor vehicles or trailers which have been sold as herein provided, any person establishing his ownership or right of possession to such vehicle or trailer may reclaim and obtain possession of the same by satisfying the statutory lien for accrued storage, towing and other expenses incident to the care of the same. Whenever a vehicle or trailer is reclaimed under this paragraph, the commissioner shall refund any payment made by a purchaser for the reclaimed vehicle or trailer.

d. Following the city's sale of an abandoned motor vehicle or trailer as provided in par. b, the purchaser shall have 10 days to remove the vehicle or trailer from the storage area, but shall pay a reasonable storage fee established by the city for each day the vehicle remains in storage after the second business day subsequent to the sales date. Ten days after the sale, the purchaser shall forfeit all interest in the vehicle or trailer and the vehicle or trailer shall be deemed to be abandoned and may be sold again.

6. PENALTY. Any person violating sub. 1 or 2 shall be fined not less than \$10 nor more than \$200 and 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 fine and costs are paid, such imprisonment not to exceed 90 days.

7. CITATIONS. In addition to other applicable enforcement procedures and pursuant to ch. 800, Wis. Stats., the commissioner of public works and the commissioners designees may issue citations pursuant to the citation procedure in s. 50-25 to any person violating this section.

105-66. On-Street Motor Vehicle Repair.

1. PROHIBITED. No person shall use any street within the city as a site or place to repair, grease or lubricate any motor vehicle while said motor vehicle is parked, stopped or left standing, attended or unattended.

2. DEFINITIONS. For the purposes of this section "motor vehicle" shall mean a vehicle as defined in s. 340.01(35), Wis. Stats., and "street" shall mean a street as defined in s. 340.01(64), Wis. Stats.

3. DISABLED VEHICLES. This section shall not apply to emergency or temporary repairs as may be necessary to move such vehicle when such vehicle becomes disabled while on the street in such a manner or such an extent that it is impossible to avoid stopping or temporarily leaving the vehicle on the street.

3.5 ENFORCEMENT. The police department and the department of public works shall enforce this section.

4. PENALTY. Any person violating this section shall, upon conviction thereof, be subject to a forfeiture of not less than \$10, nor more than \$100, and in default of payment thereof, shall be imprisoned as provided by law. In addition, a citation may be issued for any violation of this section with or without prior notice, in accordance with s. 50-25.

105-67. Vehicle Glass Tinting. 1. DEFINITIONS. In this section:

a. "Tinted glass" means vehicle glass to which any film or other material or process has been applied to darken or restrict the passage of light through vehicle glass.

b. "Vehicle glass" means the glass vent, side and rear windows of any vehicle traveling on public roadways.

2. PROHIBITED. No person shall tint, or cause to be tinted, vehicle glass such that the glass is reflective, or fails to meet the tint standards set by this section for the passage of visible light striking the glass.

3. TINT STANDARDS. Vehicle glass or tinted glass shall not restrict the passage of visible light such that:

a. Less than 50% of the visible light striking the vent and front side windows passes through the vehicle glass or tinted glass.

b. Less than 35% of the visible light striking the rear side windows and the rear window passes through the vehicle glass or tinted glass.

4. Exception. Upon the recommendation of a physician or a Christian Science practitioner treating a vehicle owner, or an immediate family member of the owner of a vehicle, vehicle glass or tinted glass may block the passage of more than 50%

of visible light striking the vent and side windows, but not more than 65%.

5. ENFORCEMENT. The police department shall enforce this section.

6. PENALTY. Any person violating this section shall, upon conviction thereof, be subject to a forfeiture of not less than \$500, nor more than \$1,000, and in default of payment thereof, shall be imprisoned as provided by law. In addition, a citation may be issued for any violation of this section with or without prior notice, in accordance with s. 50-25.

105-69. Harmful Substances. 1. DEFINITION.

Harmful substances shall mean any substance, other than toxic glues as defined in s. 105-70, having the property of releasing toxic vapors or which vaporizes to produce a vapor, gas or fume which when inhaled produces intoxication, stupefaction, irrational behavior, paralysis, or changing, distorting or disturbing his or her eyesight, thinking process, judgment, balance or muscular coordination.

2. SMELLING OR INHALATION PROHIBITED. No person shall within the limits of the city smell gases or inhale the fumes or vapors of any harmful substance with the intent of being intoxicated, stupified, irrational, paralyzed or of changing or distorting or disturbing his or her eyesight, thinking process, judgment, balance or muscular coordination.

3. SALE OR TRANSFER. No person shall, within the limits of the city, for the purpose of violating or aiding another to violate this section, possess, buy, sell, transfer possession, or receive possession of any harmful substance. No person shall sell or transfer possession of any aerosol spray paint containing a harmful substance having the property of releasing toxic vapors to any person under 18 years of age.

4. PENALTY. Any person, firm or corporation violating this section shall upon conviction thereof be punished by a fine of not less than \$100 nor more than \$500 together with the costs and disbursements of the prosecution and in default of payment thereof shall be imprisoned in the county jail or house of correction for a period of time not to exceed 60 days. Each day that each violation continues shall be considered a separate offense.

105-70. Toxic Glues. 1. DEFINITION.

Toxic glue shall mean any glue, adhesive cement, mucilage, plastic cement, or any similar substance containing one or more of the following volatile substances: Acetone, benzene, butyl alcohol, cyclohexanone, ethyl acetate, ethyl alcohol, ethylene dichloride, hexane, isopropyl alcohol, methyl alcohol, methyl cellosolve, acetate, methyl ethyl ketone, methyl isobutyl ketone, pentachlorophenol, petroleum ether, trichlorethylene, tricresyl phosphate, toluene, toluol or

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any other chemical capable of producing intoxication when inhaled.

2. INHALATION PROHIBITED. No person shall inhale or otherwise introduce into his respiratory tract any toxic glue or any vapors or fumes which may be released from any toxic glue with the intent of becoming intoxicated, elated, excited, stupified, irrational, paralyzed or of changing, distorting, or disturbing his eyesight, thinking process, judgment, balance or muscular coordination.

3. SALE OR TRANSFER. No person shall, for the purpose of violating or aiding another to violate this section, possess, buy, sell, transfer possession or receive possession of any toxic glue. No person shall sell or transfer possession of any toxic glue to any person under 18 years of age, provided, however, that one tube or container of toxic glue may be sold or transferred to a child under 18 years of age immediately in conjunction with the sale or transfer of a model kit, if the kit requires approximately such quantity of the glue for assembly of the model, and provided, further, that nothing herein contained shall be applicable to the transfer of a tube or other container of such glue from a parent to his child or from a legal guardian to his ward.

4. PENALTY. Any person, firm or corporation violating this section shall upon conviction thereof be punished by a fine of not less than \$100 nor more than \$500 together with the costs and disbursements of the prosecution, and in default of payment thereof shall be imprisoned in the county jail or house of correction for a period of time not to exceed 60 days. Each day that each violation continues shall be considered a separate offense.

105-71. Vision Triangles.

1. STANDARDS. a. Vision Triangles Established. Vision triangles at grade intersections of streets, streets and alleys and streets and access drives shall be as established in s. 295-405-1-g.

b. Objects Within Vision Triangle. Opaque fences and other opaque objects, such as but not limited to coniferous trees and shrubs and utility boxes, located in the vision triangle shall not exceed 3 feet in height. Semi-opaque and open fences and other semi-opaque objects, such as but not limited to deciduous trees and shrubs, sign and utility poles, traffic standards, and masonry fence piers not exceeding 16 inches in width shall be permitted if they are sufficiently transparent to ensure vehicular and pedestrian safety. Any bushes, hedges, fences, trees or other obstructions, except those permitted as stated in this paragraph, located within the vision triangle are declared to be public nuisances.

d. Within the area established by the vision setback line and the highway lot lines, there

shall be no bushes, hedges, fences, trees or other obstructions, except natural lot grade and legally parked vehicles, with a height of more than 3 feet above the elevation of the center of the street, alley or street and alley intersection, excepting necessary highway and traffic signs, public utility lines and open fences through which there is clear vision, and excepting that tall trees shall be permitted in such areas, provided that the lowest branches shall not be lower than 5 feet above the elevation of the center of the intersections, and excepting further that the provisions of this section shall not apply where the building and zoning code permits a principal use building to occupy the area described above. Any bushes, hedges, fences, trees or other obstructions, except those permitted as stated above, located within the area established by the vision setback line and the highway lot lines are hereby declared to be public nuisances.

2. DEFINITIONS. The definitions contained in s. 340.01, Wis. Stats., shall apply to this section.

3. INVESTIGATION. Investigation of violations of this section shall be conducted by the police department.

4. VIOLATIONS. Whenever the safety commission shall find that any bushes, hedges, fences, trees or other obstructions growing or located upon private premises are a public nuisance as defined in this section, or endanger the life, health, safety or property of the public, the commission shall notify the owner or agent in writing or by publication in a newspaper of general circulation in the city that the nuisance must be removed or otherwise abated as directed in the notice within the time specified, which shall not be less than 10 days, unless the commission shall determine that immediate correction or removal is necessary for the public safety. With respect to fences, the commission shall inform the commissioner of neighborhood services and he or she shall proceed according to the provisions of subch. 3, ch. 200.

5. APPEALS. Appeals relating to violations of sub. 1 and subsequent notification to remove or abate nuisances pursuant to sub. 4 may be made to the administrative review appeals board, pursuant to s. 320-11.

6. COMPLIANCE. If the owner of such premises or his agent shall refuse or neglect to comply with the notice within the time specified, the commissioner of public works, with respect to bushes, hedges and trees, shall cause the nuisance to be removed or otherwise abated at the expense of the owner of the land whereon the same is located.

7. COST ASSESSMENTS. The commissioner of public works shall keep a strict account of the labor expended upon such work and

the cost thereof and make a report to the comptroller monthly on the first of each month for each district in the city, stating and certifying the description of the lots, parts of lots, or parcels of land, in front or rear of, or upon which such work shall have been done, and the comptroller shall at the time of making his annual report to the common council of lots or parcels of land subject to a special tax or assessment include therein the said lots or parcels so reported to him by said commissioner of public works with the aggregate amount chargeable thereto according to such report and such amounts shall be levied on the lots or parcels of land respectively to which they are so chargeable in like manner as other special taxes are levied in said city.

8. INTERFERENCE. No person, corporation or association shall prevent, delay or interfere with the employees of the department of public works in the investigation of alleged violations of this section and in the removal of any nuisances as defined in this section herein.

9. PENALTY. Any person, firm or corporation, or any agent or employee thereof, who violates this section shall, upon being found guilty thereof, be subject to a forfeiture of not less than \$20 nor more than \$100, together with the costs and disbursements of prosecution, and in default of payment thereof, be imprisoned in the county jail or house of correction of Milwaukee county until such fine, costs and disbursements are paid, such imprisonment not to exceed more than 30 days.

10. APPLICABILITY. The provisions of this section shall apply to all presently existing uses of property.

105-73. Municipal Silent Alarm Service. Direct fire or burglary alarm service between any private firm or government agency with any agency of the city may be authorized upon adoption of a resolution authorizing the service between the private firm or government agency with a city agency. See s. 81-2.5 for the required service fee.

105-75. Private Alarm Systems and Regulations. 1. PURPOSE. The purpose of this section is to regulate alarm systems and to minimize false alarms from these systems. Alarm businesses shall be licensed by the city under this section. A direct alarm connection to any agency of the city shall comply with s. 105-73.

2. DEFINITIONS. In this section:

a. "Alarm business" means any person engaged in providing, selling, leasing, renting, installing, monitoring, servicing, altering, moving or causing any alarm system to be sold, installed, monitored, serviced or altered in or on any other person's building, place of business, structure, residence or other facility for compensation. Excluded from this

definition is any person engaged solely in the business of designing the system for the location.

b. "Alarm monitoring service" means any person that provides service to alarm users by receiving signals, at a central station or other site, from an alarm system or systems that indicate an activation of a fire, burglary or robbery alarm, notifies or dispatches alarm representatives or a first responder service to alarm sites or reviews appropriate real-time electronic or other verification, and relays alarm messages to fire or police departments. An alarm monitoring service may be located within the state of Wisconsin or at locations outside this state. An alarm monitoring service does not include monitoring of any person's own business or residential alarm.

c. "Alarm representative" means any person employed or contracted by an alarm business or monitoring service whose duties include the altering, installing, maintaining, repairing, servicing, monitoring or responding to an alarm system.

d. "Alarm sales" means activities related to marketing and sales, rental or leasing of alarm systems, alarm systems installation, and maintenance intended for residential or business alarm users. Alarm sales activities include the distribution of product and service information to members of the public by electronic, telephonic, broadcast, signage, posting of printed material or other written means and include oral information provided door-to-door or otherwise. Excluded from this definition are retail establishment sales of alarm system hardware to on-site customers and who provide no other alarm system services with the exception of equipment warranty coverage.

e. "Alarm sales personnel" means that person or those persons employed by, contracted by, or otherwise engaged in the sale, rental or leasing of alarm systems within the city. "Alarm sales personnel" does not mean a person or persons employed or contracted by a retail establishment to assist customers in on-site sale of alarm system hardware and selling no other alarm system services with the exception of equipment warranty coverage. "Alarm sales personnel" does not mean any person or persons engaged in the preparation or design of marketing or sales information or materials and not engaged in other alarm system sales activities.

f. "Alarm system" means any mechanical or electrical equipment arranged to signal the occurrence of a fire, burglary or robbery alarm requiring immediate fire or police department notification, including local alarms which are audible or visible upon the exterior of a structure.

g. "Alarm user" means the person in control of any building, structure or facility or portion thereof in which an alarm system is in operation.

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h. "False alarm" means an alarm notification summoning a city agency to the location of an alarm activation, when the responding officer finds no indication of burglary, attempted burglary, robbery, attempted robbery or fire. "False alarm" does not include an alarm activation signal caused by extraordinary conditions of weather such as high winds, thunder and lightning storms or other systemic electric disturbances.

i. "Falsely verified alarm" means a verified alarm in which the police responded and determined the alarm to be a false alarm.

j. "Local alarm system" means any equipment arranged to signal the occurrence of a robbery or burglary with alarms from the premises in the immediate area of the structure.

k. "Non-verified alarm" means an alarm which has not been verified by a person or private first responder.

L. "Person" means an individual, firm, partnership, association, corporation or any other business entity with the exception of any government agency, government employees or individuals acting in the course of government business.

m. "Private first responder service" means a service provided by an alarm business, either through an alarm representative or through a private security company is under contract with the business, that determines, by means of on-site inspection, whether a cause for alarm has occurred at the site of an activated burglary alarm. Excluded from the definition of private first responder service are those services or personnel directly employed or contracted by businesses to respond to their own alarm systems.

n. "Prompt dispatch" means that the arrival at the alarm site of an alarm representative for verifying the alarm occurs within 30 minutes of alarm activation in the absence of unanticipated or extraordinary circumstances.

o. "Verified alarm" means an alarm that a person or private first responder has determined is not a false alarm prior to contacting the police department.

3. LICENSE REQUIRED.

a. No alarm business, alarm sales business or private first responder service shall engage in business without first obtaining an alarm business license.

b. Application for an alarm business license, private first responder service license or for an alarm sales license shall be filed with the city clerk on a form provided therefor. The application shall require:

b-1. The name and home address of the applicant.

b-2. The name of the alarm business, the alarm sales business, or the private first responder service.

b-3. If the applicant is a corporation, the name of the corporation shall be set forth exactly as it is set forth in its articles of incorporation, together with the names and home address of each of its officers, directors and designated managers, if any. The application shall be verified by an officer of the corporation. If one or more of the officers is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the corporate officers.

b-4. If the applicant is a partnership, the application shall set forth the name and home address of each of the partners, including limited partners, and the application shall be verified by each partner. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the corporate partners.

b-5. If the applicant is a club, association or other organization which is neither a corporation or partnership, the application shall set forth the exact name of the entity together with the names and home addresses of all officers and be verified by an officer of the club, association or organization.

b-6. The date of birth of the applicant.

b-7. If the applicant is an alarm business or alarm sales business, a detailed plan of operation that includes the following information:

b-7-a. Identification of any subcontracting or cooperating business that provides or will provide services related to alarm systems installed or to be installed within the city, including monitoring services, private first responder services, repair and maintenance services, together with contact information for each. All private first responder services identified under this section, whether or not licensed, shall comply with the verified response requirements of sub. 14-c-4.

b-7-b. Information identifying operations managers or supervisors with oversight of alarm system sales, installation and monitoring of private alarm systems or oversight of private alarm systems response activities within the city including phone numbers, fax numbers, and electronic mail addresses.

b-7-c. A statement detailing the manner in which alarm sales activities will be conducted and certification that all alarm sales personnel will receive a minimum of 14 hours training within the first 2 weeks of employment in sales activities.

b-7-d. If the application is for an alarm sales business license, a certification that a list of alarm sales personnel will be registered with the city clerk and updated within 10 days of employment of any additional alarm sales personnel and within 10 days of the termination of sales activities by any person previously registered as a salesperson.

b-7-e. A certification that photographs of alarm sales personnel for all personnel who engage the public directly and in person in the course of sales activities will be submitted to the city clerk promptly upon engagement of alarm sales personnel in sales activities. The list provided in subpar. d shall separately identify those individuals who engage members of the public directly and in person in the course of sales activities from those individuals whose contact with members of the public is limited to telephonic or other electronic or remote medium of communication, or to individuals engaged in activities of posting or distribution of brochures, placards, flyers or other written communications.

b-7-f. A list of any additional services provided to alarm users or subscribers which shall be updated within 10 days of any change in service subcontractor.

b-7-g. If a private first responder service is provided either directly or by subcontract, a statement whether prompt dispatch is guaranteed.

b-7-h. A statement whether the applicant will accept service of process or other notice by first class mail and providing the address for receipt of first class mail.

b-8. Such other reasonable and pertinent information the common council or the proper licensing committee may from time to time require.

b-9. All applicants not maintaining a place of business in the state of Wisconsin shall continuously maintain in this state a registered office and a registered agent for service of process, notice or demand required and permitted by law to be served on foreign corporations, the address of such office and the name and address of such agent to be filed with the city clerk.

c. Post office box numbers shall not be acceptable for addresses required on applications.

d. All applicants for licenses issued under this chapter shall be exempt from the fingerprinting requirement provided in s. 85-21-1.

4. CHANGES TO BE REPORTED.

a. A licensee shall notify the city clerk whenever there is a change in any information that is reported in the application form or renewal application form. The licensee shall make this notification in writing within 5 days after the change occurs.

b. Whenever an alarm business changes any of its corporate officers, directors or agents, the corporation shall file the appropriate application and

pay the fee required in s. 81-2-5. This application shall be completed and processed in the same manner as a new application subject to all the requirements of this section.

5. FEE. All applications for alarm business licenses, alarm sales licenses and private first responder service licenses shall be accompanied by the fee specified in s. 81-2.

6. ISSUANCE. a. Applications shall be referred to the chief of police who shall cause an investigation to be made and report their findings to the licensing committee. If no objection is filed to an application, the license shall be forwarded to the common council for approval. If an objection is filed to an application, the license shall be forwarded to the licensing committee for its recommendation as to whether or not a license should be issued.

b. If there is a possibility of denial, no hearing shall be heard unless the city clerk's office has provided written notice to the applicant. The notice shall be served upon the applicant so that the applicant has at least 7 days' notice of the hearing. The notice shall contain:

b-1. The date, time and place of the hearing.

b-2. A statement to the effect that the possibility of denial of the license application exists and the reasons for possible denial.

b-3. A statement that an opportunity will be given to the applicant to respond to and challenge any reason for denial and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

b-4. A statement that the applicant may be represented by an attorney of the applicant's choice at the applicant's expense, if the applicant so wishes.

c. If there is a possibility of denial, at the hearing the committee chair shall open the meeting by stating that a notice was sent and read the notice into the record unless the applicant admits notice. The chair shall advise the applicant that the applicant has an option to proceed with a due process hearing, represented by an attorney, with all testimony both direct and cross-examination under oath, or that the applicant may simply make a statement to the committee

d. A due process hearing shall be conducted in the following manner:

d-1. All witnesses will be sworn in.

d-2. The chair shall ask those opposed to the granting of the license to proceed first.

d-3. The applicant shall be permitted an opportunity to cross-examine.

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d-4. After the conclusion of the opponent's testimony, the applicant shall be permitted to present the applicant's own witnesses, subject to cross-examination.

d-5. Committee members may ask questions of witnesses.

d-6. Both proponents and opponents shall be permitted a brief summary statement.

e. The recommendations of the committee regarding the applicant must be based on evidence presented at the hearing. Probative evidence concerning whether or not the license should be granted may be presented on the following subjects:

e-1. Whether or not the applicant meets the municipal requirements.

e-2. Whether or not the applicant has been charged with or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the licensed activity.

e-3. Any other factors which reasonably relate to the public health, safety and welfare.

f. The committee may make a recommendation immediately following the hearing or at a later date. Written notice of the committee's decision will be provided if the decision is made at a later date or if the applicant was not present or represented. The committee shall forward its recommendation in writing to the common council for vote at the next meeting at which such matter will be considered.

7. RENEWAL AND NON- RENEWAL.

a. Procedure for Renewal. Applications for renewal shall be made to the city clerk. The clerk shall refer the application for renewal to the chief of police for review. For any application for renewal of an alarm business license for an alarm business which provides to alarm users alarm monitoring services for the receiving of burglary alarm messages, the application shall state that among the services offered by the alarm business to alarm users is a private first responder service that verifies, in the case of an activated burglary alarm, that an attempted or actual crime has occurred at the alarm site before the alarm signal is transmitted to the police department. If the chief of police files no information with the city clerk that could form the basis of an objection, the license shall be referred to the common council for approval unless a written objection has been filed with the city clerk at least 45 days prior to the date on which the

license expires. This objection may be filed by any interested person. If a written objection is filed, or if a determination is made that the applicant no longer meets the licensing qualifications, the application shall be forwarded to the licensing committee of the common council for its recommendation.

b. Non-Renewal. If there is a possibility that the committee will not recommend renewal of a permit, the procedures for notice, hearing and review by the common council provided in sub. 8 shall govern.

7.5. DISQUALIFICATION. Whenever any application is denied, or license not renewed, revoked or surrendered, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

8. PROCEDURES FOR NON-RENEWAL, SUSPENSION OR REVOCATION.

a. Any license issued under this section may be non-renewed, suspended or revoked for cause by the common council after notice to the licensee and a hearing.

b. Non-renewal, suspension or revocation proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police or upon a sworn written complaint filed with the city clerk by any interested party.

c. Due Process Hearing and Review by the Common Council. If there is a possibility that the licensing committee will not recommend renewal of the license, or when revocation or suspension proceedings are initiated, the procedures for notice and committee hearing and for the committee report, recommendations and common council consideration provided in ss. 85-3 to 85-5 shall govern.

d. Grounds for Non-renewal or Revocation. The recommendation of the committee regarding the licensee shall be based on evidence presented at the hearing. Probative evidence concerning non-renewal or revocation may include evidence of:

d-1. Failure of the licensee to meet the municipal qualifications, including failure to comply with the plan of operation submitted by the licensee as a part of the license application as it may be amended and including compliance with the requirement to timely report changes in the licensee's plan of operation and changes in the licensee's address for receipt of first-class mail.

d-2. Pending charges against or the conviction of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the circumstances of the licensed activity, by the licensee or by any employee of the licensee.

d-3. Failure of the alarm company to keep adequate records as to the locations where alarm systems are installed as well as the name, home or billing address, and telephone numbers of the purchaser or subscriber or alarm systems or service.

d-4. Failure of the licensee to obtain, in the case of a burglary alarm, a verified response that a cause for alarm has occurred at the alarm site before transmitting the alarm signal or information about the alarm signal to a city agency.

d-5. Failure to provide a private first responder service, as required by sub. 14-c-4.

d-6. Any other factor which reasonably relates to the public health, safety and welfare.

e. Licenses to be Treated Separately. A recommendation by the committee that an alarm business license, alarm sales license or a private first responder service license be suspended, revoked or not renewed shall not be based on any adverse recommendation relating to a license separately held by the applicant or licensee. Nothing in this paragraph shall prohibit or limit the discretion of the committee in considering any related business activities of an applicant or licensee in making the committee's recommendation to the common council

10. REQUEST TO SURRENDER A LICENSE. a. If a licensee wishes to surrender his or her license after receiving a notice for a hearing on non-renewal or revocation, the licensee must request, in writing, permission from the licensing committee to do so prior to the commencement of the hearing. The committee may approve the request, or deny the request and proceed with the hearing.

b. In the event a licensee who has surrendered his or her license wishes to have the surrendered license returned, regardless of whether the license was surrendered pursuant to par. a, the licensee must request, in writing, permission from the licensing committee to do so and appear before the committee at the date, time and place specified in written notice provided to the licensee by the city clerk. The committee may approve the request and return the license without further action by the common council, or make a recommendation to the common council to deny the request based on the same grounds set forth in this section for non-renewal or revocation. If the committee makes a recommendation to deny the request for the return of

the license, all committee recommendations shall be prepared and common council actions conducted in the same manner set forth in this section for non-renewal or revocation.

11. PROHIBITED SYSTEMS.

a. Automated Alarm Notification Prohibited. No person may use or operate, attempt to use or operate, or cause to be used or operated, or arrange, adjust, program or otherwise provide or install any alarm system that upon activation will initiate, transmit, or deliver an alarm notification to any city agency by automated means except for fire alarms.

b. Panic Alarm Notification Prohibited. No person may initiate, transmit, or deliver an alarm notification in the nature of a panic alert, police alert, medical alert or disturbance alert to any city agency by automated means, electronic or telephonic means, or other miscellaneous signal or message as distinguished from burglary, robbery (hold-up) or fire alarms.

c. Multiple Trip Sensor and Audio Sensor Notification Prohibited. No person may initiate, transmit, or deliver by automatic means, electronic or telephonic means, any request for service to any city agency based upon multiple trip sensors or audio sensors.

d. Exception. d-1. A request for service may be made to any city agency based upon a recorded and reproducible video or 2-way voice intercom by any person able to provide specific information based upon personal observation to the operator, dispatch personnel or officer of a city agency and able to respond to questions of the operator, dispatch personnel or officer to support a conclusion that there exists a cause for alarm or an emergency is in progress. Communications made to a city agency under this paragraph shall be treated as a reported incident and not as an alarm requiring verification by a first responder service.

d-2. Any recordings relating to reproducible video or 2-way voice intercom shall be provided to the police department within 24 hours and submitted as an e-mail attachment sent to a police Internet site or in such other manner as otherwise directed by the police department. Electronic files submitted under this subdivision shall be in a standard format designated by the department.

13. ALARM MONITORING SERVICE.

a. Any alarm monitoring service providing the service of receiving burglary, robbery or fire alarm messages from alarm systems and relaying alarm information to a city agency shall have trained employees on duty at all times. In the case of an activated burglary alarm, the alarm monitoring service

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shall relay the message to the police department only after the monitoring service's private first responder service has verified that a cause for alarm exists at the alarm site. An alarm monitoring service shall provide pertinent information to the department at the time of telephone notification of the activation of any alarm, which shall include:

a-1. The alarm user name, address location of the activated alarm, identification of the type of alarm signal and telephone number of the alarm user

a-2. The name and address of the alarm business or agent which has the responsibility for the alarm system activation.

b. Any business which maintains keys to the alarm site shall promptly dispatch an alarm representative with keys to the alarm site upon request of the responding department.

c. An alarm business which does not maintain keys to the premises shall operate in the following manner:

c-1. Notification to the fire or police department shall include notice that the alarm business does not maintain keys to the alarm site and will not arrive at the scene while the department is present.

c-2. The alarm business shall file a report with the responding department within 72 hours of the occurrence which shall include:

c-2-a. Alarm business name and address.

c-2-b. Alarm user name and address, and telephone numbers.

c-2-c. Time of occurrence reported to the alarm business and time relayed to the department.

c-2-d. Cause of alarm, if known.

c-2-e. Action taken by alarm business.

c-3. An alarm business which does not maintain keys to the premises shall not be exempt from the requirement of par. a to obtain, in the case of a burglary alarm, a verified response that an attempted or actual crime has occurred before relaying the message to the police department.

14. ALARM SALES AND ALARM BUSINESS REQUIREMENTS.

a. A business engaged in alarm sales activities shall:

a-1. Provide the city clerk with the name, address and an electronic file containing an accurate depiction of the photo-identification badge for alarm sales personnel prior to the conduct of any sales activities by that alarm sales personnel.

a-2. Require all alarm sales personnel to complete 14 hours of sales training within 2 weeks of first engaging in alarm sales activities on behalf of the alarm sales licensee.

a-3. Require that no person employed with or on behalf of the alarm sales licensee engage in sales activities with any prospective alarm user prior to completion of 14 hours of sales training except in the direct presence of a registered sales personnel who has received a minimum of 14 hours of sales training.

a-4. Require that all alarm sales personnel display photo-identification badges that include the names of the sales persons, the names of the alarm sales business, and the names of the alarm business, if different. Photo-identification badges shall also prominently display telephone contact information for the alarm sales business licensee.

b. All contracts with alarm users shall:

b-1. Be in writing and identify the services to be provided by the licensee. A copy of contracts proposed for alarm sale, installation, maintenance, monitoring, responder and any other alarm services shall be written in plain language with key points in bold or 10-point font. Failure of the applicant or licensee to provide an accurate copy of proposed contracts meeting these specifications shall be subject to the penalties provided in sub. 15-d.

b-2. Be presented to prospective individual customers together with a pamphlet or other written information, prepared or approved by the city clerk, that includes a statement of rights and responsibilities of alarm users.

b-3. State that, after a city agency is notified of 2 false alarms within a calendar year, the alarm user is subject to municipal citation as provided in sub. 15.

b-4. Include, at the time of renewal, a written statement of the provisions of subd. 3 together with a written statement of any changes in the terms of service or the identity of service providers from the original or most recently renewed contract.

c. An alarm business shall:

c-1. Be responsible for the proper installation of alarm systems by persons licensed under s. 222-11.

c-2. Be responsible for insuring that private alarm systems under maintenance contracts are maintained in good working order and that defects which could cause false alarms are promptly repaired.

c-3. Instruct appropriate personnel as to the operation of private alarm systems, including the setting, activation or resetting of the alarm equipment.

c-4. Provide a private first responder service, unless the alarm system transmits the alarm signal as provided in sub. 11-d, that shall verify, in the case of an activated burglary alarm, that a cause for alarm exists at the alarm site before the alarm signal is transmitted to the police department; any person employed by a first responder service who engages in on-site verification shall hold a valid state private security person permit issued by the Wisconsin department of safety and professional services.

c-5. In the case of an activated burglary alarm, relay the message to the police department only after a private first responder service has verified that a cause for alarm exists at the alarm site.

15. PENALTIES. a. No alarm user shall cause or permit a city agency to be notified of a false alarm. If after a city agency is notified of 2 false alarms within a calendar year, the alarm user shall be subject to a forfeiture of not less than \$50 nor more than \$100 for the first false alarm thereafter. Subsequent false alarms shall be subject to a forfeiture of not less than \$100 nor more than \$250.

b. No alarm business shall cause or permit a city agency to be notified of a non-verified alarm. An alarm business shall be subject to a forfeiture of not less than \$50 nor more than \$100 for the first non-verified alarm. Subsequent notification of non-verified alarms at the same site within 2 years of the first offense shall subject the alarm business to a forfeiture of not less than \$100 nor more than \$250.

c. Any violation of sub. 11-b or c is subject to a forfeiture of not less than \$100 nor more than \$200 for a first offense and not less than \$200 nor more than \$400 for each subsequent offense occurring at a single site or caused by a single alarm or sensor within 5 years of any prior offense.

d. Except as otherwise provided in this section, any person violating any provision of this section shall upon conviction forfeit not more than \$500, together with the costs of prosecution.

105-77. Misuse of Emergency Telephone Numbers. **1. PROHIBITED ACTS.** No person shall:

a. Intentionally dial the emergency telephone number "911" or the secondary emergency phone numbers "347-2323" and "765-2323" to report an emergency to city departments knowing that the fact situation which he or she reports does not exist.

b. Intentionally dial the emergency telephone number "911" or the secondary emergency phone numbers "347-2323" and "765-2323" for purposes of communication not relating to the reporting of an actual emergency.

2. RESPONSIBILITY OF PARENTS. No parent, guardian or other adult person having the care and custody of a person under the age of 18 years shall suffer or permit or by inefficient control to allow such persons to violate sub. 1.

3. PENALTY. Any person violating the provisions of this section shall, upon conviction, be subject to a forfeiture of not less than \$50 nor more than \$300, together with the costs of prosecution, and upon default of payment be imprisoned in the county jail or house of correction not less than 2 days nor more than 12 days.

105-78. Abandoned 911 Calls. **1. FINDINGS.** The common council finds that abandoned, unintentional or phantom calls to the city's "911" emergency phone number, because they must be answered by police telecommunicators and require call-backs to the telephone or wireless device, consume and waste valuable police time that could otherwise be used to respond to intentional "911" calls, some of which involve actual life-threatening emergencies. The common council further finds that responding to abandoned, unintentional or phantom "911" calls drains city financial resources.

2. REPEATED CALLS PROHIBITED. No owner of a telephone or wireless device shall cause or permit to cause 3 or more abandoned, unintentional or phantom calls from the telephone or wireless device to the city's "911" emergency phone number within a calendar year.

3. PENALTIES. Any person violating sub. 2 shall be subject to a forfeiture of not less than \$50 nor more than \$100 for the 3rd abandoned, unintentional or phantom call to the "911" number in a calendar year. Subsequent calls within the same calendar year shall be subject to a forfeiture of not less than \$100 nor more than \$250 each.

4. TELEPHONE SERVICE CARRIER ASSISTANCE. The provider or carrier of the telephone service of the telephone or wireless device from which 3 or more abandoned, unintentional or phantom calls to the "911" number are transmitted in a calendar year shall, upon request, provide the police department with the name and mailing address of the owner of the telephone or wireless device. If the telephone service provider or carrier fails to provide this information to the police department within 72 hours of the request, the provider or carrier shall be subject to the penalties in sub. 3.

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105-79. Legal Occupant Lists for Residential Real Properties. 1. LIST REQUIRED. The owner of any residential real property shall maintain a current list of all tenants, occupants, residents and sublessees authorized to occupy the building or buildings on such property. Upon written request to the owner, this list shall be made available to public safety personnel within 24 hours.

2. PENALTIES. The penalties provided in s. 200-19, including the minimum penalties, shall apply to any person found to be in violation of this section.

105-81. Ultimate or Extreme Fighting Events Prohibited. 1. In this section, "ultimate or extreme fighting event" means a fighting bout or tournament that meets the following criteria:

a. A state license under ch. 444, Wis. Stats. has not been issued for the event.

b. Participants use any combination of boxing, kicking, wrestling, hitting, punching or other combative contact techniques, which combination of techniques is not specifically authorized by and conducted pursuant to ch. 444, Wis. Stats.

2. No person shall advertise, operate, maintain, attend, participate in, promote or assist in advertising, operating, maintaining, attending, participating in or promoting an ultimate or extreme fighting event held within Milwaukee.

3. A person who violates this section shall upon conviction be subject to a forfeiture of not less than \$500 nor more than \$5,000 together with the costs and disbursements of the prosecution, and in default of payment thereof, shall be imprisoned in the county jail or house of correction for not less than 20 nor more than 90 days.

105-91. Retail Establishment Security Measures.

1. FINDINGS. In order to promote safe and orderly public places such as retail establishments and to assist police investigations of crimes and ordinance violations, the common council finds that any retail establishment that has facilitated or been the location of 3 or more incidents of qualified activity within a one-year period may be required to install a security camera system to help ensure the safety and welfare of the people of the city of Milwaukee.

2. DEFINITIONS. In this section: a. "Other responsible party" means any individual or entity other than the owner of the premises that is licensed or subject to license in the operation of a retail establishment upon the premises.

b. "Person associated with a premises" means the premises owner, operator, manager,

resident, occupant, guest, visitor, patron or employee or agent of any of these persons.

c. "Qualified activity" means any of the following activities, behaviors or conduct whenever engaged in by any person associated with a premises:

c-1. Crimes against life and bodily security as enumerated in ss. 940.01 to 940.32, Wis. Stats., except as provided in subd. 2.

c-2. Robbery as enumerated in s. 943.32, Wis. Stats.

c-3. Theft as defined in s. 110-16 of the code or s. 943.20, Wis. Stats.

c-4. Crimes involving illegal possession or use of firearms as defined in ch. 941 and s. 948.60, Wis. Stats.

c-5. Discharge of a firearm as defined in s. 105-35.

c-6. Disorderly conduct as defined in s. 106-1 of the code or s. 947.01, Wis. Stats.

c-7. Keeping a place of prostitution as defined in s. 106-3 of the code or s. 944.34, Wis. Stats., or leasing a building for the purposes of prostitution as defined in s. 106-4 of the code.

c-8. Possession, manufacture or delivery of a controlled substance or related offenses as defined in ch. 961, Wis. Stats.

c-9. Gambling as defined in ss. 107-1 and 2 of the code or s. 945.02, Wis. Stats.

c-10. Underage alcohol activities, as defined in s. 90-18.

c-11. The sale, offering for sale, bartering or giving away of any intoxicating liquors or fermented malt beverages without a license or to be in violation of the terms of such license as provided in s. 90-3-1 of the code or s. 125.04(1), Wis. Stats.

c-12. Any crime subject to an increased penalty for the use of a dangerous weapon as defined in s. 939.63, Wis. Stats.

c-13. Exceeding maximum authorized occupancy as defined in s. 85-23.

c-14. Conducting or operating public entertainment without a license as provided in s. 108-5.

d. "Retail establishment" means an establishment providing retail sale of new products to the public and rendering services incidental to the sale of such products, including, but not limited to, sale of: art supplies and picture frames, art works, auto parts, baked goods, bicycles, books, newspapers and magazines, collectibles, dry goods, notions and novelties, flowers and plants, food and beverages, furniture and floor coverings, hardware, hobbies, toys and games, household goods, jewelry, luggage, major appliances, music, records, compact discs and tapes, paint and

wallpaper, pets, pharmaceutical products, photo equipment and processing, sewing apparatus, sporting goods, stationery, tobacco products and wearing apparel. This term includes, but is not limited to, a grocery store, specialty food store, antique store, licensed alcohol beverage establishment, butcher shop, delicatessen, portrait studio, furniture or appliance rental establishment or video rental or sales business, adult book store, lumber yard, building supply or home improvement center, garden center or secondhand store.

3. PROCEDURE. a. Whenever the chief of police determines 3 or more separate incidents of qualified activity have occurred at a retail establishment within a one-year period, the chief of police may notify the premises owner or other responsible party in writing that the premises owner or other responsible party is required to install a security camera system and comply with all regulations set forth in sub. 4. The premises owner or other responsible party shall have 60 days from the date of notification to install and maintain for 2 years a security camera pursuant to sub. 4. This notice shall be deemed to be properly delivered if sent either by first-class mail to the premises owner's or other responsible party's last known address or if delivered in person to the premises owner or other responsible party. If the premises owner or other responsible party cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the premises owner's or other responsible party's usual place of abode in the presence of some competent member of the family at least 14 years of age or a competent adult currently residing there and who shall be informed of the contents of the notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the notice is sent by first-class mail to the last known address of the owner or other responsible party as identified by records of the commissioner of assessments. For purposes of this section, each separate and distinct incident shall constitute a qualified activity, and 2 or more separate and distinct incidents occurring on the same day shall be counted separately. This notice shall contain:

a-1. The street address or legal description sufficient for identification of the premises.

a-2. A description of the qualified activity that has occurred at the premises.

a-3. A notice of the premises owner's or other responsible party's right to appeal pursuant to sub. 5.

b. Failure of a licensee to comply with the regulations of this paragraph shall constitute

grounds for non-renewal, suspension or revocation of a license.

4. SECURITY CAMERA REQUIREMENTS. a. Any premises owner or other responsible party subject to sub. 3 shall comply with the following regulations:

a-1. Security cameras shall be installed and maintained in proper working order and operate during all hours the retail establishment is open to customers. Each security camera shall display an accurate date and time stamp on each image and produce retrievable images suitable for permanent police records.

a-2. Security cameras shall be installed so as to provide clear images of the entire premises, including areas as specified on the license as well as the public right-of-way abutting the premises and any off-street parking lot used expressly for patron parking. In addition, at least one security camera shall provide an overall view of each counter and register area, and at least one security camera shall be positioned to provide a clear, identifiable, full-frame image of the face of each person entering and leaving the retail establishment. Security camera views shall not be obstructed by premises fixtures or displays. The police may encourage retail establishments to position and use additional security cameras to bolster overall crime-prevention efforts.

a-3. If a time-lapse digital video recorder is operated, recorded images shall not be recorded at a slower speed than 24 hours.

a-4. All digital video records shall be stored and maintained in good viewing order for 30 days after recording.

a-5. All digital video shall be made available upon request to the licensing committee and law enforcement officers. Digital video recordings shall be dated and time-stamped, and all copies of video recordings shall be marked with the accurate date the media was recorded. At least one blank copy per security camera shall be available during all hours the retail establishment is open to customers to replace copies provided to the licensing committee or law enforcement officers, or to replace video recording media that fail.

a-6. Security camera systems shall be capable of copying all images in an accessible form while maintaining the native format. Digital video recordings recorded by security camera systems on a disk storage format, such as CDs or DVDs, shall be copied onto a disk storage format whenever the system's video recording media reaches capacity, but not less frequently than once every 30 days. All security camera system recorded images requested by the licensing

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committee and law enforcement officers shall be provided on a disk storage format, such as CDRs or DVD-Rs. Security camera system playback software needed to view recorded images shall be copied onto each disk storage format used to store recorded video images.

a-7. On-duty retail establishment employees shall provide a copy of recorded digital images to law enforcement officers immediately upon request.

a-8. The surveillance security cameras shall be maintained in proper working order for a period of 2 years from the date of delivery of the notice in sub. 3.

5. APPEAL. Appeal of the determination of the chief of police pursuant to sub. 3 may be submitted to the administrative review appeals board as provided in s. 320-11. The administrative review appeals board may extend the installation period beyond 60 days in the case of a financial hardship.

6. PENALTIES. Any premises owner or other responsible party who violates any of the provisions of this section, shall upon conviction, forfeit not less than \$500 nor more than \$1,000, and in default of payment thereof, be imprisoned as provided by law.

105-93. Motor Vehicle Rental. 1. KEY SECURITY. All keys to motor vehicles offered for rent at a car rental agency located within the city shall be placed in a secure lockbox inside the rental agency's building at all times when the agency is not open for business.

2. EXEMPTIONS. The following shall be exempt from the requirement provided in sub. 1.

a. Any car rental agency which has a security officer present on the premises when the rental agency is not open for business.

b. Any car rental agency which has installed a theft-deterrent system, commonly known as a "crash barrier" or "plate barrier" at each entrance or exit.

3. PENALTY. a. Any person violating this section shall, upon conviction for a first offense, forfeit not less than \$150 nor more than \$1,000, together with the costs of prosecution and, in default of payment, may be imprisoned as provided by law.

b. Any person violating this section shall, upon conviction for a second or subsequent offense, forfeit not less than \$500 nor more than \$2,000, together with the costs of prosecution, and, in default of payment, may be imprisoned as provided by law.

105-122. Seized Firearms or Ammunition, etc.

1. ABANDONED OR UNCLAIMED PROPERTY. a. Dangerous Materials. The chief of police may, by any lawful means, safely dispose of abandoned or unclaimed flammable, explosive or incendiary substances, materials or devices in his custody posing a danger to life or property in their storage, transportation or use immediately after taking possession of such substances, materials or devices.

b. In Custody of Chief of Police. The chief of police may dispose of firearms or ammunition in the custody of the chief of police which have been abandoned or remain unclaimed for a period of 12 months after the taking of possession of such property by the chief of police, by return to the rightful owner, destruction or transfer to the state crime laboratory under s. 165.75, Wis. Stats., the division of law enforcement services of the Department of Justice, the Federal Bureau of Investigation or the Alcohol, Tobacco and Firearms Bureau of the U.S. Department of the Treasury.

c. Other Personal Property. Except for abandoned motor vehicles and trailers, the chief of police may dispose of all other personal property in the chief's custody which has been abandoned or remains unclaimed for a period of 30 days after acquisition by the chief by using an Internet auction service contracting with the department of administration. The proceeds of such sales shall be paid to the city treasurer. The chief of police may dispose of abandoned or unclaimed property by other means set forth in s. 310-29 only with prior authorization of the department of administration and in accordance with the requirements of s. 310-29-2 to 4. Property delivered to the department of administration for disposition shall be disposed of by the department of administration in accordance with s. 310-29. Abandoned motor vehicles and trailers shall be disposed of in accordance with s. 105-65.

2. DISPOSITION OF SEIZED FIREARMS OR AMMUNITION. a. Seized Firearms or Ammunition Posing a Danger to Life or Property or Constituting Contraband. If firearms or ammunition seized by the chief of police are not required for evidence or further investigation but pose a danger to life or property in their storage, transportation or use or constitute contraband, the chief of police may safely dispose of such firearms or ammunition by any lawful means.

b. Seized Firearms or Ammunition Which Do Not Pose a Danger to Life or Property or Constitute Contraband. If firearms or ammunition seized by the chief of police are not required for evidence or further investigation or do not appear to be or are not reported stolen, and have not been disposed of pursuant to court order at the completion of a criminal action or proceeding or in accordance with par. a, and the rightful owner has not requested their return within 12 months after the taking of possession of such firearms or ammunition by the chief of police, such firearms or ammunition may be shipped by the chief of police to the state crime laboratory for disposition under s. 968.20(3)(a), Wis. Stats.

c. Seized Firearms or Ammunition Which Appear to be or are Reported Stolen. If firearms or ammunition seized by the chief of police appear to be or are reported stolen but are not required for evidence or further investigation and have not been disposed of pursuant to court order at the completion of a criminal action or proceeding or in accordance with par. a, and the rightful owner has not requested their return within 12 months after the taking of possession of such firearms or ammunition by the chief of police, the chief of police may ship such firearms or ammunition to the state crime laboratory for disposition under s. 968.20(3)(a), Wis. Stats., after the chief of police shall have made a reasonable effort to notify the rightful owner, and the rightful owner shall not have requested their return within 30 days following receipt of such notification. If after a reasonable effort the chief of police is unable to notify the rightful owner, the chief of police may ship such firearms or ammunition to the state crime laboratory for disposition under s. 968.20(3)(a), Wis. Stats., provided not less than 15 months shall have elapsed since the taking of possession of such firearms or ammunition by the chief of police.

3. OTHER SEIZED PROPERTY. If property other than firearms or ammunition is seized by the chief of police and is not requested for evidence or investigation, and such property poses a danger to life or property in its storage, transportation or use or constitutes contraband, the chief of police may safely dispose of such property by any lawful means.

105-123. Disposition of Property Found on City Streets. 1. RECEIPT ISSUED. If any person shall find any money or property and if the owner thereof be unknown, such person shall within 5 days after finding such money or property deliver the same to the chief of police. The chief of police may for the purpose of this section designate members of his department to perform the duties herein referred to. The chief of police, upon receipt of such found money, shall within 60 days separate such money from its container, if there be one, and deposit such found money with the city treasurer for safekeeping; provided, however, that the chief of police may, in his discretion, hold such money without depositing the same with the city treasurer. A copy of such deposit memorandum by the chief of police shall be forwarded to the city comptroller. All property except money delivered to the chief of police pursuant to the terms of this section shall be disposed of pursuant to ss. 105-122 and 310-29.

2. SPECIAL TRUST FUND. a. The city treasurer shall immediately, upon receipt of such found money, deposit such found money in a trust account to be known as the police department trust fund; and he shall not disburse such money to any person or persons unless he shall first have received from the chief of police a payment certification approved by the city comptroller stating the amount to be disbursed and that either the payee on such payment certification is the lawful owner of such money, or that the payee is the finder of such money; and, in the latter case, the payment certificate shall also state that such money was delivered to the police department at least 6 months prior to the date of such payment certification.

b. If such found money is not claimed within one year of the date of delivery to the police department, said money shall be deposited in the city general fund and be credited to miscellaneous general revenue.

3. RETURN TO OWNER, ETC. The chief of police or persons designated by him, upon receipt of found money or property, shall investigate and attempt to ascertain the true owner thereof. The chief of police shall issue a receipt to the finder which shall, in the case of money, show the amount and denomination and contain a description of the

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container in which such money was found; and in the case of other property, the receipt shall describe the property. If the chief of police shall discover the owner of such money, he shall issue a payment certification to such owner which shall meet the requirement of sub. 2. In the case of other property, the chief of police may turn such property over to the true owner. If the chief of police shall ascertain the true owner, but find it impossible to locate and notify said true owner or fail to receive response from said true owner, he shall, upon request, issue payment certification to the finder thereof which shall also comply with the provisions of sub. 2 with the exception of the provision which relates to the finder's 6 month's waiting period. In case of a known true owner, the finder's waiting period shall be 12 months. If the true owner cannot be ascertained after an investigation by the chief of police, he shall upon request issue a payment certification to the finder thereof which shall also comply with the provisions of sub. 2. If the chief of police cannot after an investigation determine who is entitled to the money or the property, he shall withhold the issuance of a payment certification until such time as he is directed by written order from a judge or a court of record directing him to issue such payment certification or directing him to turn over such property.

4. PENALTY. If any person shall find money or property and shall fail to deliver up such money or property within 5 days to the chief of police, or otherwise fail to comply with the provisions of this section, such person shall be guilty of a violation of this section and shall, upon conviction thereof, be fined not to exceed \$5 or upon default of the payment thereof be imprisoned in the house of correction not to exceed 10 days.

105-124. Police May Enter Buildings to Make Arrests, Right of Entry. The chief of police and the policemen are respectively authorized and empowered, in a peaceable manner, or, if refused admittance after demand is made, with force and arms, to enter any house, store, shop, grocery or other place or building, whatever or whatsoever in said city, in which any person or persons may reasonably be suspected to be for unlawful purposes, and if any person or persons shall be found therein guilty of any crime or misdemeanor, or violation of any law or ordinance for the preservation of the peace and good order of the city, or who may reasonably be suspected thereof, or who shall be aiding and abetting

such person or persons so found, said officer or policeman shall apprehend and keep in custody such person or persons as in case of other arrests made by police officers, until they be discharged by due course of law.

105-125. Power of Arrest. The chief of police and policemen respectively shall have full power and authority, and it shall be their duty to arrest all persons in the city found in the act of violating any law or ordinance of the city, or aiding or abetting in any such violation, and shall arrest all persons found under suspicious circumstances, and shall take all such persons in charge and confine them until a reasonable time to bring such persons before the county court in and for the county of Milwaukee, to be dealt with according to law.

105-126. General Duties of Policemen. The members of the police force shall obey the orders of the chief of police and shall report to the chief of police all violations of the city ordinances, and all suspicious persons, bawdy houses, pawn-brokers' shops, gambling houses, and all places where idlers, tipplers, gamblers and other disorderly and suspicious persons congregate. And it shall also be their duty to caution strangers and others against going into such places, and against pickpockets, watch stuffers, droppers, mock auctioneers and all other suspicious persons, to render assistance to officers of justice, to direct strangers to the nearest way to their places of destination, and when necessary to cause them to be accompanied by one of the police.

105-127. When to Arrest. Each policeman shall carefully watch all disorderly houses. He shall arrest all and every person who shall be seen by him violating any ordinance of the city, or who shall be found in the street drunk, noisy or using boisterous and threatening or insulting language tending to produce a quarrel or breach of the peace; all persons who shall be guilty of indecent conduct or of any indecent exposure of the person; all persons who shall be in the act of committing a felony or misdemeanor, or who shall be reasonably suspected of having committed any felony. He may lawfully make an arrest without a warrant for a misdemeanor whenever the officer has reasonable grounds to believe that the person to be arrested has committed a misdemeanor and will not be apprehended unless immediately arrested or that further personal and

property damage may likely be done unless immediately arrested. He may lawfully make an arrest acting under a warrant even though the officer does not have the warrant in his possession at the time of the arrest, but, if the person arrested so requests, the warrant shall be shown to him as soon as practicable. He may lawfully arrest when advised by any other peace officer in the state that a warrant has been issued for the individual.

105-133. Warrant for Assault Upon Officer. No member of the police force shall be permitted to apply for warrant for an assault upon himself without first reporting the case to the chief of police and obtaining from him or from the mayor permission in writing to make such application.

105-137. Assistance to Officers By Citizens. It shall be the duty of all persons in the city, when called upon by any police officer or patrolman to promptly aid and assist him in the execution of his duties. Whoever shall neglect or refuse to give such aid and assistance shall forfeit a penalty of not exceeding \$100 in the discretion of the court or magistrate convicting. And if the person offending be a licensed hackman, cabman or drawman, or the driver of any hackney coach, cab, omnibus, dray or wagon or other vehicle, the court or magistrate convicting shall be authorized to give judgment that the license of the said person or of the owner of such vehicle be cancelled and revoked.

105-138. Resisting or Obstructing Officer.

1. DEFINITIONS. In this section:
 - a. "Obstructs" includes without limitation knowingly giving false information to an officer or knowingly placing physical evidence with the intent to mislead an officer in the performance of the officer's duty, including the service of any summons or civil process.
 - b. "Officer" means a peace officer or other public officer or public employee having the authority by virtue of the officer's position or employment to take another into custody.
2. PROHIBITION. No person shall knowingly resist or obstruct an officer while the officer is doing any act in an official capacity and with lawful authority.
3. PENALTY. Any person violating this section shall upon conviction forfeit not less than \$100 nor more than \$500, together with the costs of prosecution and in default of payment shall be

imprisoned in the county jail or house of correction for a period not to exceed 20 days, or until the forfeiture and costs are paid; and for violations occurring between the hours of 8:00 p.m. and 5:00 a.m. upon a street designated as a cruising area under s. 101-20.5, including the land within the street lines whether or not improved, shall upon conviction forfeit not less than \$200 nor more than \$1,000, together with the costs of prosecution and in default of payment shall be imprisoned in the county jail for a period not to exceed 40 days, or until the forfeiture and costs are paid.

105-139. Protection of Election Officials.

1. FINDINGS. The common council finds election officials are bullied and threatened, and polling places are disrupted by behaviors that undermine free and fair elections.
2. DEFINITIONS. For purposes of this section:
 - a. "Election official" means an individual who is charged with any duties related to the conduct of an election.
 - b. "Polling place" means any facility where votes are cast in a primary or general election under the provisions of this chapter, including any hall, passageway, sidewalk or approach providing immediate access to the facility where votes are cast.
 - c. "Polling times" means the hours of operation of a polling place, including any time an election official is preparing to open a polling place to voters, or processing votes and supporting documents after the polling place is closed to voters.
 - d. "Telecommunication device" means any instrument, equipment, machine or other device that facilitates telecommunication, including but not limited to, a computer, computer network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, radio, transponder, receiver, modem or device that enables the use of a modem.
 - e. "Telecommunication message" means any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature transmitted with a telecommunications device.
3. PROHIBITIONS. No person, while at a polling place during polling times, shall:
 - a. Engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which is likely to cause or provoke a civil disturbance.

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b. Send a telecommunication message to a telecommunication device that contains any violent, abusive, indecent or profane language, or an image, or any other message intended to harass, annoy or offend, which is likely to cause or provoke a civil disturbance.

4. EXCEPTION. No provision of this section shall be construed to restrict the lawful possession of a firearm.

5. PENALTY. Any person violating this section shall, upon conviction, be subject to a forfeiture of \$1,000, together with the costs of prosecution, and in default of payment of the forfeiture and costs, shall be imprisoned as provided by law.

For legislative history of chapter 105, contact the Municipal Research Library.

CHAPTER 106 MORALS AND WELFARE

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106-1. Disorderly Conduct. 1. PROHIBITED. It shall be unlawful for any person to engage, in a public or private place, in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct under circumstances in which such conduct tends to cause or provoke a disturbance.

2. CONSTRUCTION. Subsection 1 shall not be construed to apply to, and no person may be charged with a violation of sub. 1 solely on account of, behavior limited to loading, carrying, or going armed with a firearm, without regard to whether the firearm is loaded or is concealed or openly carried, except when other facts and circumstances indicate a criminal or malicious intent.

3. PENALTIES. Any person violating this section shall upon conviction forfeit not more than \$500 or, upon default of payment thereof, be imprisoned in the house of correction of Milwaukee county for not more than 20 days; and, for offenses occurring between the hours of 8:00 p.m. and 5:00 a.m. upon a street designated as a cruising area under s. 101-20.5, including the land within the street lines whether or not improved, shall be fined not less than \$200 nor more than \$1,000 and in default of payment shall be imprisoned as provided by law. In lieu of paying a forfeiture, any person violating this section may be ordered to perform community service work, in accordance with s. 800.09, Wis. Stats.

106-1.1. Aggressive Panhandling.

1. DEFINITIONS. a. "Aggressive behavior" means engaging in any conduct with the intention of intimidating another person into giving away money or goods, including but not limited to, intentionally approaching, speaking to or following a person in a manner that would cause a reasonable person to fear imminent physical injury or the imminent commission of a criminal act upon the person or upon the property in the person's immediate possession; intentionally touching another person without consent; or intentionally blocking or interfering with the free passage of a person.

b. "Panhandling" means begging, soliciting, or asking for any item of value;

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attempting to sell or obtain compensation for an item or service for an amount that is at least twice its value, or an item or service that is already offered or available at no charge to the general public; or attempting to sell or obtain compensation for an item or service under circumstances that would lead a reasonable person to conclude that the payment is in substance a donation.

2. PROHIBITED. It shall be unlawful for any person to engage in the act of panhandling when either the panhandler or the person being solicited is located at any of the following locations:

- a-1. At a bus stop.
- a-2. In any public transportation vehicle or public transportation facility.
- a-3. In a vehicle which is parked or stopped on a public street or alley.
- a-4. In a sidewalk café.
- a-5. Within 20 feet in any direction from an automatic teller machine or entrance to a bank.
- b. It shall be unlawful for any person to engage in the act of aggressive panhandling at any location within the city.

3. PENALTY. Any person violating this section shall upon conviction forfeit not more than \$25, or in lieu of paying the forfeiture perform community service work, in accordance with s. 800.09, Wis. Stats.

106-1.8. Public Drinking and Possession of Alcohol Beverages.

1. PROHIBITED. Except as provided in sub. 2, it shall be unlawful for any person to consume any alcohol beverage or possess on his or her person, any bottle or receptacle containing alcohol beverages if the bottle has been opened, the seal broken or the contents of the bottle or receptacle have been partially removed upon any public alley, highway, pedestrian mall, sidewalk, or street within the limits of the city, including upon or within any commercial quadricycle as defined in s. 100-3-13.5 except as permitted in s. 100-50-12-k. Public events for which a permit has been issued under s. 105-55.5 to barricade and occupy the public right of way are exempt from this section.

2. REGULATION OF COMMERCIAL QUADRICYCLES. a. No driver of a commercial quadricycle, as defined in s. 340.01(8m), Wis. Stats., may consume alcohol while the commercial quadricycle is occupied by passengers.

b. No person may drive a commercial quadricycle while the person has an alcohol concentration of more than 0.02.

c. No person may drive a commercial quadricycle on which any alcohol beverages other than fermented malt beverages are carried or consumed or on which any alcohol beverages are

sold, including delivery on the commercial quadricycle of alcohol beverages previously sold by a caterer.

d. No person may possess on, or carry onto, a commercial quadricycle more than 36 fluid ounces of fermented malt beverages.

e. No person convicted of driving a commercial quadricycle in violation of any provision of pars. a to d shall subsequently drive a commercial quadricycle within the city.

f. No person may drive a commercial quadricycle occupied by passengers after 10:30 p.m.

3. PENALTIES. a. Any person who violates sub. 1 shall upon conviction be subject to a forfeiture of not less than \$50 nor more than \$250, together with the costs and disbursements of prosecution and upon default of payment thereof may be imprisoned as provided by law; and, further, any person who violates sub. 1 between the hours of 8:00 p.m. and 5:00 a.m. upon a street designated as a cruising area under s. 101-20.5, including the land within the street lines whether or not improved, shall be subject to a forfeiture of not less than \$100 nor more than \$500, together with the costs and disbursements of prosecution and upon default thereof may be imprisoned as provided by law.

b. b-1. Any person who violates any provision of sub. 2-a to d shall upon conviction be subject to a forfeiture of not less than \$200 nor more than \$500, together with the costs and disbursements of prosecution and upon default of payment thereof shall be imprisoned as provided by law; and, further, any person who violates sub. 2 between the hours of 8:00 p.m. and 5:00 a.m. upon a street designated as a cruising area under s. 101-20.5, including the land within the street lines whether or not improved, shall be subject to a forfeiture of not less than \$350 nor more than \$500, together with the costs and disbursements of prosecution and upon default thereof may be imprisoned as provided by law.

b-2. Any person who violates sub. 2-e shall upon conviction be subject to a forfeiture of not less than \$1,000 nor more than \$2,000 and upon default of payment thereof may be imprisoned as provided by law.

106-2.1. Drinking Upon Public Parking Structures and Public Parking Surface Lots.

1. PROHIBITED. It shall be unlawful for any person to consume any alcohol beverage or possess on his or her person any bottle or receptacle containing alcohol beverages if the bottle or receptacle has been opened, the seal has been broken or the contents of the bottle or receptacle have been partially removed

while upon any public parking structure or public parking surface lot within the limits of the city.

1.5. EXCEPTION. The provisions of sub. 1 shall not apply to:

a. American Family Field parking surface lots during sporting events and concerts.

b. Any temporary extension of a class "B" tavern licensed premises for special events granted by the common council as provided in s. 90-4-7.8.

c. Bona fide clubs, organized labor unions, county or local fair associations, or agricultural societies, churches, lodges or societies granted a Class "B" special license under the provisions of s. 90-4-7.

d. Churches, charitable and educational societies or associations, and other nonprofit Class "B" tavern licensees or Class "B" fermented malt beverage licensees provided, however, that the city clerk may require proof of nonprofit status, whether for temporary extension to public parking structures and public parking surface lots under s. 90-4-7.8 or for inclusion of public parking structures and public parking surface lots within the floor plan submitted and in the license application under s. 90-5-1-c.

e. Commercial quadricycles if the locations and times when consumption of fermented malt beverages is specified in the plan of operation of the commercial quadricycle approved by the licensing committee as provided in s. 100-50.

f. A waiver granted by the common council by resolution from the prohibition under sub. 1 for certain special events.

2. DEFINITIONS. In this section:

a. "Public parking structure" means a building enclosure or garage above or under the ground, or any portion thereof, in which automobiles or motor vehicles may be parked, stored, housed or kept, and open to public use with or without charge.

b. "Public parking surface lot" means 5 or more ground level parking spaces, or any portion thereof, not located in a structure, upon which automobiles or motor vehicles may be parked, stored, housed or kept, and open to public use with or without charge.

c. "Special event" means any planned extraordinary occurrence on a public parking structure or public parking surface lot, sponsored or authorized by the owner or management of the structure or lot, including but not limited to festivals, block parties and tailgate parties.

3. PENALTY. Any person who violates this section shall, upon being found guilty thereof,

be subject to a forfeiture of not less than \$50 nor more than \$250, together with the costs and disbursements of prosecution, and upon default of payment thereof, shall be imprisoned in the county jail or house of correction of Milwaukee county until such time as costs and disbursements are paid, such imprisonment not to exceed 10 days.

106-2.5. Water Tower Park Curfew.

1. RESTRICTIONS. No person shall enter or remain in the area known as Water Tower Park bounded by E. North Ave., E. Wyoming Pl., N. Lake Dr. and N. Terrace Ave. between the hours of 10 p.m. and 7 a.m. Appropriate signs of a properly aesthetic nature shall be so placed as to give the public notice of the foregoing restrictions.

2. PENALTY. Any person violating this section shall be subject to a forfeiture of not less than \$1 nor more than \$200 together with the costs of prosecution, and upon default of payment thereof be confined in the county jail or house of correction for a period not to exceed 90 days or until such fine and costs are paid.

106-3. Places of Prostitution. Every person or persons who shall keep a place of prostitution or who grants the use or allows the continued use of a place of prostitution shall be fined not less than \$100 and not more than \$500, and any person who enters or remains in any place of prostitution with intent to have nonmarital sexual intercourse or to commit an act of sexual perversion as defined by ch. 944, Wis. Stats., and any acts amendatory thereof and supplementary thereto shall be fined not more than \$100.

106-4. Leasing Building for Prostitution. All persons are prohibited from leasing or letting, either as landlord or agent of the landlord, or agent of the tenant, or as landlord through any agent or subagent, any house, room or other premises in the city to be used for the purpose of prostitution or lewdness. Any person violating this section shall upon conviction thereof be fined not less than \$50 nor more than \$500.

106-5. Indecent Exposure. 1. DEFINITION. In this section, "intimate part" means the anus, genitals or pubic area of a person or the areola of the female breast.

2. PROHIBITION; PENALTIES. Any person who publicly and indecently exposes an intimate part of his or her body shall upon conviction be punished by a fine of not less than \$50 nor more than \$250 and the costs of

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prosecution; and, further, any person who violates this section between the hours of 8:00 p.m. and 5:00 a.m. upon a street designated as a cruising area under s. 101-20.5, including the land within the street lines whether or not improved, shall be punished by a fine of not less than \$150 nor more than \$500 and the costs of prosecution.

3. EXCEPTIONS. a. Subsection 2 does not apply to a mother's breast-feeding of her child.

b. Subsection 2 does not apply to any performance having serious artistic, literary, scientific or educational value, if taken as a whole.

106-6. Exhibiting Stud Horse or Bull. No person shall indecently exhibit any stud horse or bull, or let any such horse to any mare, or any bull to any cow or cows within the limits of this city, unless in some enclosed place out of public view, under a penalty of not less than \$10 nor more than \$50 for each offense.

106-7. Obscene Materials or Performances.

1. DEFINITIONS. a. "Material" means anything tangible that is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound, or in any other manner, but does not include an actual 3-dimensional obscene device.

b. "Obscene" means material or a performance that:

b-1. The average person, applying contemporary community standards, would find that taken as a whole appeals to the prurient interest in sex.

b-2. Depicts or describes:

b-2-a. Patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse, sodomy, fellatio, cunnilingus and sexual bestiality; or

b-2-b. Patently offensive representations or descriptions of masturbation, excretory functions, sadism, masochism, lewd exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal, covered male genitals in a discernibly turgid state or a device designed and marketed as useful primarily for stimulation of the human genital organs; and

b-3. Taken as a whole, lacks serious literary, artistic, political or scientific value.

c. "Obscene device" means a device, including a dildo or artificial vagina, designed and marketed as useful primarily for the stimulation of human genital organs.

d. "Patently offensive" means so offensive on its face as to affront current community standards of decency.

e. "Performance" means a play, motion picture, dance or other exhibition performed before an audience.

f. "Promote" means to manufacture, issue, sell, give, provide, lend, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit or advertise, or to offer or agree to do the same.

2. UNLAWFUL ACTS. a. A person commits a violation under this section if, knowing its content and character, he or she:

a-1. Promotes or possesses with intent to promote any obscene material or obscene device; or

a-2. Produces, presents, or directs an obscene performance or participates in a portion thereof that is obscene or that contributes to its obscenity.

b. This section does not apply to a person who possesses or distributes obscene material or obscene devices or participates in conduct otherwise prescribed by this section when the possession, participation or conduct occurs in the course of law enforcement activities.

3. PENALTY. Any person who violates this section shall forfeit not less than \$500, nor more than \$2,000 together with the costs of prosecution for each offense. In default of payment of any forfeiture and cost of prosecution, the violator shall be imprisoned in the house of correction or the county jail until such forfeiture or costs are paid. Such imprisonment shall not exceed 60 days.

106-8. Harassing or Obscene Phone Calls and Messaging. Whoever does any of the following, by means of telephone calls or text messaging originating within or received within the limits of the city, may be fined not less than \$100 nor more than \$500 or upon default of payment shall be imprisoned as provided by law:

1. Makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy or indecent.

2. Makes a telephone call or sends a text message with the intent to abuse, threaten or harass any person receiving the call or text message.

3. Makes or causes the telephone of another repeatedly or continuously to ring, with

intent to harass any person at the called number or numbers.

4. Makes repeated telephone calls or sends repeated text messages solely to harass any person receiving the calls or text messages

5. Knowingly permits any telephone under his control to be used for any purpose prohibited by this section.

6. In conspiracy or concerted action with other persons, makes repeated calls or simultaneous calls solely to harass any person at the called number.

106-9.5. Exposing Minors to Harmful Materials.

1. DEFINITIONS. For purposes of interpretation in enforcement of this section, the definitions contained in sub. 1 shall apply. In addition, as used in this section:

a. "Knowingly" means having general knowledge of, or reason to know, or belief or ground for belief which warrants further inspection or inquiry of both:

a-1. The character and content of any material described herein which is reasonably susceptible of examination by the defendant.

a-2. The age of a minor.

b. "Minor" means any person less than 18 years old.

2. UNLAWFUL. It shall be unlawful for any person knowingly to distribute pornographic material to a minor.

3. VIOLATIONS. It shall be unlawful for any person to exhibit a pornographic performance to a minor. It shall be a violation of this section if any person for a monetary consideration or other valuable commodity or service knowingly:

a. Exhibits a pornographic performance to the minor; or

b. Sells an admission ticket or other means to gain entrance to a pornographic performance to the minor; or

c. Permits the admission of the minor to premises whereon there is exhibited a pornographic performance.

4. PENALTY. Any person who shall violate this section shall forfeit not less than \$200 nor more than \$1,000 together with the costs of prosecution. In default of payment of any forfeiture and costs of prosecution, the violator shall be imprisoned in the house of correction or the county jail until such forfeiture and costs are paid and such imprisonment shall not exceed 90 days.

106-9.6. Display of Material Harmful to Minors and Marital Aid Devices. 1. DEFINITIONS. In this section:

a. "Harmful to minors" means that quality of any description or representation, in whatever form, of nudity, sexual conduct or sexual excitement when it:

a-1. Predominantly appeals to the prurient, shameful or morbid interests of minors in sex.

a-2. Is patently offensive to contemporary standards in the adult community as a whole with respect to what is suitable sexual material for minors.

a-3. Taken as a whole, lacks serious literary, artistic, political or scientific value.

b. "Knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:

b-1. The character and content of any material which is reasonably susceptible of examination.

b-2. The age of the minor.

c. "Marital aid device" means a device designed or marketed primarily for use in achieving the sexual stimulation or arousal of human genital organs, including a dildo or artificial vagina.

d. "Material" means any book, cassette, magazine, motion picture film, newspaper, pamphlet, poster, print, picture, slide, figure, image, description, record, recording tape or video tape.

e. "Minor" means any person under the age of 18 years.

f. "Nudity" means: the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering; the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state.

g. "Person" means any individual, partnership, association, corporation or other legal entity of any kind.

h. "Sexual conduct" includes any of the following depicted sexual conduct:

h-1. Any act of sexual intercourse, actual or simulated, including genital, anal-genital or oral-genital intercourse, whether between human beings or between a human being and an animal.

h-2. Sadomasochistic abuse meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing costume or the condition of being fettered, bound

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or otherwise physically restricted on the part of one so clothed.

h-3. Masturbation or lewd exhibitions of the genitals, including any explicit, close-up representation of a human genital organ.

h-4. Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

h-5. An act of sexual assault where physical violence or drugs are employed to overcome the will of or achieve the consent of a person to an act of sexual conduct and the effects or results of the violence or drugs are shown.

i. "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

2. PROHIBITED DISPLAY. No person having custody, control or supervision of any commercial establishment may knowingly display marital aid devices, or any material whose cover, covers or packaging, standing alone is harmful to minors, in such a way that minors, as part of the invited general public, will be exposed to view the material or in such a way that the devices or material are easily visible from a public thoroughfare or sidewalk. A person shall not be deemed to have displayed material harmful to minors if those portions of the cover, covers or packaging containing such material harmful to minors are blocked from view by an opaque screen, border or cover. An honest mistake regarding the age of a minor shall constitute an excuse from liability if the defendant made a reasonable bona fide attempt to ascertain the true age of the minor.

3. PENALTY. Any person who violates this section shall, upon conviction, forfeit not more than \$500, together with the costs of prosecution, or, in default of payment may be imprisoned in the county jail or house of correction for not more than 30 days. Each day on which a violation continues shall be determined a separate and distinct offense.

106-11. Mashing Prohibited. Any person who shall improperly accost, ogle, insult, follow, pursue, lay hands on or otherwise molest another person theretofore to him or her unacquainted, shall upon conviction forfeit no more than \$500, or in default of payment may be imprisoned in the house of correction of Milwaukee county for not more than

20 days, or until the fine and costs are paid. In lieu of paying a forfeiture, any person violating this section may be ordered to perform community service work, in accordance with s. 800.09, Wis. Stats.

106-12. Bathing. 1. SWIMMING PLACES. No person shall be allowed to bathe or swim in the public waters of the city, except from public or private bath houses or swimming schools; provided, that this shall not apply to the waters of Lake Michigan opposite Bradford Avenue, Pennsylvania Avenue and Texas Avenue.

2. BATHING SUIT REGULATIONS. No person shall bathe or swim in the public waters of the city unless clad in proper and decent bathing suits. No person shall appear in the public highways of the city outside of bathing establishments clad in bathing costumes, unless street clothes are worn on the outside thereof.

3. BATH HOUSES. No person shall keep a bathing institution at any of the said public waters without the consent of the mayor, and then only subject to such regulations as the mayor shall prescribe.

4. PENALTY. For penalty clause, see s. 106-22.

106-21. Unlawful Library Acts.

1. DEFINITIONS. In this section:

a. "Library" means any city of Milwaukee public library.

b. "Library material" includes any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, artifacts or other documentary, written or printed materials, regardless of physical form or characteristics, belonging to, on loan to or otherwise in the custody of a library.

c. "Value" means the reasonable replacement cost of an item as determined by library policy.

d. "Incident location" for purposes of this section shall be 814 West Wisconsin Avenue, Milwaukee, Wisconsin.

e. "Library computer record" means any circulation, registration, catalog, image recording or any electronic record kept in the regular course of business by the library or its designee.

2. UNLAWFUL USE OF LIBRARY CARD. a. No person may:

a-1. Use, present or cause to be presented as valid any canceled, fictitious or fraudulently obtained, forged or altered library card.

a-2. Sell or lend his or her library card to any other person or knowingly permit the use thereof by another.

a-3. Represent as one's own, any library card not issued to him or her.

a-4. Permit any unlawful use of a library card issued to him or her.

b. Whenever a library card which belongs to another or appears to be altered or fraudulently obtained is displayed to a law enforcement officer or library employee or agent, that person shall take possession of the card and return it to the library.

3. FAILURE TO RETURN LIBRARY MATERIAL. a. After notice has been sent to the last known address, no person may fail to return overdue, borrowed library material.

b. Each individual item borrowed may constitute a separate violation of this section.

c. Refusal to accept or failure to receive an overdue notice mailed by first class mail to such person's last-known address shall not be a defense to a violation of this section. If the person has changed his or her address and fails to notify the Milwaukee public library as required, failure to receive the overdue notice shall not be a defense.

d. No person may fail to return, relinquish or produce library materials in his or her possession regardless of due date upon demand by a police officer, agent or employee of the library.

4. THEFT OF LIBRARY MATERIAL.

a. Whoever intentionally takes and carries away, transfers, conceals or retains possession of any library material with a value of \$500 or less without the consent of a library official, agent or employee and with intent to deprive the library of possession of the material may be penalized as provided in sub. 8-b.

b. The concealment of library material beyond the last station for borrowing library material in a library or possession of library material from which security tags or property identification markings have been removed is evidence of intent to deprive the library of possession of the material. The discovery of library material which has not been borrowed in accordance with the library's procedures or taken with consent of a library official, agent or employee and which is concealed upon the person or among the belongings of the person or concealed by a

person upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing the material.

c. An official or adult employee or agent of a library who has probable cause for believing that a person has violated this subsection in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a peace officer, or to the person's parent or guardian in the case of a minor.

The detained person shall be promptly informed of the purpose for the detention and be permitted to make phone calls, but shall not be interrogated or searched against his or her will before the arrival of a peace officer who may conduct a lawful interrogation of the accused person. Compliance with this subsection entitles the official, agent or employee effecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.

5. FRAUDULENT REGISTRATION AND USE OF LIBRARY MATERIALS. a. No person shall directly or indirectly make or cause to be made any false statement regarding the person's own identity or residence or the identity or residence of another person when the person knows his or her statement to be false and when the person intends that false statement to be relied upon for any person's registration for or use of library materials.

b. Evidence that a person has the intent required under par. a is shown by the person's doing any of the following:

b-1. Directly or indirectly giving false or misleading information on a library registration form in any manner.

b-2. Presenting false or fictitious credentials for the purpose of obtaining a library card or the use of library materials.

b-3. Using a library card that was obtained in violation of this subsection to check out library materials.

6. ALTERATION OF IDENTIFICATION MARKINGS. a. No person shall remove, alter or conceal all or any part of an identification mark, label, stamp, writing or attachment that identifies any item or material as the property of the library unless authorized library personnel has marked the item or material as "DISCARDED".

b. No person shall possess, transport, display for sale, sell, trade or retain for personal use any library item or material on which identification markings have been altered as prohibited under par. a

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c. No person shall possess, transport, display for sale, sell or trade a discard stamp or any other paraphernalia designed to alter identification markings on library materials.

7. ALTERATION OF COMPUTER RECORD. No person may alter a library computer record with the result that such alteration destroys, masks, alters or otherwise makes the record untrue or unreliable.

8. PENALTY. a. A person who violates subs. 2, 3, 5 or 6 may be required to forfeit no more than \$1,000.

b. A person who violates subs. 4 and 7 may be required to forfeit not more than \$1,500.

c. A person in default of a forfeiture under pars. a or b may be imprisoned in the county jail or house of correction for no more than 60 days, until such forfeiture costs are paid.

9. CITATIONS. a. Citations may be issued for all violations of this section with or without prior order or notice by a peace officer.

b. Citations may be issued by the library's investigator or other designated agent for any violation of subs. 2, 3, 5 or 6.

c. Citations issued for violation of sub. 3 shall, for administrative purposes, refer to the incident location defined in this section.

d. The stipulation, forfeiture and court procedure as set forth in s. 50-25 shall apply for any citation issued in accordance with this section.

106-22. Penalty, General. Any person violating any of the provisions of this chapter, for the violation of which no penalty is in this chapter specified, shall be punished by a fine of not less than \$1 nor more than \$100.

106-23. Loitering of Minors (Curfew Hours). It shall be unlawful for any person under the age of 17 years to congregate, loiter, wander, stroll, stand or play in or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, places of employment, vacant lots or any public places in the city either on foot or in or upon any conveyance being driven or parked thereon, between the hours of 10 p.m. and 5 a.m. of the following day, official city time, Sunday through Thursday and between 11 p.m. and 5 a.m. Friday and Saturday, from September 1 through May 31; and between 11 p.m. and 5 a.m. from June 1 through August 31.

1. EXCEPTIONS. This section shall not apply where the actor was accompanied by his or her parent, guardian or other adult person having his or her care, custody or control, or where

the actor was exercising first amendment rights protected by the United States constitution or the Wisconsin constitution, including freedom of speech, the free exercise of religion, and the right of assembly. Unless flight by the actor or other circumstances makes it impracticable, a peace officer shall, prior to issuing a citation for an offense under this section, afford the actor an opportunity to explain his or her reasons for being present in the public place. A peace officer shall not issue a citation for an offense under this section unless the officer reasonably believes that an offense has occurred, and that none of the exceptions described in this subsection apply.

2. RESPONSIBILITY OF PARENTS. It shall be unlawful for the parent, guardian or other adult person having the care and custody of a person under the age of 17 years to suffer or permit or by inefficient control to allow such person to congregate, loiter, wander, stroll, stand or play in or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, places of employment, vacant lots or any public places in the city between the hours of 10 p.m. and 5 a.m. of the following day, official city time, Sunday through Thursday, and between 11 p.m. and 5 a.m. Friday and Saturday, from September 1 through May 31; and between 11 p.m. and 5 a.m. from June 1 through August 31, unless one of the exceptions described in sub. 1 applies; provided that any parent, guardian or other adult person who shall have made a missing person notification to the police department shall not be considered to have suffered or permitted any person to be in violation of this section.

3. RESPONSIBILITY OF OPERATORS. It shall be unlawful for any person, firm or corporation operating places of amusement or entertainment, or any agent, servant or employee of any person, firm or corporation to permit any person under the age of 17 years to enter or remain in such places of amusement or entertainment during the hours prohibited under this section, unless one of the exceptions described in sub. 1 applies.

4. RESPONSIBILITY OF HOTELS, ETC. It shall be unlawful for any person, firm or corporation operating a hotel, motel, lodging or rooming house, or any agent or servant or employee of such person, firm or corporation operating a hotel, motel, lodging or rooming house, to permit any person under the age of 18 years to visit, loiter, idle, wander or stroll in any portion of such hotel, motel, lodging or rooming house between the hours of 10 p.m. and 7 a.m. of

the following day, official city time; provided, however, that this section does not apply when one of the exceptions described in sub. 1 applies.

5. PENALTY. Any person, firm or corporation violating this section upon conviction shall forfeit not less than \$100 nor more than \$200, and in default of payment thereof be confined in the county house of correction not more than 8 days.

106-23.1. Truancy. 1. DEFINITIONS. In this section: a. "Acceptable excuse" means an excuse described under ss. 118.15 and 118.16(4), Wis. Stats.

b. "Habitual truant" means any pupil who is truant for part or all of 5 or more days in a school semester.

c. "Truant" means a school pupil who is at least 12 years of age who is absent from school without an acceptable excuse for part or all of any day in which school is held during a school semester.

2. PROHIBITION. It is a violation of this section for any person under 18 years of age to be truant or a habitual truant.

3. PENALTIES. a. Any truant may be subject to any or all of the following:

a-1. An order to attend school.

a-2. A forfeiture of not more than \$50, plus court costs, for a first violation.

a-3. A forfeiture of not more than \$100, plus court costs, for a second or subsequent violation committed within 12 months of the commission of a previous violation, subject to a maximum cumulative forfeiture amount of not more than \$500 for all violations committed during a school semester.

a-4. An order to pay court costs, subject to s. 938.37, Wis. Stats.

b. Any habitual truant may be subject to any or all of the following:

b-1. Suspension of his or her operating privileges for not less than 30 days nor more than one year. The court shall immediately take possession of any suspended license and forward it to the Wisconsin department of transportation together with a notice stating the reason for and the duration of the suspension.

b-2. An order to participate in counseling or a supervised work program or other community service work as described in s. 938.342(1g)(b), Wis. Stats.

b-3. An order for the department of workforce development to revoke, under s. 103.72,

Wis. Stats., a permit issued under s. 103.70, Wis. Stats., authorizing the employment of the habitual truant.

b-4. An order to attend school.

b-5. A forfeiture of not more than \$500, plus court costs, subject to s. 938.37, Wis. Stats.

b-6. An order placing the habitual truant under formal or informal supervision as described in s. 938.34(2), Wis. Stats., for up to one year.

b-7. An order for the habitual truant's parent, guardian or legal custodian to participate in counseling or to attend school with the habitual truant, or both.

c. All or part of any forfeiture assessed pursuant to this section may be assessed against the truant or habitual truant, his or her parent or guardian, or both.

106-23.2. Contributing to the Delinquency of Minors. Any parent or legal guardian having legal custody of a minor under the age of 18 years who, through his or her negligence, laxity or disregard of the morals, health and welfare of the minor, has contributed to the delinquency of the minor, or any person who shall contribute to the delinquency of any minor shall be punished by a fine of not less than \$25 nor more than \$500, or in default thereof, by imprisonment in the county jail or house of correction until such fine, including costs and disbursements, is paid, but not to exceed 60 days.

106-23.3. Contributing to Truancy. 1. In this section "truancy" has the same meaning as defined under s. 118.16(1)(c), Wis. Stats.

2. Except as provided in sub. 4, no person 18 years of age or older shall knowingly encourage or contribute to the truancy of a minor under the age of 18 years.

3. An act or omission contributes to the truancy of a minor, whether or not the minor is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the minor to be truant.

4. Subsection 2 does not apply to a person who has under his or her control a truant minor who has been sanctioned through the state Learnfare program under s. 49.50(7)(h), Wis. Stats.

5. A person who is convicted of violating this section shall forfeit not less than \$25 nor more than \$500, and in default of payment

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shall be imprisoned in the house of correction or the county jail for not less than one day nor more than 20 days.

106-23.4. Newscarrrier Regulations (Minors).

1. UNDER THE AGE OF 12 YEARS. Except as provided in s. 103.23(2), Wis. Stats., no child under the age of 12 years shall be allowed to hawk or sell newspapers or other articles upon the streets of the city.

2. PENALTY. Parents and guardians, or those having children in their charge, are hereby required to see that the provisions of this section are carried out and, in case of failure to do so, are made subject to a fine of not less than \$1 nor more than \$10, or to imprisonment in the house of correction of Milwaukee county for not less than 5 days nor more than 15 days in the discretion of the court.

106-23.5. Parental Responsibility for Misconduct of Juveniles.

1. PURPOSE. The purpose of this section is to require proper supervision on the part of custodial parents in order to reduce the number of ordinance violations by juveniles from occurring.

2. DEFINITIONS. In this section:

a. "Custodial parent" means a parent or legal guardian of a juvenile who has custody of the juvenile.

b. "Custody" means either physical custody of a juvenile under a court order under s. 767.23 or 767.24, Wis. Stats., custody of a juvenile under a stipulation under s. 767.10, Wis. Stats., or actual physical custody of the juvenile. Custody does not include legal custody, as defined under s. 48.02(12), Wis. Stats., by an agency or a person other than a juvenile's birth or adoptive parent. In determining which parent has custody of a juvenile for purposes of this section, the court shall consider which parent had responsibility for caring for and supervising the juvenile at the times that the juvenile's ordinance violations occurred.

c. "Juvenile" means any person less than 17 years of age.

d. "Parental responsibility" means a custodial parent of a juvenile residing with such custodial parent shall meet his or her duty to supervise the juvenile.

3. PROHIBITED CONDUCT.

a. It shall be unlawful for the custodial parent of a juvenile to not properly supervise the

juvenile. Any custodial parent of a juvenile who is convicted of ordinance violations 2 times within a 6-month period or 3 or more times within a 12-month period is guilty of failing to properly supervise the juvenile where the violations were a foreseeable consequence of the breach of the duty, in that:

a-1. The parent aided or abetted the juvenile during an act forming the basis of a violation; or

a-2. The parent acted or failed to act to impose reasonable supervisory controls on the juvenile that made the violation foreseeable.

b. The 6 and 12-month periods shall be measured from the date of the first conviction. Adjudication in the court that the juvenile has violated an ordinance shall bar a juvenile's custodial parent from denying that the juvenile committed the violation.

4. DEFENSE OF PARENT. The following shall be among the defenses to a violation of sub. 3 where proven by the parent by clear and convincing evidence:

a. The parent was not legally responsible for the supervision of the juvenile at the times the juvenile's ordinance violations occurred.

b. The parent had a physical or mental disability or incompetence rendering him or her incapable of supervising the juvenile at the times the juvenile's ordinance violations occurred.

c. The parent had reported to the appropriate authorities the juvenile's ordinance violations at the times the violations occurred or as soon as the parent learned of the violations.

d. The parent is the victim of the acts underlying the juvenile's ordinance violations.

e. A competent physician or licensed psychologist had diagnosed the juvenile before the times the juvenile's ordinance violations occurred as suffering from a mental disorder that renders parental supervision and control ineffective.

f. The parent can provide specific evidence of on-going participation in or recent completion of parenting classes, family therapy, group counseling or AODA counseling which includes the parent or family.

5. PENALTY. A person who is convicted of violating sub. 3 shall forfeit not less than \$200 nor more than \$400, and in default of payment thereof shall be imprisoned in the house

of correction or the county jail not more than 16 days.

106-30. Sale of Tobacco to Persons Under 18.

1. DEFINITIONS. In this section:

a. "Cigarette" means any roll of tobacco wrapped in paper or any substance other than tobacco.

b. "Nicotine products" means a product that contains nicotine and is not any of the following:

b-1. A tobacco product.

b-2. A cigarette.

b-3. A product that has been approved by the U.S. food and drug administration for sale as a smoking cessation product or for another medical purpose and is being marketed and sold solely for such an approved purpose.

c. "Person" means any individual, partnership, firm, organization, association, corporation, trustee or other legal entity of any kind.

d. "Retailer" means any person licensed under s. 134.65(1), Wis. Stats.

e. "Tobacco products" means: cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but does not include cigarettes, as defined under s. 139.30(1m), Wis. Stats.

f. "Vending machine" means any mechanical device that automatically dispenses cigarettes or tobacco products when money or tokens are deposited in the device in payment for cigarettes or tobacco products.

2. PROHIBITION. a. No retailer may sell or give to any person under the age of 18 any cigarette, nicotine product, or tobacco product at any time, except as provided in s. 254.92(2)(a), Wis. Stats.

b. No retailer may provide for nominal or no consideration cigarettes, nicotine products, or tobacco products to any person except in a place where no person younger than 18 years of age is present or permitted to enter unless the

person who is younger than 18 years of age is accompanied by his or her parent or guardian or by his or her spouse who has attained the age of 18 years.

3. REGULATIONS. a. The owner or operator of a premise which sells cigarettes or tobacco products shall post a sign in the immediate area where those products are sold stating that the sale of any cigarette or tobacco products to a person under the age of 18 is unlawful under this section and ss. 134.66 and 254.92, Wis. Stats.

b. A retailer or vending machine operator may not sell cigarettes or tobacco products from a vending machine, except in a facility where individuals under the age of 18 are not present or permitted at any time, as provided in s. 21 CFR Part 1140.

c. No retailer may sell cigarettes in a form other than as a package or container on which a stamp is affixed under s. 139.32(1), Wis. Stats.

4. DEFENSE OF RETAILER. Proof of all the following facts by a retailer who sells cigarettes or tobacco products to a person under the age of 18 is a defense to any prosecution for a violation of sub. 2-a:

a. That the purchaser falsely represented that he or she had attained the age of 18 and presented an identification card.

b. That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the age of 18.

c. That the sale was made in good faith, in reasonable reliance on the identification card and appearance of the purchaser and in the belief that the purchaser had attained the age of 18.

5. PENALTIES. a. Any person convicted of violating this section, except sub.3-a, shall be subject to the following forfeitures:

a-1. Not more than \$500 if the person has not committed a previous violation within 12 months of the violation.

a-2. Not less than \$200 nor more than \$500 if the person has committed a previous violation within 12 months of the violation.

b. If the court finds that a person licensed under s. 84-43 committed a violation, the license of the person shall be suspended for the following periods of time:

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b-1. Not more than 3 days if the person committed a violation within 12 months after committing one previous violation.

b-2. Not less than 3 days nor more than 10 days if the person committed a violation within 12 months after committing 2 previous violations.

b-3. Not less than 15 days nor more than 30 days if the person committed the violation within 12 months after committing 3 or more previous violations.

c. Upon suspension of the license under par. b, the court shall promptly mail notice of the suspension to the Wisconsin department of revenue.

d. Any person convicted of violating sub. 3-a shall forfeit not more than \$25.

106-30.2. Sale of Electronic Cigarettes to Persons Under 18.

1. DEFINITIONS. In this section:

a. "Electronic smoking device" means an electronic device that can be used to deliver an inhaled dose of nicotine or any other substance intended for human consumption that may be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. It includes any such device whether manufactured, distributed, marketed, or sold as an electronic cigarette, commonly known as e-cigarettes; an electronic cigar; an electronic cigarillo; an electronic pipe; an electronic hookah; vape pen; or any other product name or descriptor.

b. "Electronic smoking device paraphernalia" means a cartridge, cartomizer, e-liquid, smoke juice, tip, atomizer, electronic smoking device battery, electronic smoking device charger, and any other item specifically designed for the preparation, charging, or use of electronic smoking devices. It does not include any cigarette, as defined in s. 139.30(1m) Wis. Stats., nicotine product, as defined in s. 134.66(1)(f), Wis. Stats., or tobacco products, as defined in s. 139.74(12), Wis. Stats.

c. "Person" means any individual, partnership, firm, organization, association, corporation, trustee, or other legal entity of any kind.

d. "Vending machine" means any mechanical device that automatically dispenses electronic smoking devices or electronic smoking device paraphernalia when money or tokens are deposited in the device in payment for electronic smoking devices or electronic smoking device paraphernalia.

2. PROHIBITION. a. No person may sell or give any person under the age of 18 any electronic smoking device or electronic smoking device paraphernalia at any time.

b. No person may provide for nominal or no consideration an electronic smoking device or electronic smoking device paraphernalia to any person except in a place where no person younger than 18 years of age is present or permitted to enter unless the person who is younger than 18 years of age is accompanied by his or her parent or guardian or by his or her spouse who has attained the age of 18 years.

3. REGULATIONS. a. The owner or operator of an establishment that sells electronic smoking devices or electronic smoking device paraphernalia shall post a sign in the immediate area where those products are sold stating that the sale of any electronic smoking devices or electronic smoking device paraphernalia to a person under the age of 18 is unlawful under this section.

b. A person or vending machine operator may not sell electronic smoking devices or electronic smoking device paraphernalia from a vending machine, except in an establishment where individuals under the age of 18 are not present or permitted at any time, as provided in s. 21 CFR Part 1140.

4. DEFENSE OF SELLER. Proof of all the following facts by a person who sells electronic smoking devices or electronic smoking device paraphernalia to a person under the age of 18 is a defense to any prosecution for a violation of sub. 2-a:

a. That the purchaser falsely represented that he or she had attained the age of 18 and presented an identification card.

b. That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the age of 18.

c. That the sale was made in good faith, in reasonable reliance on the identification card and appearance of the purchaser and in the belief that the purchaser had attained the age of 18.

5. PENALTIES. a. Any person convicted of violating this section, except sub. 3-a, shall be subject to the following forfeitures:

a-1. Not more than \$500 if the person has not committed a previous violation within 12 months of the violation.

a-2. Not less than \$200 nor more than \$500 if the person has committed a previous violation within 12 months of the violation.

b. Any person convicted of violating sub. 3-a shall forfeit not more than \$25.

106-30.5. Purchase and Possession of Cigarettes and Tobacco Products by Persons Under the Age of 18.

1. FALSE REPRESENTATION ILLEGAL. No person under 18 years of age may falsely represent his or her age for the purpose of receiving any cigarette or tobacco product.

2. EXCEPTION. No person under 18 years of age may purchase or possess cigarettes or tobacco product except as follows:

a. A person under 18 years of age may purchase or possess cigarettes or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer.

b. A person under 18 years of age, but not under 15 years of age, may purchase, attempt to purchase or possess cigarettes or tobacco products in the course of his or her participation in an investigation under s. 254.916, Wis. Stats., that is conducted in accordance with sub. 3 and s. 254.916(3), Wis. Stats.

3. INVESTIGATION EXCEPTION. With the permission of his or her parent or guardian, a person under the age of 18 years, but not under 15 years of age may buy, attempt to buy or possess any cigarette or tobacco product if all of the following are true:

a. The person commits the act for the purpose of conducting an investigation under s. 254.916, Wis. Stats.

b. The person is directly supervised during the conducting of the investigation by an adult employee of a governmental regulatory authority.

c. The person has prior written authorization to commit the act from a governmental regulatory authority or a district attorney or from an authorized agent of a governmental regulatory authority or a district attorney.

4. SEIZURE. A police officer shall seize any cigarette or tobacco product that has been sold to and is in the possession of a person under 18 years of age.

5. PENALTY. Any person convicted of violating this section, shall be subject to a forfeiture not to exceed \$50.

106-31. Loitering or Prowling. The activities of loitering or prowling set forth in subs. 1 to 9 are unlawful within the limits of the city.

1. LOITERING. Loiters or prowls in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the actor or other circumstances makes it impracticable, a peace officer shall prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this section if the peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true and, if believed by the peace officer at the time, would have dispelled the alarm.

2. DWELLING AREAS, ETC. Hides, waits or otherwise loiters in the vicinity of any private dwelling house, apartment building or

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any other place of residence with the unlawful intent to watch, gaze or look upon the occupants therein in a clandestine manner.

3. PUBLIC REST ROOMS. Loiters in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act.

4. SCHOOLS, ETC. Loiters in or about any school or public place at or near which children or students attend or normally congregate. As used in this subsection "loiter" means to delay, to linger or to idle in or about any said school or public place without a lawful purpose for being present.

5. PUBLIC BUILDINGS, ETC. Lodges in any building, structure or place whether public or private without the permission of the owner or person entitled to possession or in control thereof.

6. RESTAURANTS, TAVERNS, CONVENIENCE STORES, FILLING STATIONS, PUBLIC BUILDINGS, ETC., Loiters in or about a restaurant, tavern, convenience store, filling station or other public building. As used in this subsection, "loiter" means to, without just cause, remain in a restaurant, tavern, convenience store, filling station or public building or to remain upon the property immediately adjacent thereto after being asked to leave by the owner or person entitled to possession or in control thereof, or where "no loitering" signs are posted. No arrest shall be made for a violation of this subsection unless the arresting officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of violating this subsection if it appears at trial that the explanation given was true and disclosed a lawful purpose.

7. SOLICITING, ETC. To loiter in or near any thoroughfare or place open to the public in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution. Among the circumstances which may be considered in determining whether such purpose is manifested: that such person is a known prostitute or panderer, repeatedly beckons to stop or attempts to stop, or engages male or female passersby in conversation, or repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture. The violator's conduct must be such as to

demonstrate a specific intent to induce, entice, solicit or procure another to commit an act of prostitution. No arrest shall be made for a violation of this subsection unless the arresting officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of violating this subsection if it appears at trial that the explanation given was true and disclosed a lawful purpose. As used in this subsection:

a. "Public place" is an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles, whether moving or not, and buildings open to the general public including those which serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

b. "Known prostitute or panderer" means a person who within 5 years previous to the date of arrest for violation of this section, had within the knowledge of the arresting officer been convicted in Milwaukee municipal court or Milwaukee county circuit court of an offense involving prostitution.

8. PARKING LOTS, ETC. Loiters in or upon any public parking surface lot or public parking structure, either on foot or in or upon any conveyance being driven or parked thereon, without the permission of the owner or person entitled to possession or in control thereof, notwithstanding the notification requirements of ss. 101-23.5 and 110-10. No arrest shall be made for a violation of this subsection unless the arresting officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of violating this subsection if it appears at trial that the explanation given was true and disclosed a lawful purpose. As used in this subsection:

a. "Public parking structure" means a building enclosure or garage above or under the ground, or any portion thereof, in which automobiles or motor vehicles may be parked, stored, housed or kept, and open to public use with or without charge.

b. "Public parking surface lot" means 5 or more ground level parking spaces, or any portion thereof, not located in a structure, upon which automobiles or motor vehicles may be parked, stored, housed or kept, and open to public use with or without charge.

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9. PRIVATE OR PUBLIC RESIDENTIAL PROPERTY, ETC. Loiters in or on private or public residential property in residential neighborhoods. As used in this subsection, "loiter" means to, without just cause, linger, remain in or on private or public residential property, or to remain upon the property immediately adjacent thereto after being asked to leave by the owner or person entitled to possession or in control thereof, or where No Loitering signs are posted. No arrest shall be made for a violation of this subsection unless the arresting officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of violating this subsection if it appears at trial that the explanation given was true and disclosed a lawful purpose.

10. PENALTIES. Any person who violates any provision of this section shall be fined not more than \$500 together with the costs of prosecution or, upon default of payment, shall be imprisoned in the county jail or house of correction for not more than 20 days; and, further, any person who violates any provision of this section between the hours of 8:00 p.m. and 5:00 a.m. upon a street designated as a cruising area under s. 101-20.5, including the land within the street lines whether or not improved, may be fined not less than \$150 nor more than \$500 or, upon default of payment thereof, shall be imprisoned in the house of correction of Milwaukee county for not more than 20 days.

106-32. Loitering by Gang Members.

1. DEFINITIONS: In this section:

a. "Gang loitering" means remaining in any one place under circumstances that would warrant a reasonable person to believe that the purpose or effect of that behavior is to enable a criminal street gang to establish control over identifiable areas, to intimidate others from entering those areas, or to conceal illegal activities.

b. "Criminal gang" means an ongoing organization, association or group of 3 or more persons, whether formal or informal, that has as one of its primary activities the commission of one or more of the criminal acts, or acts that would be criminal if the actor were an adult, specified in par.

e-1 to 21; that has a common name or a common identifying sign, or symbol; and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

c. "Criminal gang activity" means the commission, attempted commission or solicitation of the offenses, listed in par. e-1 to 21, provided that the offenses are committed by 2 or more persons, or by an individual at the direction of, or in association with, any criminal street gang, with the specific intent of promoting, furthering or assisting in any criminal conduct by gang members.

d. "Criminal gang member" means any person who participates in criminal gang activity as defined in par. c, with a criminal gang, and meets one or more of the following criteria:

d-1. The person is a self-admitted gang member.

d-2. The person is identified as a gang member by a reliable and proven source.

d-3. The person is associated with known gang members and uses gang signs, gang dress and mannerisms.

d-4. The person has been arrested more than one time with known gang members for gang-type criminal offenses.

d-5. The person has been observed by law enforcement associating with known gang members at known gang locations.

d-6. The person has at one time admitted to be a gang member, but now claims that he or she is not a gang member, although he or she continues to associate with known gang members.

e. "Pattern of criminal gang activity" means the commission of, attempt to commit or solicitation to commit 2 or more of the following crimes, or acts that would be crimes if the actor were an adult, at least one of those acts or crimes occurs after December 25, 1993, the last of those acts or crimes occurred within 3 years after a prior act or crime, and the acts or crimes are committed, attempted or solicited on separate occasions or by 2 or more persons:

e-1. Manufacture, distribution or delivery of a controlled substance or controlled substance analog, as prohibited in s. 961.41 (1), Wis. Stats.

e-2. First-degree intentional homicide, as prohibited in s. 940.01, Wis. Stats.

e-3. Second-degree intentional homicide, as prohibited in s. 940.05, Wis. Stats.

e-4. Battery, as prohibited in s. 940.19 or 940.195, Wis. Stats.

e-5. Battery, special circumstances, as prohibited in s. 940.20, Wis. Stats.

e-6. Mayhem, as prohibited in s. 940.21, Wis. Stats.

e-7. Sexual assault, as prohibited in s. 940.225, Wis. Stats.

e-8. False imprisonment, as prohibited in s. 940.30, Wis. Stats.

e-9. Taking hostages, as prohibited in s. 940.305, Wis. Stats.

e-10. Kidnapping, as prohibited in s. 940.31, Wis. Stats.

e-11. Intimidation of witnesses, as prohibited in s. 940.42 or 940.43, Wis. Stats.

e-12. Intimidation of victims, as prohibited in s. 940.44 or 940.45, Wis. Stats.

e-13. Criminal damage to property, as prohibited in s. 943.01, Wis. Stats.

e-14. Criminal damage to or threat to criminally damage the property of a witness, as prohibited in s. 943.011 or 943.017 (2m), Wis. Stats.

e-15. Arson of building or damage by explosives, as prohibited in s. 943.02, Wis. Stats.

e-16. Burglary, as prohibited in s. 943.10, Wis. Stats.

e-17. Theft, as prohibited in s. 943.20, Wis. Stats.

e-18. Taking, driving or operating a vehicle, or removing a part or component of a vehicle, without the owner's consent, as prohibited in s. 943.23, Wis. Stats.

e-19. Robbery, as prohibited in s. 943.32, Wis. Stats.

e-20. Sexual assault of a child, as prohibited in s. 948.02, Wis. Stats.

e-21. Repeated acts of sexual assault of the same child, as prohibited in s. 948.025, Wis. Stats.

f. "Public place" means the public way and any other location open to the public, whether publicly or privately owned.

2. GANG LOITERING PROHIBITED.

a. It shall be unlawful for a member of a criminal street gang to engage in gang loitering with one or more persons in any public place designated by the chief of police for the enforcement of this section.

b. Whenever a police officer observes a member of a criminal street gang engaged in gang loitering with one or more other persons in any public place designated by the chief of police under sub. 3 for the enforcement of this section, the police officer shall, subject to applicable procedures promulgated by the chief of police:

b-1. Inform all such persons that they are engaged in gang loitering within an area in which loitering by groups containing criminal street gang members is prohibited.

b-2. Order such persons to disperse and remove themselves from within sight and hearing of the place at which the order was issued.

b-3. Inform those persons that they will be subject to arrest if they fail to obey the order promptly or engage in further gang loitering within sight and hearing of the place at which the order was issued during the next 3 hours.

3. DESIGNATED AREAS. a. The chief of police may by written directive designate areas of the city in which the enforcement of this section is necessary because gang loitering has enabled criminal street gangs to establish control over identifiable areas, to intimidate others from entering those areas, or to conceal illegal activities. Prior to making a determination under this subsection, the chief shall consult, as he or she deems appropriate with persons who are knowledgeable about the effects of gang activity in areas in which this section may be enforced. Such persons may include, but need not be limited to, members of the police department with special training or experience related to criminal street gangs; other personnel of the department with particular knowledge of gang activities in the proposed designated area; elected and appointed officials of the area; and community-based organizations familiar with the area. The chief may develop and implement procedures for the periodic review and update of designations made under this subsection.

b. The chief of police shall by written directive promulgate procedures to prevent the enforcement of this section against persons who are engaged in collective advocacy activities that are protected by the constitution of the United States or the state of Wisconsin.

4. PENALTY. a. Any person violating this section shall, upon conviction, forfeit not less than \$500 nor more than \$5,000, together with the costs of prosecution and, in default of payment shall be imprisoned in the house of correction or the county jail not to exceed 90 days, or until such forfeiture costs are paid in full.

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106-33. Sales of Matches to Persons Under Thirteen Years of Age.

1. **PURPOSE.** In the interest of welfare and safety of the general public, the selling or giving of matches to persons under the age of 13 years is prohibited, unless such person is accompanied by a parent or guardian, to prevent such minors from injuring themselves or others while playing with matches.

2. **DEFINITION.** As used in this section the term "match" shall mean a slender piece of wood or other fairly rigid material tipped with a combustible mixture that bursts into flame by friction, sometimes only on a specially prepared surface, that so ignites the end of the piece.

3. **PROHIBITION.** No person shall sell or offer for sale, barter, or give away matches to a person under the age of 13 years nor any other flame producing devices which are easily operated by such persons, unless such person is accompanied by his parent or other adult member of such person's family, his or her legal guardian, or person in loco parentis.

4. **PENALTY.** Any person, firm, or corporation violating sub. 3 shall upon conviction forfeit \$25 for each offense, and in default of payment shall be imprisoned in the house of correction or the county jail not to exceed 90 days or until such forfeiture costs are paid.

106-34. Sale of Spray Paint, Etching Cream and Wide-Tipped Markers to Minors.

1. **DEFINITIONS.** In this section: a. "Etching cream" means any caustic cream, gel, liquid, or solution capable, by means of a chemical action, of defacing, damaging, or destroying hard surfaces in a manner similar to acid.

b. "Graffiti" means any inscription, word, figure or design marked, scratched, etched, drawn or painted with spray paint, liquid paint, ink, chalk, die or other similar substances on buildings, fences, structures and similar places without the express permission of the owner or operator of the property.

c. "Spray paint" means any container, regardless of the material from which it is made, which is made or adapted for the purpose of spraying paint.

d. "Wide-tipped markers" means any indelible marker or similar implement with a tip which, at its broadest width, is 1/4 inch or greater.

2. PROHIBITED CONDUCT.

a. **Sale of Spray Paint, Etching Cream and Wide-Tipped Markers to Minors.** No person, firm, or corporation, except a parent or legal guardian, employer, teacher or other person authorized to supervise minors, may sell or give away or in any way furnish spray paint, etching cream or wide-tipped markers to any person under the age of 18.

b. **Possession of Spray Paint, Etching Cream and Wide-Tipped Markers.** No person under the age of 18 may possess spray paint, etching cream or wide-tipped markers in a public or private place, without the express permission of the owner or operator of the property.

3. **DISPLAY OF SPRAY PAINT, ETCHING CREAM AND WIDE-TIPPED MARKERS.** Every person who owns, conducts, operates or manages a retail commercial establishment selling spray paint, etching cream or wide-tipped markers shall:

a. Place a sign in clear public way view at or near the display of such products stating:

GRAFFITI IS AGAINST THE LAW. THE DEFACING OF PUBLIC OR PRIVATE PROPERTY IS PUNISHABLE BY A FINE OF UP TO \$5,000 OR IMPRISONMENT FOR UP TO 90 DAYS.

b. Place a sign in the direct view of persons responsible for accepting customer payment for spray paint, etching cream or wide-tipped markers stating:

SELLING SPRAY PAINT, ETCHING CREAM OR WIDE-TIPPED MARKERS TO PERSONS UNDER 18 YEARS OF AGE IS AGAINST THE LAW. VIOLATORS CAN BE FINED UP TO \$5,000 OR IMPRISONED UP TO 90 DAYS.

c. Display such paint, cream or markers in such a manner as to make them inaccessible to a customer present in the area allocated for customer use without assistance from an employee of that establishment.

d. Display such items, if the person chooses not to comply with the display requirements set forth in par. c, such that mirrors, cameras or personnel can readily observe customers during all times such establishment is open to the public.

4. **PENALTIES.** a. Any person convicted of violating any provision of this section, shall forfeit not less than \$500 nor more than \$5000 per violation, or upon default of payment be imprisoned for not more than 90 days.

b. Any person convicted of violating sub. 2-b shall forfeit \$200 per violation.

106-34.5. Prostitution. 1. PROHIBITED CONDUCT. It shall be unlawful for any person to commit any of the following:

a. Have, offer to have or request or agree to have nonmarital sexual intercourse for anything of value.

b. Commit, offer to commit, request or agree to commit an act of sexual gratification, in public or in private, involving the sex organ of one person and the mouth or anus of another person for anything of value.

c. Masturbate a person, offer to masturbate a person, request to be masturbated or agree to masturbate a person for anything of value.

d. Commit, offer to commit, request to commit or agree to commit an act of sexual contact for anything of value.

e. Enter or remain in any place of prostitution with intent to have nonmarital sexual intercourse or to commit an act of sexual gratification, in public or in private, involving any of the acts listed in pars. a to d.

f. Solicit another to commit any of the acts listed in pars. a to d.

g. Direct or transport another person to a prostitute, or direct or transport a prostitute to another person, with intent to facilitate the other person in having non-marital intercourse or committing an act of sexual gratification, in public or in private, involving the sex organ of one person and the mouth or anus of another, masturbation or sexual contact with a prostitute.

2. EVIDENCE OF VIOLATION. Circumstances which may be considered in determining whether a violation of this section has occurred include, but are not limited to:

a. Attempting to determine the presence of a police officer by exposing or touching, of seeking to expose or touch, an intimate body part of another or of one's self, or asking, soliciting, encouraging or attempting to procure another to do the same.

b. Inquiring in any manner as to whether another person is a police officer.

3. PENALTY. Any person who violates any provision of this section shall, upon conviction, be fined not less than \$500 nor more than \$5,000, together with the costs of prosecution, and in default of payment shall be imprisoned as provided by law.

106-35. Loitering-Soliciting Prostitutes. 1. DEFINITIONS. In this section:

a. "Known area of prostitution" means a public place where within 5 years previous to the date of arrest for violation of this section, and within the knowledge of the arresting officer, a person had been arrested for a violation which led to a conviction in Milwaukee municipal court or Milwaukee County circuit court of an offense involving prostitution.

b. "Known prostitute" means a person who, within 5 years previous to the date of arrest for violation of this section, had within the knowledge of the arresting officer been convicted in Milwaukee municipal court or Milwaukee County circuit court of an offense involving prostitution.

c. "Public place" means an area generally visible to public view and includes, but is not limited to, streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots and buildings open to the general public including those which serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds surrounding them.

2. PROHIBITED CONDUCT. It shall be unlawful for any person to loiter or drive in any public place in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution.

3. EVIDENCE OF VIOLATION. The violator's conduct must be such as to demonstrate a specific intent to induce, entice, solicit or procure another to commit an act of prostitution. No arrest may be made for a violation of this section unless the arresting officer first affords the person an opportunity to explain the person's conduct, and no one shall be convicted of violating this section if it appears at trial that the explanation given was true and disclosed a lawful purpose. Factors that may be considered in determining whether the purpose referred to in sub. 2 is manifested are the following:

a. That the person frequents, either on foot or in a motor vehicle, a known area of prostitution.

b. That the person repeatedly beckons to stop or attempts to stop, or engages known prostitutes in conversation.

c. That the person stops the motor vehicle the person is the operator of and picks up or attempts to pick up a known prostitute.

d. That the person solicits any individual to engage in prostitution-related activity.

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e. Any other evidence which may prove such purpose is manifested.

4. PENALTY. Any person who violates any provision of this section shall, upon conviction, forfeit not less than \$2,500 nor more than \$5,000, together with the costs of prosecution, and in default of payment shall be imprisoned as provided by law.

106-35.6. Loitering-Illegal Drug Activity. 1. In this section: a. "Illegal drug activity" means unlawful conduct contrary to any provision of ch. 961, Wis. Stats., or any substantially similar federal statute, statute of a foreign state, or ordinance of any political subdivision.

b. "Known area of illegal drug activity" means a public place where, within 3 years previous to the date of arrest for violation of this section, and within the collective knowledge of the police department, a person has been arrested for a violation which led to a conviction in any municipal, state or federal court of an offense involving illegal drug activity.

c. "Known drug seller or purchaser" means a person who, within 3 years previous to the date of arrest for violation of this section, had within the collective knowledge of the police department been convicted in any municipal, state or federal court of an offense involving illegal drug activity.

d. "Public place" means an area generally visible to public view and includes, but is not limited to, streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots and buildings open to the general public including those which serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds surrounding them.

2. Any person who loiters or drives in any public place in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to engage in illegal drug activity shall forfeit not less than \$500 nor more than \$5,000 or upon default of payment be imprisoned for not more than 90 days. Among the circumstances which may be considered in determining whether such purpose is manifested are the following: that the person frequents, either on foot or in a motor vehicle, a known area of illegal drug activity; repeatedly beckons to stop or attempts to stop known drug sellers or purchasers or engages known drug sellers or purchasers in conversation; stops the motor vehicle the person is the operator of and

sells or purchases or attempts to sell or purchase illegal drugs to or from a known drug seller or purchaser; transfers small objects or packages for currency in a furtive fashion or manifestly endeavors to conceal himself, herself or any object or package which reasonably could be involved in illegal drug activity; takes flight upon appearance of a police officer. The violator's conduct must be such as to demonstrate a specific intent to induce, entice, solicit or procure another to engage in illegal drug activity. No arrest may be made for a violation of this section unless the arresting officer first affords the person an opportunity to explain the person's presence and conduct, unless flight by the person or other circumstances make it impracticable to afford such an opportunity, and no one shall be convicted of violating this section if it appears at trial that the explanation given was true and disclosed a lawful purpose.

106-36. Drug Paraphernalia. 1. DEFINITION. In this section "drug paraphernalia" means all equipment, products and materials of any kind which are used, designed for use or primarily intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance or controlled substance analog, as defined in ch. 961, Wis. Stats., in violation of this section. It includes, but is not limited to:

a. Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance or controlled substance analog can be derived.

b. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances or controlled substance analogs.

c. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.

d. Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances or controlled substance analogs.

e. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances or controlled substance analogs.

f. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances or controlled substance analogs.

g. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.

h. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances or controlled substance analogs.

i. Capsules, balloons, envelopes or other containers used, intended for use or designed for use in packaging small quantities of controlled substances or controlled substance analogs.

j. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances or controlled substance analogs.

k. Objects used intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, including but not limited to:

k-1. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.

k-2. Water pipes.

k-3. Carburetion tubes and devices.

k-4. Smoking and carburetion masks.

k-5. Objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.

k-6. Miniature cocaine spoons and cocaine vials.

k-7. Chamber pipes.

k-8. Carburetor pipes.

k-9. Electric pipes.

k-10. Air-driven pipes.

k-11. Chillums.

k-12. Bongs.

k-13. Ice pipes or chillers.

2. DETERMINATION OF DRUG PARAPHERNALIA. In determining whether an object is drug paraphernalia, the following shall be considered:

a. Statements by an owner or by anyone in control of the object concerning its use.

b. The proximity of the object in time and space to a direct violation of this section.

c. The proximity of the object to controlled substances or controlled substance analogs.

d. The existence of any residue of controlled substances or controlled substance analogs on the object.

e. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object to deliver it to persons whom the person knows, or should reasonably know, intend to use the object to facilitate a violation of this section. The innocence of an owner or of anyone in control of the object as to a direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.

f. Oral or written instructions provided with the object concerning its use.

g. Descriptive materials accompanying the object which explain or depict its use.

h. Local advertising concerning its use.

i. The manner in which the object is displayed for sale.

j. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

k. The existence and scope of legitimate uses for the object in the community.

L. Expert testimony concerning its use.

3. PROHIBITED ACTIVITIES.

a. **Possession of Drug Paraphernalia.** No person may use or possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of this section.

b. **Manufacture, Sale, or Delivery of Drug Paraphernalia.** No person may sell, deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of this section.

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c. Delivery of Drug Paraphernalia to a Minor. Any person 17 years of age or over who violates par. b by delivering drug paraphernalia to a person under 17 years of age who is at least 3 years younger than the violator is guilty of a special offense.

d. Advertisement of Drug Paraphernalia. No person may place in any newspaper, magazine, handbill or other publication, or upon any outdoor billboard or sign, any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

e. Exemptions. e-1. This subsection does not apply to hypodermic syringes, needles and other objects used or intended for use in parenterally injecting substances into the human body in accordance with ch. 961, Wis. Stats.

e-2. This subsection does not apply to any items, including pipes, papers and accessories, which are designed for use or primarily intended for use with tobacco products.

4. PENALTIES. a. Any drug paraphernalia used in violation of this section shall be seized and forfeited to the city.

b. Any person who violates sub. 3-a or d shall, upon conviction, be subject to a forfeiture of not more than \$500, together with the costs of prosecution, and upon default of payment be imprisoned in the county jail or house of correction until the costs are paid, but not to exceed 30 days.

c. Any person who violates sub. 3-b shall, upon conviction, be subject to a forfeiture of not more than \$1,000, together with the costs of prosecution, and upon default of payment be imprisoned in the county jail or house of correction until the costs are paid, but not to exceed 90 days.

d. Any person who violates sub. 3-c shall, upon conviction, be subject to a forfeiture of not more than \$10,000, together with the costs of prosecution, and upon default of payment be imprisoned in the county jail or house of correction until the costs are paid, but not to exceed 90 days.

106-37. Frequenting an Illegal Drug House.

1. DEFINITIONS. In this section, "illegal drug house" means any building, place or room not generally open to the public in which there is substantial evidence of violations occurring of the Uniform Controlled Substances Act in Wis. Stats. ch. 961.

2. PROHIBITED ACTIVITIES. It shall be unlawful for any person to knowingly be an inmate of, frequent or patronize any illegal drug house.

3. PENALTY. Upon conviction, any person found to be in violation of this section shall be subject to a forfeiture of not less than \$500 nor more than \$5000, and in default of payment thereof, be imprisoned in the county jail or house of correction not to exceed 90 days. Each day during which a violation is occurring shall constitute a separate offense.

106-38. Possession of Marijuana.

1. DEFINITIONS. In this section, "marijuana" and "practitioner" shall be defined as in s. 961.01(14) and (19), Wis. Stats., respectively.

2. PROHIBITED. No person may possess marijuana unless the marijuana was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice or except as authorized by ch. 961, Wis. Stats.; except that in accordance with s. 66.0107(1)(bm), Wis. Stats., if a complaint is issued regarding an allegation of possession of more than 25 grams of marijuana, or possession of any amount of marijuana following a conviction in this state for possession of marijuana, the subject of the complaint may not be prosecuted under this section for the same action that is the subject of the complaint unless the charges are dismissed or the district attorney declines to prosecute the case.

3. PENALTY. Any person violating this section shall upon conviction:

a-1. Forfeit not less than \$0 nor more than \$50, or, in default of payment, may be imprisoned as provided by law.

a-2. Forfeit not less than \$250 nor more than \$500, or, in default of payment may be imprisoned as provided by law if a person is convicted of smoking marijuana in a public place.

b. Be permitted to perform community service work and attend substance abuse education and counseling in lieu of paying the forfeiture under par. a.

106-41. Fraud On Residential Landlords Prohibited.

1. FRAUD PROHIBITED. No person shall, with intent to defraud, do either of the following:

a. Intentionally abscond without paying rent that has been contractually agreed upon in a written lease or written rental agreement with a landlord. Prima facie evidence of intentionally absconding will be established if a tenant fails to pay rent due prior to the vacating of the rental premises by the tenant, the nonpayment of the rent continues for a period of 5 days after vacation of the premises, and the tenant fails to provide the landlord with a complete and accurate forwarding address.

b. Issue any check, money order or any other form of bank or monetary draft as a payment of rent, where such document lacks sufficient funds, where the account is closed or where such draft is unredeemable in any other form or fashion. Prima facie evidence of intention to defraud will be established if a tenant fails within 5 days of a written demand by the landlord or agent to pay in full the total amount of the draft presented as rent payment plus any bank charges to the landlord attributable to the unredeemability of the draft.

2. APPLICABILITY. This section shall apply to written leases or written rental agreements between residential landlords and tenants only. Words and terms used in this section shall be defined and construed in conformity with the provisions of Ch. ATCP 134, Wis. Adm. Code; ch. 704 and s. 990.001 (1), Wis. Stats. The act of service by a landlord of a legal eviction notice or notice to terminate tenancy shall not in itself act as a bar to prosecution under this section.

3. PROCEDURE. A peace officer may issue a citation for either offense only when the complainant provides the following:

a. The name and current or last known address of the tenant, a copy of the subject written lease agreement or written rental agreement.

b. The amount of rent due, date it was due, date the tenant vacated the premises and testimony that the rent remained unpaid for not less than 5 days after vacating and that the tenant did not notify or attempt to notify the complainant of tenant's new address or that tenant knowingly gave complainant a false address.

c. For violations under sub.1-b, the document used for attempting rent payment, the written demand for payment of the full amount plus bank charges, proof of service of the written demand pursuant to s. 704.21, Wis. Stats., and testimony that at least 5 days have elapsed since the date of service and no payment has been made.

4. PENALTY. a. Any person who violates this section shall upon conviction forfeit not less than \$250 nor more than \$1,000 together with costs of prosecution, or, in default of payment, may be imprisoned for not more than 40 days. In addition, the court may order such person to make full or partial restitution, in accordance with s. 800.093, Wis. Stats.

b. In accordance with s. 800.09, Wis. Stats., community service work may be imposed in lieu of making restitution or paying the forfeiture or both.

106-51. Residency Restrictions for Sex Offenders. 1. FINDINGS AND INTENT.

The common council finds that sex offenders who prey on children are sex predators who present an extreme threat to the public safety. Many sex offenders commit numerous offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sex offender victimization to society, while incalculable, clearly exorbitant. The common council finds the risk of recidivism increases if the sex offender recently offended and if the sex offender does not have a strong social network, including community and familial ties. The common council is aware of many studies and reports concerning recidivism of sex offenders and the effectiveness of sex offender residency restrictions. The common council acknowledges that literature on the subject includes some studies that support the practice of sex offender residency restrictions and others that are critical of the practice. The common council is also aware that absent a domicile clause, the city would have open doors for non-resident sex offender residency when other communities have closed doors, inviting a substantial increase in child sex offender placements, with the related adverse impacts on the health, safety and welfare of the city and its residents. It is the intent of this section to enact a regulatory scheme that is civil and non-punitive in order to serve the city's compelling interest to promote, protect, and improve the health, safety and welfare of the citizens of the city.

2. DEFINITIONS. For the purposes of this section:

a. "Child" means a person under the age of 16 years.

b. "Designated offender" means any person who is required to register under s. 301.45, Wis. Stats., for any offense against a child. This definition does not include a person who is released under s. 980.08, Wis. Stats., so long as

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the person is subject to supervised release under ch. 980, Wis. Stats., the person is residing where he or she is ordered to reside under s. 980.08, Wis. Stats., and the individual is in compliance with all court orders issued under ch. 980, Wis. Stats.

c. "Hospital" has the meaning given in s. 50.33(2)(a), Wis. Stats.

d. "Residence" ("Reside") means the place where a person sleeps, which may include more than one location, and may be mobile or transitory.

e. "Treatment facility" has the meaning given in s. 51.01(19), Wis. Stats.

3. ORIGINAL DOMICILE RESIDENCY RESTRICTION. A designated offender shall not establish a residence within the city, unless the person was domiciled in the city at the time of the offense resulting in the person's most recent conviction for committing the offense that is within the definition of a designated offender.

4. RESIDENCY RESTRICTION EXCEPTIONS. A designated offender prohibited from establishing a residence within the city as specified in sub. 3 does not commit a violation of this section if the designated offender demonstrates any of the following:

a. The person established a residence and reported and registered the residence as provided in s. 301.45, Wis. Stats., before the effective date of this ordinance, September 23, 2017.

b. The person was under the age of 18 years at the time of the offense or is a ward under guardianship.

c. The residence is also the primary residence of the person's child, grandparent, guardian, parent, sibling or spouse.

d. The residence is a mental health facility or a jail, juvenile facility, prison or other correctional institution where the person is required to serve a sentence.

e. The residence is a hospital or treatment facility.

f. The person's most recent offense that is within the definition of a designated offender occurred more than 10 years ago and it has been at least 10 years since the person was incarcerated for the most recent offense that is within the definition of a designated offender.

5. PENALTY. A designated offender who violates sub. 3 shall be subject to a forfeiture of not less than \$1,000 nor more than \$2,500 for each violation, and in default of payment may be imprisoned as provided by law. Each day a violation continues shall constitute a separate offense. The city may also seek equitable relief.

6. EVALUATION. The common council shall evaluate the effect of this ordinance one year after the effective date of this ordinance, September 23, 2017.

106-53. Loitering of Sex Offenders.

1. LOITERING. It shall be unlawful for any person defined as a designated offender under s. 106-51-2-b, to loiter or prowl, in a school, licensed day care center, park, recreational trail, or playground, in a place, at a time, or a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a peace officer, refuses to identify himself or herself or manifestly endeavors to conceal himself or herself or any object. Unless flight by the actor or other circumstances makes it impracticable, a peace officer shall prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him or her to identify himself or herself and explain his or her presence and conduct at the school, licensed day care center, park, recreational trail, or playground. No person shall be convicted of an offense under this section if the peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true and, if believed by the peace officer at the time, would have dispelled the alarm.

2. EXCEPTIONS. This section shall not apply where the actor was by his or her parent, guardian or other adult person having his or her care, custody or control, or where that actor was exercising First Amendment rights protected by the U. S. constitution or Wisconsin constitution, including freedom of speech, the free exercise of religion, or the right of assembly.

3. PENALTY. Any person violating this section upon conviction shall forfeit not less than \$500 nor more than \$5,000, and in default of payment may be imprisoned as provided by law.

*For legislative history of chapter 106,
Contact the Municipal Research Library*

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**CHAPTER 107
GAMBLING, AMUSEMENT MACHINES, ETC.**

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107-1. Gambling Places; Penalty. Every person who as lessee or otherwise shall keep a gambling place, or who shall procure or permit any person to frequent, or any person to go into any building, room, booth, yard, tent, garden, boat, raft, float, vessel or any other place within the city to play for money, or any other valuable thing, at any game, or to bet upon any game, race, or play on any unknown or contingent event, or who shall set up, use, or keep for use, or permit to be used for gambling purposes within the limits of the city any gaming table or gaming device, cards, dice, apparatus, machine or implements such as is usually used for the purpose of playing at any game for money or any other valuable thing shall, upon conviction thereof, be punished by a fine of not less than \$100 nor more than \$200 and the costs and disbursements of the prosecution, and in default of thereof shall be imprisoned in the county jail or house of correction of Milwaukee county until such fine, costs and disbursements are paid, such imprisonment not to exceed 6 months.

107-2. Gambling. Whoever makes a bet, or enters, or remains in a gambling place with intent to make a bet or to play a gambling machine may be fined not more than \$200.

107-3. Seizure of Gambling Instruments; Arrest. It shall be lawful and the duty of any police officer of the city with or without warrant, to seize and remove any device or implement of whatsoever name or nature the same may be, used or intended to be used for gambling purposes, whenever and wherever found, and to

arrest, with or without warrant, any person violating s. 107-1.

107-4. Resisting Officer When Seizing Instruments. It is made the duty of every member of the police department to seize any table, wheel, instrument, device or thing kept for use, or used, for the purpose of gambling for money or other valuable thing, and all such tables, instruments, devices and things when so seized shall be destroyed. Any person obstructing or resisting any member of the police department in the performance of any act authorized in this section shall be punished by a fine of not less than \$25 nor more than \$50 for each offense, and the costs and disbursements of prosecution, and in default thereof shall be imprisoned in the county jail or house of correction of Milwaukee county until such fine, costs and disbursements are paid, such imprisonment not to exceed 6 months.

107-5. Gambling Devices. 1. PROHIBITED. No person shall possess, keep, own, operate, use or cause to be kept, operated or used in any room, tent, booth, shed, tavern, building, enclosure or upon any premises, or part thereof, or in any place within the city any clock, joker, tape, slot machine, table or implement for any game of bagatelle or pigeon hole, commonly known as pin games, whiffleboards, digger machines, rotary merchandisers, or other device of any kind of nature whatsoever, upon, in, by or through which money is or may be staked or hazarded, or into which money is, or chips, checks, or tokens are or may be placed or paid upon chance, or upon the result of the action of such clock, joker, tape, slot machine, table or implement for any game of bagatelle or pigeon hole, commonly known as pin games, whiffleboards, digger machines, rotary merchandisers, or other device of any kind or nature whatsoever, money, chips, checks, credit prizes, merchandise, or other valuable thing is or may be staked, bet, hazarded, won or lost; and such devices are prohibited in the city and are declared to be gambling devices.

2. UNLAWFUL TO USE. It shall be unlawful to use or permit the use of any device or thing whatever whereby any person shall or may be induced to believe that he will or may receive any money, merchandise, replay, thing or consideration whatever, or any token

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exchangeable for any money, merchandise, replay, thing or consideration whatever, as the result in whole or part of any contest of skill between the person and the device or thing whatever so operated.

107-6. Definitions. 1. BET. The term "bet" when used in ss. 107-1 and 107-2 shall mean a bargain in which the parties agree that, dependent upon chance even though accompanied by some skill, one stands to win or lose something of value specified in the agreement. But a bet does not include:

a. Bona fide business transactions which are valid under the law of contracts including without limitation:

a-1. Contracts for the purchase or sale at a future date of securities or other commodities; and

a-2. Agreements to compensate for loss caused by the happening of chance including without limitation contracts of indemnity or guarantee and life or health and accident insurance.

b. Offers of purses, prizes or premiums to the actual contestants of any bona fide contest for the determination of skill, speed, strength or endurance to the bona fide owners of animals or vehicles entered in such contest.

2. GAMBLING. The words "gambling" or "gaming" when used in ss. 107-1 to 107-4 shall also mean and include the use of all devices or things whatever whereby any person shall or may be induced to believe that he will or may receive any money, merchandise, replay, thing or consideration whatever, or any token exchangeable for any money, merchandise, replay, thing or consideration whatever, as the result in whole or part of any contest of skill between the person and the device or thing whatever, so operated.

3. GAMBLING MACHINE. The term "gambling machine" when used in ss. 107-1 and 107-2 shall mean a contrivance which for a consideration affords the player an opportunity to obtain something of value, the award of which is determined by chance, even though accompanied by some skill and whether or not the prize is automatically paid by the machine.

4. GAMBLING PLACE. The term "gambling place" when used in ss. 107-1 and 107-2 shall mean any building or tent, any vehicle, whether self-propelled or not, or any room within any of them, one of whose principal use is any of the following: making and settling bets; receiving, holding, recording or forwarding

bets or offers to bet; conducting lotteries; or playing gambling machines.

5. PIN GAMES, ETC. The terms "bagatelle," "pigeon hole," and "pin game" as used in s. 107-5 shall mean a game played with any number of balls or spheres upon a table or board having holes, pockets or cups into which such balls or spheres may drop or become lodged, and having arches, pins and springs, or any of them, to conduct, deflect or impede the direction or speed of the balls or spheres put in motion by the player.

107-7. Penalty (General). Any person violating any of the provisions in ss. 107-2, 107-3 and 107-4 shall, upon conviction thereof, be punished by a fine of not less than \$25 nor more than \$200, together with the costs and disbursements of prosecution, and in default thereof shall be imprisoned in the county jail or house of correction of Milwaukee county until such fine, costs and disbursements are paid, such imprisonment not to exceed 6 months, and each and every day on which any person shall operate, keep, own or have in his possession or under his control any such clock, joker, tape, slot machine, table or implement for any game of bagatelle or pigeon hole, commonly known as pin games, shuffleboards, whiffleboards, digger machines, rotary merchandisers, or other device of any kind or nature whatever, in violation of the provisions of this section, shall be deemed a separate and distinct offense.

107-8. Statement of Principle. Sections 107-5 to 107-8 are for the immediate preservation of the public peace and safety and are declared a matter of urgency, being occasioned by the fact that various persons are establishing so-called vending machines, pin games, digger games, slot machines, rotary merchandisers and other devices in the city which by offering chances or hazards have a tendency to demoralize the youth of the city. The provisions of ss. 107-5 to 107-8 do not apply to amusement devices as defined in s. 107-13.

107-10. Selling of Pools or Betting. 1. UNLAWFUL. It shall be unlawful for any person, company or corporation to engage in pool selling or bookmaking or to occupy any room, shed, tenement, tent or building, or any part thereof, or any place upon any public or private ground within the limits of the city, with books, apparatus or paraphernalia for the purpose of recording or registering bets or wagers or of

selling pools; or to record or register bets or wagers, or sell pools upon the result of any trial or contest of skill, speed or power of endurance of man or beast, or upon the result of any political nomination, appointment or election; or, being the owner or lessee or occupant of any room, tent, tenement, shed, booth or building, or any part thereof, to knowingly permit the same to be used or occupied for any of these purposes, or therein to keep, exhibit or employ any device or apparatus for the purpose of recording or registering such bets or wagers, or the selling of such pools, or to become custodian or depository for gain, hire or reward of any money, property or thing of value staked, wagered or pledged; or to be wagered or pledged upon any such result, or to receive, register, record, forward or purport or pretend to forward to or for any race course any money, thing or consideration of value, bet or wager or money, thing for consideration offered for the purpose of being bet or wagered upon the speed or endurance of any man or beast; or to occupy any place or building, or part thereof, with books, papers, apparatus or paraphernalia for the purpose of receiving or pretending to receive or for recording or registering, or for forwarding or pretending or attempting to forward in any manner whatever any money, thing or consideration of value, bet or wagered, or to be bet or wagered, for any other person, or to receive or offer to receive any money, thing or consideration of value, bet or to be bet at any race track, or to assist or abet in any manner in any of the acts or things forbidden in this section.

2. PENALTY. Any person, or the officer or agent of any company or corporation who shall violate sub. 1 shall upon conviction thereof, be punished by a fine of not less than \$100 and not exceeding \$500 and the costs and disbursements of prosecution, and in default thereof shall be imprisoned in the county jail or house of correction of Milwaukee county until such fine, costs and disbursements are paid, such imprisonment not to exceed 6 months.

107-12. Inmates of Pool Rooms; Penalty. It shall be unlawful for any person to resort to or become an inmate of any room, shed, tent or place upon any public or private grounds within the city, within or upon which is carried on any of the acts or things mentioned in s. 107-10-1 and declared unlawful thereby; and any person found guilty of violating this section shall be punished by a fine of not more than \$50, and the

costs and disbursements of prosecution and in default thereof shall be imprisoned in the county jail or house of correction of Milwaukee county until such fine, costs and disbursements are paid, such imprisonment not to exceed 6 months.

107-13. Amusement Machine Distributor License. 1. DEFINITIONS.

a. "Amusement machine" means any mechanical or electronic device operated or intended to be operated for amusement or skill where the use or operation of which is conditioned upon payment of a fee either by insertion of a coin, token or similar object in a slot, or otherwise. The term does not include a jukebox or a billiard or pool table.

b. "Distributor" means any person who leases, rents, places or installs for use or operation, on a premises in the city not owned or leased by that person, one or more amusement machines.

c. "Jukebox" means any electronic or mechanical device, or machine of any kind, nature or description, in which the operation is dependent upon the insertion of money, whether automatically or otherwise, which results in the playing of music of any type.

d. "Officer" means the president, vice president, secretary or treasurer, or his or her equivalent, of any corporation, association or other organization.

e. "Person" means any individual, partnership, firm, association, corporation or other legal entity.

2. GENERAL PROVISIONS.

a. License Required. No person shall lease, rent, place or install amusement machines for use by the public on any premises not owned or leased by that person without first having obtained an amusement machine distributor license as provided in this section.

b. Conditions for Placement. No person owning or operating any premises shall place, or permit to be placed, on such premises for use by the public any amusement machines unless the premises is licensed as a public entertainment premises under s. 108-7 and either of the following is true:

b-1. The amusement machines are owned by the person owning or operating the premises.

b-2. The amusement machines are obtained from a distributor who is duly licensed by the city.

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c. Agent Not Eligible. No person shall make application for an amusement machine distributor license acting as agent for, or in the employ of another, or for the use and benefit of another person, except when the applicant is a corporation. In this case, the corporation shall appoint an agent and invest in the agent, by properly authorized and executed written delegation, full authority and control of the premises described in the application of the corporation and of the conduct of all business therein, as the licensee itself could in any way have and exercise if it were a natural person resident in the state.

3. APPLICATION PROCEDURE.

a. Application. The application for a new or renewal amusement machine distributor license shall be in writing on a form furnished by the city clerk and shall state that the application for a license is not made for and on behalf of any other person and that the applicant is not acting as an agent for, or in the employ of, another

a-2. The application shall be in a form prescribed by the city clerk, including information related to the qualifications and history of the applicant. The application shall be completed by the person to be licensed, including the principal officers of a limited liability company, the partners in a partnership or the duly authorized agent of a corporation or other legal entity. An agent for any legal entity other than a corporation shall be subject to the prohibitions in sub. 2-c.

a-3. The application shall state:

a-3-a. The license being applied for.

a-3-b. The name and permanent address of the applicant.

a-3-c. If the applicant is a corporation, the name of the corporation exactly as it is set forth in its articles of incorporation, together with the names and addresses of all officers, directors and designated managers.

a-3-d. If the application is a partnership, the names and resident addresses of all partners, including limited partners. If any of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the partner which is a corporation.

a-3-e. If the applicant is a club, association or other organization which is neither a corporation nor a partnership, the exact name of the entity together with the names and residence addresses of all officers.

a-3-g. All convictions, including ordinance violations exclusive of traffic

violations, with a brief statement of the nature of the convictions and the jurisdiction in which the convictions occurred.

a-3-h. Any other reasonable and pertinent information the common council or the proper licensing committee of the common council may from time to time require.

b. Application Fee. Applications for new and renewal licenses are subject to the fees prescribed in s. 81-4, to be paid to the city treasurer at the time of filing.

c. Disclosure. c-1. An application for a new amusement machine distributor license shall include disclosure, in a manner prescribed by the city clerk, of all amusement machines currently placed or under agreement to be placed by the distributor within the city. Disclosure shall include the addresses of the premises where the amusement machines are presently placed or are contracted to be placed, the number of machines placed or to be placed at the premises, and the legal names of the entities with whom the machines have been placed or are to be placed.

c-2. An application for the renewal of an amusement machine distributor license shall include disclosure, in a manner prescribed by the city clerk, of all amusement machines currently placed within the city. Disclosure shall include the addresses of the premises where the amusement machines are placed, the number of machines placed at the premises, and the legal names of the entities with whom the machines have been placed.

d. Qualifications. d-1. An amusement machine distributor license may be denied to any applicant who is not of good professional character or who has been convicted of a felony, misdemeanor or other offense, the circumstances of which substantially relate to the circumstances of being a distributor. In this paragraph, "applicant" includes any individual or partner, or any officer, director or agent of any corporate applicant.

d-2. A noncorporate applicant for an amusement machine distributor license shall be a resident of Wisconsin for at least one year prior to the date of filing the new or renewal license application. In the case of an applicant for a corporate amusement machine distributor license, the agent for the applicant shall be a resident of Wisconsin for at least one year prior to the date of filing the new or renewal license application.

e. Fingerprinting. All applicants for amusement machine distributor licenses shall be exempt from the fingerprinting requirement provided in s. 85-21-1.

f. Investigation. All applications for new amusement machine distributor licenses shall be referred to the chief of police and the commissioner of neighborhood services, both of whom shall investigate and report their findings to the proper licensing committee of the common council.

4. COMMON COUNCIL ACTION; APPLICATION FOR NEW LICENSE. An application for a new amusement machine distributor license shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 and 85-5.

5. ISSUANCE; TERMS.

a. Approval of Licenses. All new distributor licenses shall be issued by the city clerk after having been referred to the proper licensing committee and approved by the common council. Renewal licenses may be issued by the city clerk without referral to the committee.

b. Proof of Fee Payment. The city clerk shall not issue a new or renewal license unless the applicant files with the city clerk a receipt showing payment of the fee required by s. 81-4 to the city treasurer.

c. Term; Expiration Date. See s. 81-4 for the license term and date of expiration.

d. Report Changes. Whenever any fact set forth in the application under sub. 3 changes, the licensee shall file a written notice of the change with the city clerk within 10 days.

e. Identification Tags or Stickers. Each licensee shall affix, to each amusement machine placed on a premises by the licensee, an identification tag measuring at least 2 inches by 2 inches providing the name, telephone number of license number of the licensee. Each tag or sticker shall be placed in a location which is readily visible to the general public without requiring movement of the machine.

6. DAMAGE TO MACHINES PROHIBITED. No person shall willfully or maliciously remove, destroy, tamper, injure, mutilate or alter any amusement machine or insert any slug, token or counterfeit coin in any amusement machine.

7. TRANSFER OF LICENSE OR CHANGE OF NAME. See s. 85-19 for provisions relating to the transfer of licenses and change of licensee names.

8. REVOCATION. a. Causes. Any license issued under this section may be revoked for cause by the common council after notice to the licensee and a hearing. Licenses may be revoked for the following causes:

a-1. The making of any material false statement in any application.

a-2. The conviction of the licensee, his or her agent or employe of any offense under the ordinances of the city, or the statutes of the state of Wisconsin, the circumstances of which are substantially related to the licensed activity.

a-3. For any reasonable cause which is in the best interests and good order of the city.

b. Procedures. The procedures for the due process hearing and notice of license revocation shall be the same as those set forth in s. 90-12-4 and 5 governing the commencement of proceeding, notice and hearing, and common council decision.

c. Renewal After Revocation. No person whose amusement machine distributor license has been revoked may obtain another distributor license within a period of one year from the date of revocation.

d. Surrender of Licenses and Permits.

d-1. Upon revocation of any amusement machine distributor license, the license shall be immediately surrendered by the licensee to the police department, to be returned to the city clerk with a certificate notifying the city clerk in writing of the name and address of the licensee, the number of the license and the basis for the revocation.

d-2. No licensee shall refuse to surrender the license upon request by the common council. Each day of refusal shall constitute a separate offense.

d-3. A reversal of a judgment or conviction upon appeal, and the filing of a certified copy of the judgment of appeal and reversal with the city clerk, by the chief of police or any interested party, shall operate as a reinstatement of the license, and the city clerk shall thereupon return to the licensee the license pursuant to this paragraph.

9. PENALTY. Any person who violates this section shall be fined not less than \$25 nor more than \$500 or, in default of payment thereof, be imprisoned in the county jail or house of correction of Milwaukee county not more than 90 days for each offense, and a separate offense shall be regarded as committed each day the violation continues.

107-Gambling, Amusement Machines, Etc.

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Gambling, Amusement Machines, Etc. 107—(HISTORY)

LEGISLATIVE HISTORY CHAPTER 107

Abbreviations:

am = amended
cr = created

ra = renumbered and amended
rc = repealed and recreated

rn = renumbered
rp = repealed

Section	Action	File	Passed	Effective
107 (title)	am	110326	11/2/2011	3/1/2012
107-1	am	72-1193	10/24/72	
107-2	am	72-1192	10/24/72	
107-4	am	49-1749-d	10/24/49	
107-5	am	48-3363	4/25/49	
107-6	am	72-1194	10/24/72	
107-7	am	49-1749-e	10/24/49	
107-8	am	72296	5/4/42	
107-10-1	cr	ord. #163	12/7/1896	(1896-97)
107-10-2	am	49-1749-f	10/24/49	
107-12	am	49-1749-g	10/24/49	
107-13	am	82-171	3/29/83	
107-13	rc	110326	11/2/2011	3/1/2012
107-13-0	am	180930	11/27/2018	12/14/2018
107-13-1-a	am	180930	11/27/2018	12/14/2018
107-13-1-b	rp	101560	5/3/2011	5/20/2011
107-13-1-b	am	180930	11/27/2018	12/14/2018
107-13-1-c	rn to	101560	5/3/2011	5/20/2011
	107-13-1-b			
107-13-1-d	rn to	101560	5/3/2011	5/20/2011
	107-13-1-c			
107-13-1-e	rn to	101560	5/3/2011	5/20/2011
	107-13-1-d			
107-13-2	am	180930	11/27/2018	12/14/2018
107-13-2-a	am	151743	4/15/2016	5/4/2016
107-13-2-c	am	101560	5/3/2011	5/20/2011
107-13-3	rc	83-479	7/12/82	
107-13-3-a	rc	121521	4/30/2013	5/17/2013
107-13-3-a	am	180930	11/27/2018	12/14/2018
107-13-3-a-3-f	rp	120842	11/8/2012	11/29/2012
107-13-3-b	rc	101560	5/3/2011	5/20/2011
107-13-3-c	am	180930	11/27/2018	12/14/2018
107-13-3-c-2	am	061571	4/17/2007	5/4/2007
107-13-3-c-3	rp	151743	4/15/2016	5/4/2016
107-13-3-d	rc	120842	11/8/2012	11/29/2012
107-13-3-d	am	180930	11/27/2018	12/14/2018
107-13-3-e	rc	120029	9/25/2012	10/12/2012
107-13-3-e	am	150634	9/22/2015	10/9/2015
107-13-3-e	am	180930	11/27/2018	12/14/2018
107-13-3-f	am	180930	11/27/2018	12/14/2018
107-13-4	am	180930	11/27/2018	12/14/2018
107-13-5	rp	101560	5/3/2011	5/20/2011
107-13-5-e	am	180930	11/27/2018	12/14/2018
107-13-6	rn to	101560	5/3/2011	5/20/2011
	107-13-5			
107-13-6	am	180930	11/27/2018	12/14/2018

107-(HISTORY) Gambling, Amusement Machines, Etc.

107-13-7	rn to 107-13-6	101560	5/3/2011	5/20/2011
107-13-7	rc	111624	4/11/2012	4/28/2012
107-13-8	rn to 107-13-7	101560	5/3/2011	5/20/2011
107-13-8-c	am	180930	11/27/2018	12/14/2018
107-13-8-d-1	am	180930	11/27/2018	12/14/2018
107-13-9	rn to 107-13-8	101560	5/3/2011	5/20/2011

CHAPTER 108 PUBLIC ENTERTAINMENT PREMISES

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108-1. Findings. The common council finds that public entertainment premises promote urban vitality and enrich people's lives through artistic, cultural and recreational entertainment. However, various public entertainment premises can also be a source of excessive noise and litter, large and unruly congregations of people, traffic and parking congestion that adversely affect the surrounding neighborhood and the health, safety and welfare of the people of the city. This chapter is established pursuant to the responsibility of the common council to protect the freedom of speech and expression guaranteed under the United States and Wisconsin Constitutions, to legislate and license for the protection of the health, safety and welfare of the people of the city and to avoid or diminish the negative secondary effects that can result from these operations.

108-3. Definitions. In this chapter:

1. **BILLIARD TABLE** means any table, coin operated or not, surrounded by a ledge or cushion with or without pockets upon which balls are impelled by a stick or cue and which includes all forms of games known as "carom, billiards, pocket billiards, 3-cushion billiards, English billiards" and all other games played on a billiard, pool or snooker table and which also includes the games known as "15-

ball pool, 8-ball pool, bottle pool, pea pool" and all other games played on a so-called billiard table and also all games played on a so-called "pigeon-hole table."

2. **CARNIVAL** means the temporary setting up, maintaining or operating of mechanical rides such as ferris wheels, merry-go-rounds, bumper cars, etc., for the use of which a fee is charged.

2.5. **FESTIVAL** means a special event campground or program of cultural events, celebrations or entertainment conducted by any person, group, organization or association outdoors on private property within the city of Milwaukee.

3. **LICENSING COMMITTEE** means the standing committee of the common council which is assigned jurisdiction over licensing matters.

4. **MOTION PICTURE HOUSE** means any building, or parts thereof, used for the purpose of exhibiting motion pictures of any kind for admission to which remuneration or any other consideration is paid, charged or received.

5. **PERSON** means any individual, firm, corporation, limited liability company, partnership or association acting in a fiduciary capacity.

6. **PUBLIC ENTERTAINMENT** means any entertainment of any nature or description to which the public generally may gain admission, either with or without the payment of a fee. Any entertainment operated commercially for gain by membership, season ticket, invitation or other system open or offered to the public generally shall be deemed to constitute a public entertainment. This definition includes dances, dancing by patrons to prerecorded or live music, dancing by performers for or without compensation, shows and exhibitions provided for a fee including plays, skits, musical revues, children's theater, dance productions, musical concerts, opera and the production or provision of sights or sounds or visual or auditory sensations which are designed to or may divert, entertain or otherwise appeal to members of the public who are admitted to a place of entertainment, which is produced by any means, including radio, phonograph, jukebox, television, video reproduction, tape recorder, piano, orchestra or band or any other musical instrument, slide or movie projector, spotlights, or interruptible or

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flashing light devices and decoration. This term includes a carnival, festival, motion picture house or theater and, when offered to the public for a fee, bowling, billiard tables or amusement machines as defined in s. 107-13.

7. PUBLIC ENTERTAINMENT PREMISES means any room, place or space in which public entertainment is held, and includes any room, place or space in which activities described in sub. 6 are conducted.

7.5. SPECIAL EVENT CAMPGROUND means any parcel or tract of land which is designed, maintained, intended or used for the purpose of providing sites for non-permanent overnight used by 4 or more camping units, during the course of a single event, such as a fair, rally or festival, for a maximum of 7 consecutive nights or the maximum number of nights permitted by the zoning code, whichever is less. In this subsection, "camping unit" means any portable device, not more than 400 square feet in area, used as a temporary dwelling, including but not limited to a camping trailer, motor home, bus, van, pick-up truck or tent.

8. THEATER means any building, or parts thereof, used for dramatic or operatic or other exhibitions, plays or performances for admission to which remuneration or any other consideration is paid, charged or received.

108-5. License Required.

1. REQUIREMENT. a. No person may conduct or operate a public entertainment premises within the city without first securing either an annual license or permit therefor.

b. To promote and protect the freedom of speech and expression guaranteed under the First and Fourteenth Amendments to the United States Constitution and article I, section 3 of the Wisconsin Constitution, the common council shall approve every application for a new public entertainment premises license or for a deviation from the type of entertainment specified on a previously-approved plan of operation within 60 days after the city clerk certifies that the application is complete, unless the application is denied in writing by the common council following a licensing committee hearing conducted in accordance with the procedures of ch. 85. The August common council recess shall not be included when determining the 60-day period. The 60-day provision shall not apply if the application relates to a premises for which one or more other licenses subject to the licensing procedures of

ch. 85 are sought or held, in which case the timeline set forth in ch. 85 applies.

c. Any nonprofit organization which leases its premises for holding public entertainment shall first obtain a public entertainment premises license.

2. EXEMPTION. No public entertainment premises license shall be required for the following:

a. A theater or motion picture house at which the only person or organization providing motion pictures or theater performances is the person or organization that owns the premises.

b. Organizations formed exclusively for the purpose of ballet performance and instruction and which have received tax-exempt status from the United States internal revenue service.

c. Billiard tables provided on the premises of bona fide clubs or social organizations not operating for private profit which provide other membership privileges and activities, even though there is a charge for playing billiards.

d. Any public show or exhibition conducted exclusively by nonprofit, eleemosynary, educational, or religious organizations on their own premises.

e. Any dance studio, which means a room, place or space in which dancing classes are held and dancing instruction is given for hire.

f. Television programming or recorded background music which is incidental to operation of the establishment located on the premises and is either:

f-1. In the case of a licensed alcohol beverage premises, operated by the licensee, manager or bartender.

f-2. In the case of a premises without an alcohol beverage license, operated by a regular employee of the establishment.

g. Any public entertainment event held in the city hall rotunda when authorized by the chair of the common council's public works committee pursuant to common council resolution file number 80-1039, adopted on February 10, 1981.

h. The showing of motion pictures by an eleemosynary organization on land owned by the city or Milwaukee county, provided motion pictures are not shown more than twice monthly at a single location.

3. APPLICATION. a. Filing. Application for a public entertainment premises license shall be filed with the city clerk on a form provided therefor.

b. Content. The application shall require:

b-1. The name and permanent address of the applicant.

b-2. The name and address of the premise for which the license or permit is to be granted, including the aldermanic district in which it is situated.

b-3. If the applicant is a corporation, the name of the corporation shall be set forth exactly as it is set forth in its articles of incorporation, together with the name and address of each of its officers, directors and designated managers, if any; the application shall be verified by an officer of the corporation.

b-4. If the applicant is a partnership, the application shall set forth the name and resident address of each of the partners, including limited partners, and the application shall be verified by each partner. If one or more of the partners is a corporation, the provisions of this paragraph pertaining to a corporate applicant shall apply to the corporate partners.

b-5. If the applicant is a club, association or other organization which is neither a corporation or partnership, the application shall set forth the exact name of the entity together with the names and resident addresses of all officers and be verified by an officer of the club, association or organization.

b-6. The date of birth of the applicant.

b-7. A completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall require:

b-7-a. The planned hours of operation for the premises.

b-7-b. The number of patrons expected on a daily basis at the premises.

b-7-c. The legal occupancy limit of the premises.

b-7-d. The number of off-street parking spaces available at the premises.

b-7-e. Whether or not the public entertainment premises will make use of sound amplification equipment and, if so, what kind.

b-7-f. What plans the applicant has to provide security for the premises. This shall include a description of any proposed security provisions for off-street parking and loading areas, the number of security personnel

expected to be on the premises, their responsibilities of these guards, the equipment they will use in carrying out their duties and their licensing, certification or training credentials.

b-7-g. What plans the applicant has to insure the orderly appearance and operation of the premises with respect to litter and noise. This shall include a description of designated or likely outdoor smoking areas, the number and placement of exterior and interior trash receptacles, crowd control barriers and sanitation facilities, as well as a description of how applicable noise standards will be met for the subject premises.

b-7-h. Any other licenses held by the applicant or attached to the premises.

b-7-i. A description, with particularity, of the type of entertainment, exhibition, music, dancing, singing, floor show or other performances to be held on the premises, in order for the common council to determine whether or not the applicant's proposed operations are basically compatible with the normal activity of the neighborhood in which the licensed premises is to be located.

b-7-j. A description of any provisions made for clean-up of the premises, including identification of the solid waste contractor to be used by the applicant.

b-7-k. For a carnival to be held outside, what plans the applicant has in the event of inclement weather, including alternative dates and times during which the carnival may be set up, maintained or operated.

b-8. A site plan showing:

b-8-a. The locations of all entrances and exits. This shall include a description of how patrons will enter and leave the premises, the proposed location of the waiting line, estimated waiting time, and the location where security searches or identification verification will occur at the entrance to the premises.

b-8-b. The locations and dimensions of any off-street parking and loading areas for customers and entertainers available at the premises.

b-9. Such other reasonable and pertinent information the common council or the proper licensing committee may from time to time require.

c. Fingerprinting. All applicants shall be fingerprinted as provided in s. 85-21-1.

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d. Investigation. Applications shall be referred to the chief of police and the commissioner of neighborhood services, both of whom shall cause an investigation to be made and report their findings to the licensing committee in accordance with the provisions of s. 85-21-2. The commissioner of neighborhood services shall include information regarding whether the premises is located in a residential district.

4. CHANGES TO BE REPORTED. See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

5. TEMPORARY PUBLIC ENTERTAINMENT PREMISES PERMIT.

a. Authority. The granting of a temporary public entertainment premises permit shall authorize the permit holder to operate public entertainment lasting no longer than 4 consecutive days, except in the case of a carnival or festival, in which case the public entertainment may be offered up to 14 consecutive days, but only between the hours of 8 a.m. and midnight. This authority shall be contingent upon the permit holder also obtaining any other special privileges or licenses required for the conduct of a public entertainment. An existing public entertainment premises license holder seeking a temporary change of plan shall comply with s. 85-39.

b. Application. Application for a temporary public entertainment premises permit and the review of the permit application shall be conducted as set forth in sub. 3 provided that application for a temporary public entertainment premises permit shall be made to the city clerk by the filing deadline established by the city clerk for the date for which the permit is sought.

c. Approval by Council Member. The completed application shall be referred to the common council member representing the district in which the site for which the permit is sought is located. The common council member shall determine whether to grant each permit and shall inform the city clerk of his or her decision. In making his or her determination, the common council member shall consider the following factors:

c-1. The appropriateness of the location and site for which the permit is sought and whether the event for which the permit is sought will create undesirable neighborhood problems.

c-2. The hours during which the public entertainment would be operated on the site and the likely effect of the event on the surrounding area.

c-3. Whether previous permits granted to the same applicant or to other applicants for the same site have resulted in neighborhood problems including, but not limited to, complaints of loud music, noise, litter, disorderly assemblages, loitering or public urination.

c-4. Whether the applicant has been charged or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the activity for which the permit is sought.

c-5. Any other factors which reasonably relate to the public health, safety and welfare.

d. The decision of the council member regarding the applicant shall not be based on the type or content of any music or entertainment that will be provided at the event for which a permit is sought.

e. Committee Action. e-1. If the common council member grants the application for a temporary public entertainment premises permit, the city clerk shall issue an appropriate document to the applicant confirming that fact and specifying the date, period of time and specific location for which the permit shall be in effect. The document shall also contain any restrictions or conditions which the common council may place on approvals. The city clerk shall, within 24 hours after the issuance of the approving document, inform the chief of police of the date, place and event for which the permit was issued.

e-2. If an application filed prior to the deadline set by the city clerk is denied by a common council member under par. c, the city clerk shall forward the application to the licensing committee for a hearing on the appeal of the decision of a common council member.

e-3. Notwithstanding the provisions of sub. 1, if a written objection to the application is filed by an interested person, the city clerk shall forward the application to the licensing committee for a hearing.

f. Hearing Procedure. f-1. Any hearing required under the subsection shall be conducted in accordance with ss. 85-2.7 and 85-5.

f-2. The committee may make a recommendation immediately following the hearing or on a later date. In making the recommendation, committee members may consider the factors set forth in par. c.

f-3. Written notice of the committee's recommendation shall be provided if the decision is made at a later date or if the applicant was not present. The recommendation of the licensing committee shall be final, and the applicant shall have no right to be heard before the common council.

g. Limit. No more than 4 temporary public entertainment premises permits shall be issued for the same premises in any calendar month. No more than 20 temporary public entertainment premises permits shall be issued for the same premises in any license year.

h. New Year's Holiday. No permit shall be required for entertainment, exhibitions or dancing on New Year's Eve or New Year's Day.

i. Display of Permit. i-1. Every person issued a temporary public entertainment premises permit pursuant to this subsection shall post the permit in a conspicuous place in the premises during those times when entertainment, exhibitions or dancing is taking place.

i-2. It shall be unlawful for any person to post a permit or certificate or to be permitted to post a permit or certificate upon premises other than those mentioned in the application, or knowingly to deface or destroy a permit.

i-3. Failure to appropriately post a permit or certificate shall be treated in the same manner as operating without a permit.

6. FEE. All applications shall be accompanied by the fee specified in s. 81-101.2.

7. QUALIFICATION. No public entertainment premises license shall be granted to any person who is not a resident of the state of Wisconsin.

108-7. Issuance of License. 1. COMMON COUNCIL ACTION; APPLICATION FOR NEW LICENSE. An application for a new public entertainment premises license shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 and 85-5.

2. DISQUALIFICATION. Whenever any application is denied, or license non-renewed, revoked or surrendered, or renewal application withdrawn, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall govern.

3. AUTHORIZED OCCUPANCY. Every premises authorized for a public entertainment premises license shall, notwithstanding the legal occupancy limit of the premises specified on the plan of operation under s. 108-5-3-b-7-c, be authorized by the common council to serve a specified occupancy. In determining the specified occupancy, the council shall consider the legal occupancy limit set forth on the plan of operation, other information provided in the plan of operation, evidence concerning the character of the surrounding neighborhood and evidence concerning traffic and parking patterns. The council shall authorize one of the following occupancies for each licensed premises:

- a. 25 or fewer persons, or a premises without a specified capacity.
- b. 26-79 persons.
- c. 80-99 persons.
- d. 100-149 persons.
- e. 150-179 persons.
- f. 180-299 persons.
- g. 300-499 persons.
- h. 500 or more persons.

4. TRANSFER OF LICENSE OR CHANGE OF NAME. See s. 85-19 for provisions relating to the transfer of licenses and change of licensee names.

108-9. Renewal Of Licenses.

1. PROCEDURE FOR RENEWAL. Applications for the renewal of a public entertainment premises license shall be made to the city clerk. The clerk shall refer the application for license renewal to the chief of police and the commissioner of neighborhood services for review. If the chief of police and the commissioner of neighborhood services indicate that the applicant still meets the licensing qualifications, the application shall be referred to the common council for approval unless a written objection has been filed with the city

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clerk at least 45 days prior to the date on which the license expires, provided that the renewal was filed by the date established by the city clerk. If the applicant fails to file within the time frame established by the city clerk, an objection may be filed within 10 days of the filing of the renewal application. An objection may be filed by any interested person. If a written objection is filed, or if a determination is made that the applicant no longer meets the licensing qualifications, the application shall be forwarded to the licensing committee for its recommendation to the common council.

2. Procedure for Nonrenewal. If there is a possibility that the licensing committee will not renew the license, the procedures for notice and committee hearing and for the committee report, recommendations and common council consideration provided in ss. 85-3 to 85-5 shall govern.

108-11. Nonrenewal, Revocation or Suspension of Licenses.

1. PROCEDURE. a. Procedures for Revocation or Suspension. Any license issued under this chapter may be revoked or suspended for cause by the common council. Suspension or revocation proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police, or upon a sworn written complaint filed with the city clerk by any interested party.

b. Due Process Hearing and Common Council Review. If there is a possibility that the licensing committee will not recommend renewal of the license, or if revocation or suspension proceedings are initiated, the procedures for notice and committee hearing and for the committee report, recommendations and common council consideration provided in ss. 85-3 to 85-5 shall govern.

2. REQUEST TO SURRENDER A LICENSE OR WITHDRAW A RENEWAL APPLICATION. Whenever any licensee wishes to surrender a license or withdraw a renewal application, the procedures for disqualification of a license provided in s. 85-13 shall apply.

3. GROUNDS FOR NONRENEWAL, SUSPENSION OR REVOCATION. The recommendation of the committee regarding the licensee shall be based on the preponderance of evidence presented at the hearing. Probative

evidence concerning nonrenewal, suspension or revocation may include evidence presented at the hearing. Probative evidence concerning nonrenewal, suspension or revocation may include evidence of circumstances specified in s. 85-4-4.

4. COUNCIL ACTION. Following the receipt of a report and recommendation of the committee, the common council shall consider the report and recommendations pursuant to the procedures provided in s. 85-5.

5. WHEN ALCOHOL BEVERAGE LICENSE SUSPENDED. If a retail alcohol beverage license for a premises is suspended and the licensee also holds a public entertainment premises license for the premises, the public entertainment premises license shall be suspended for the same time period as the alcohol beverage license.

108-12. Appeal Rights. Any aggrieved applicant for, or holder of, a public entertainment premises license may seek judicial review to appeal the common council's denial of a new license or license transfer, or the suspension, nonrenewal or revocation of an existing license pursuant to s. 68.13, Wis. Stats.

108-15. Alteration of Premises. Any alteration, change or addition resulting in expansion of a licensed premises shall be approved by the licensing committee prior to issuance of a license, pursuant to s. 200-24, by the department of city development. An applicant whose application has been denied by the committee may appeal the decision to the common council.

108-16. Standards for Special Event Campgrounds. All special event campgrounds shall meet the following standards:

1. The campground operator shall obtain a campground permit from the department of neighborhood services in accordance with ch. DHS 178, Wis. Adm. Code. The permit application shall be accompanied by a plan of operation and a site plan that meets all applicable requirements of ch. DHS 178, Wis. Adm. Code. The department of neighborhood services shall not issue a campground permit to any permit applicant who has outstanding violations of the code of ordinances. For an indoor campground, a certificate of occupancy

shall be obtained in accordance with s. 200-42. In addition to the campground permit, and the temporary public entertainment premises permit required by this section, other permits and licenses, including but not limited to an alcohol beverage license or a food dealer license, may be required for campground operations.

2. All roads and parking areas in the campground shall be paved with concrete, asphalt macadam, tar macadam, crushed stone, paving blocks, traffic bond or other paving material.

3. The campground shall be located not less than 600 feet from the nearest residential use.

4. The campground operator shall prepare an emergency evacuation plan and provide copies of the plan to all campers. A copy of the plan shall also be provided to the city at the time of application for the temporary public entertainment premises permit.

5. No open-air fires shall be permitted at the campground except fires in substantial burners built of metal, concrete or brick that are well-covered or screened to prevent the escape of sparks and burning embers.

6. No cooking shall be permitted at indoor campsites except cooking that is explicitly permitted by a food dealer license or license for temporary operation of a food establishment issued by the health department.

7. The campground operator shall provide on-site, 24-hour security service on the campground premises. The name of the business or organization providing security, and the cellular telephone number used by the business or organization, shall be provided to the department of neighborhood services at the time of campground permit application.

8. The campground shall contain fire department access lanes at least 20 feet wide.

9. All parts of the campground shall be located within 400 feet of the nearest fire hydrant.

10. The campground premises shall be restored to its original condition at the termination of campground operation.

108-17. Public Entertainment Premises License; Posting. Each public entertainment premises license or permit shall be posted in a conspicuous place on the premises on which the public entertainment is held.

108-18. Minors; Billiards. It shall be unlawful for any person who has not attained the age of 16 years to play billiards in a licensed premises unless accompanied by a parent or guardian. It shall further be unlawful to permit any person who has not attained the age of 16 years to play billiards in a licensed premises unless that person is accompanied by a parent or guardian.

108-19. Supervision of Public Entertainment Premises. On any licensed public entertainment premises with an authorized occupancy of 150 or more persons under s. 108-7-3, the licensee shall be responsible for the adequate supervision of the premises, and the supervision shall consist of persons 21 years of age or older.

108-20. Gambling Prohibited. No dice shall be thrown for money, and no cards, raffles or other games of chance involving money, or gambling in any form, shall be permitted, in any licensed public entertainment premises.

108-21. Announcement of Curfew Hours. An announcement shall be made 20 minutes prior to the beginning of curfew hours specified in s. 106-23 to provide for the exit of those persons subject to s. 106-23. All entertainment shall cease for the 20-minute period prior to curfew.

108-22. Costume Regulations.

1. **CERTAIN COSTUMES PROHIBITED.** No licensee, either personally or through his or her agent or employee, shall furnish entertainment or permit the performance of any act, stunt or dance by dancers, performers or entertainers, whether the dancers, performers or entertainers are employed by the licensee or through his or her agent or not, and no entertainer or employee shall furnish any entertainment or perform any act, stunt or dance unless the dancers, performers or entertainers shall meet the following wearing apparel standards when performing or when present upon the premises:

a. That portion of every costume to be worn by dancers, performers or entertainers covered by this subsection and which relates to the breast or chest area, or to the area of the sex organs and buttocks, shall be of nontransparent material.

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b. The top portion of the costume worn by a female dancer, performer or entertainer or a female impersonator shall be so conformed, fabricated and affixed to the body so as to keep the areola and the nipple of the breast completely covered at all times.

c. The lower portion of the costume worn by a female dancer, performer or entertainer, or a female impersonator shall encircle the body at the area of the sex organs and buttocks. This portion of the costume shall be of such dimensions and so conformed, fabricated and affixed to the body so as to completely cover the sex organs, the pubic hair and the cleavage of the buttocks at all times. An animal fur piece or other device simulating the hair surrounding the pubic area shall not constitute compliance with the costume requirements of this section.

d. The lower portion of the costume worn by a male dancer, performer or entertainer shall encircle the area of the sex organs and the buttocks. This portion of the costume shall be of such dimensions and so conformed, fabricated and affixed to the body so as to completely cover the pubic hair, sex organ and the cleavage of the buttocks at all times.

108-23. Hours for Public Entertainment

1. **INDOOR PUBLIC ENTERTAINMENT.** Indoor public entertainment shall be permitted as established by the common council in its approval of the licensee's plan of operation.

2. **OUTDOOR PUBLIC ENTERTAINMENT.** Outdoor public entertainment shall be discontinued no later than 10:00 p.m. Sunday through Thursday nights and no later than 12:00 a.m. on Friday and Saturday nights, unless a different time of discontinuation, either earlier or later, is established by the common council in its approval of the licensee's plan of operation.

108-25. Penalty. Any person convicted of violating this chapter shall forfeit not less than \$500 nor more than \$2,000 for each violation, plus costs of prosecution, and, in default thereof, be imprisoned for a period not to exceed 80 days, or until forfeiture costs are paid.

2. **EXEMPTIONS.** The provisions of sub. 1 do not apply to a licensed public entertainment premises that offers live dance, ballet, music or dramatic performances of serious artistic merit on a regular basis, provided:

a. The predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to the customers.

b. The public entertainment offered on the premises is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

3. **DISORDERLY CONDUCT BY PATRONS PROHIBITED.** No licensee, either personally or through his agent or employee, shall permit any patron to participate in any act, stunt or dance in violation of this section.

4. **REVOCATION FOR NON-COMPLIANCE.** The common council may revoke any license issued under this chapter at any time for any violation of this section. Notice and hearing on such revocation shall be conducted in accordance with s. 108-11.

For the legislative history of chapter 108, contact the Municipal Research Library.

CHAPTER 109 EQUAL RIGHTS

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109-1. Findings; Declaration of Policy. 1. A vibrant, livable, successful and productive city is made possible by the talents, contributions and well-being of its diverse residents. It is the policy of the city that the equal rights of all those who live and work in the city are ensured, and that equal rights and equal opportunities within the context of the larger commercial and social fabric of the Milwaukee community are promoted.

2. The practice of providing equal opportunities to persons without regard to sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, victimhood of domestic abuse or sexual assault, past or present membership in the military service, HIV status, domestic partnership, genetic identity, homelessness, familial status, or an individual's affiliation or perceived affiliation with any of these categories, is a desirable goal of the city and a matter of legitimate concern to its government. Discrimination against any city resident endangers the rights and privileges of all. The denial of equal opportunity intensifies group conflict, undermines the foundations of democratic society and adversely affects the general welfare of the community. Denial of equal opportunity in housing compels individuals and families who are discriminated against to live in housing below the standards to which they are entitled. Denial of equal opportunity in employment deprives the community of the fullest productive capacity of

those of its members so discriminated against and denies to them the sufficiency of earnings necessary for maintaining the standards of living consistent with their abilities and talents.

3. Provision for adequate safeguards against discrimination is a proper and necessary function of city government. To protect the health, safety and general welfare of all inhabitants of the city, and all persons employed within the city, it is declared to be the public policy of this city to foster and enforce to the fullest extent the protection by law to equal opportunity without regard to sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, victimhood of domestic abuse or sexual assault, past or present membership in the military service, HIV status, domestic partnership, genetic identity, homelessness, familial status, or an individual's affiliation or perceived affiliation with any of these categories, and workplace free from discrimination. To fully effectuate this policy of promoting nondiscrimination, the city shall endeavor to eliminate all discrimination that may occur in the city.

4. Where applicable, this chapter shall be interpreted and applied consistently with the provisions of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. sections 3601, et seq., 24 C.F.R. sections 100, et seq., and ss. 66.1011, 106.50 and 111.31, et. seq., Wis. Stats., and 29 C.F.R. 1600, et. seq., Title VII of the Civil Rights Act of 1964, as amended, 42 USC 2000a, et. seq., and 106.52 Wis. Stats. and any successor provisions of state and federal law.

109-3. Purpose. Each sector of society engaged in the life of the city has a role in promoting equal rights, equity, and a social fabric free of discrimination. City government is uniquely positioned to assume a primary leadership role in these efforts. To achieve this leadership objective, each department, agency and unit of city government shall be accountable for promoting social and economic equity for all residents of the city, and structuring its work so that the outcomes are directed toward social and economic equity for all residents.

109-5 Equal Rights

109-5. Definitions. In this chapter:

1. **COMMISSION** means the equal rights commission.

2. **CONCILIATION** means the attempted resolution of issues raised by a complaint, or by the investigation of a complaint, through informal negotiations involving the aggrieved person, the respondent and the commission.

3. **FAMILIAL STATUS** means one or more individuals, who have not attained the age of 18 years, being domiciled with a parent or another person having legal custody of such individuals; or the designee of the parent or other person having such custody, with the written permission of the parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

4. **DISABILITY** means, with respect to a person, any of the following:

a-1. A physical or mental impairment which substantially limits one or more of the person's major life activities.

a-2. A record of having an impairment.

a-3. Being perceived as having an impairment.

b. Disability does not include current, illegal use of or addiction to a controlled substance. The behavioral manifestations of a mental disability may be taken into consideration in determining whether the applicant is qualified. A housing provider may consider a history of disruptive, abusive or dangerous behavior.

5. **GENDER EXPRESSION** means a person's external manifestations of gender, which may be expressed through name, pronouns, clothing, haircut, behavior, voice, body characteristics, or other means. A person's gender expression may be the same or different from that associated with the person's assigned sex at birth.

6. **GENDER IDENTITY** means a person's internal sense of their gender. A person's gender identity may be the same as or different from their assigned sex at birth.

7. **GENETIC IDENTITY** means the genetic information unique to an individual, including information regarding the individual's genetic tests, the genetic tests of family members of the individual, the manifestation of a disease or disorder in family members of the individual, and any request for, or receipt of, genetic services service, or participation in clinical research which

includes genetic services, by the individual or any family member of the individual.

8. **HOMELESSNESS** means the status of lacking housing, without regard to whether the individual is a member of a family. This includes having a primary residence during the night which is a supervised public or private facility that provides temporary living accommodations, or being a resident of transitional housing.

9. **HOUSING** means any building, structure or part thereof which is used or occupied, or is intended, arranged or designed to be used or occupied as a residence, home or place of habitation of one or more human beings, including a mobile home as defined in s. 66.0435, Wis. Stats., and a trailer as defined in s. 246-1-5 and any land which is offered for sale, lease or use as a site for a building, structure or part thereof intended or designed to be used or occupied as a residence, home or place of habitation of one or more human beings, including a mobile home park as defined in s. 66.0435, Wis. Stats., and a trailer house community as defined in s. 246-1-6.

10. **MARITAL STATUS** means the status of being married, separated, divorced, widowed or single.

11. **PERSON** means one or more individuals, labor organizations, employment agencies, corporations, partnerships, associations, cooperatives, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy or receivers or other fiduciaries, and the agent or agents of any of the foregoing but, because of actual, potential or perceived conflicts of interest, shall not include the city of Milwaukee, the housing authority and the redevelopment authority of the city of Milwaukee, any agency of the city, or any other municipal, state or federal governmental body or any agent, officer or employee acting in the course of such employment.

12. **PROTECTED PERSON** means any individual intended to be protected from violations of prohibited discrimination under this chapter. This includes an individual's sex, race, religion, color, national origin or ancestry, age, disability, lawful source of income, marital status, sexual orientation, gender identity or expression, victimhood of domestic abuse or sexual assault, protective hairstyle, past or present membership in the military service, HIV status, domestic partnership, genetic identity, homelessness, familial status, or an individual's affiliation or perceived affiliation with any of these categories.

12.5 PROTECTIVE HAIRSTYLE means a hairstyle necessitated by, or resulting from, the characteristics of a hair texture associated with race, such as natural hair, braids, locks, an afro, curls, cornrows, twists, and any other hairstyle, treated or untreated, which is commonly associated with racial, ethnic, or cultural identity.

13 PUBLIC PLACE OF ACCOMMODATION OR AMUSEMENT includes, but shall not be limited to, a place of business or recreation, lodging establishment, restaurant, tavern, barber, cosmetologist, aesthetician, electrologist, manicuring establishment, nursing home, clinic; hospital, cemetery, or any place where accommodations, amusement, goods, or services are available either free or for consideration.

14. SEXUAL ORIENTATION means the type of sexual, romantic, emotional or spiritual attraction one has the capacity to feel for some others, generally labeled based on the gender relationship between the person and the people to whom they are attracted.

15. SOURCE OF INCOME means income that is legally derived and that is subject to reasonable and good-faith efforts to verify the lawfulness of its derivation and includes moneys received from public assistance, pension and supplementary security income.

109-7. Equal Rights Commission. 1. There is established an equal rights commission consisting of 11 members, appointed by the mayor, subject to confirmation by the common council. A chair shall be elected from the membership of the commission at the first regular meeting of each calendar year by a majority of the members of the commission. Members shall be city residents, appointed from a representative cross-section of the community and shall continue to hold office only so long as they shall reside within the city.

2. Each member of the commission shall be appointed for a term of 3 years, except that 3 members initially appointed by the mayor shall serve for one year, and 2 members shall be appointed for a term of 2 years. Each member shall hold office until a successor is appointed and confirmed. A vacancy occurring other than by expiration of the member's term shall be filled by appointment of the mayor and confirmation by the common council for the unexpired portion of the term.

3. Five members shall constitute a quorum for conducting business, and a majority of members present shall be required to adopt or approve any action of the commission.

4. The commission shall:

a. Meet not less than 4 times annually for monitoring the employment, contracting, and program activities of the city, prepare and provide timely reports to the mayor and common council on efforts to promote equal rights, equal opportunities, positive community relations, and to eliminate discrimination and inequities in city government and the city.

b. Receive complaints alleging violation of this chapter and pursue remedies by means of mediation, conciliation, litigation or other appropriate means supported by findings of fact and conclusions of law. An aggrieved person may, not later than 300 days after an alleged discriminatory practice has occurred, file a written complaint to the commission alleging a discriminatory practice or violation. The commission shall not accept or investigate any complaint unless it is in writing and verified by the complainant.

c. Not have or exercise jurisdiction over any complaint that sets forth or states any facts or allegations that are the subject matter within the jurisdiction of any state or federal equal rights agency, including, but not limited to the U.S. Equal Employment Opportunity Commission or the Wisconsin Department of Workforce Development, regardless of whether the complainant has chosen to file with that agency.

d. Render from time to time, but not less than once a year, a written report of its activities and recommendations to the mayor and the common council.

e. Adopt rules and regulations consistent with this chapter and the laws of the state to carry out the policy and provisions of this chapter, and the powers and duties of the commission.

f. Issue subpoenas under s. 885.01(4), Wis. Stats., or its successor provisions, to assist in the execution of its duties.

5. The department of administration shall assign staff and provide support to the commission as necessary and appropriate to assist the commission in fulfilling its mission and responsibilities.

6. The department of administration shall assist the commission by staffing its meetings, drafting reports and other documents, maintaining commission documents, initial processing of complaints, and providing resources necessary for the proper hearing of complaints.

109-9 Equal Rights

109-9. Discrimination Prohibited. No person may engage in any act of discrimination with respect to housing, employment or public place of accommodation or amusement against any protected person. No person, employer, or public place of accommodation or amusement may:

1. HOUSING. In regard to housing:
 - a. Make or cause to be made any written or oral inquiry or record concerning the nature of any prospective occupants or tenants in a protected class of such housing, or persons associated with them, unless such inquiry or record is necessary for compliance with applicable local, state, or federal law.
 - b. Falsely represent that a dwelling is not available for inspection, sale, or rental because of such person's protected class membership. A person who has received written notice from the police department that a drug nuisance under s. 823.113, Wis. Stats., exists on property for which the person is responsible as owner may take action to eliminate the nuisance, including but not limited to, eviction of residents, provided such action is not a subterfuge to evade the provisions of this chapter.
 - c. Discriminate against any person because of such person's protected class membership, in the terms, conditions or privileges pertaining to the transfer, sale, rental or lease of any housing, or in the furnishing of facilities or services in connection therewith, or in any other manner.
 - d. For profit, induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular protected class membership.
 - e. Deny any person access to, or membership or participation in, any multiple listing service, real estate brokers' organization or other service organization or facility relating to the business of selling or renting dwellings, or discriminate against any person in the terms or conditions of such access, membership or participation on account of the person's protected class membership.
 - f. Discriminate against any person in making available a residential real estate-related transaction, or in the terms or conditions of a residential real estate-related transaction, because of a person's protected class membership.

g. Refuse to permit, at the expense of the person in a protected class, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, provided:

- g-1. In the case of a rental, a landlord may condition permission for a modification on the renter providing a reasonable description of the proposed modifications as well as reasonable assurances that the work will be done in a workmanlike manner and that any required building permits will be obtained; or
- g-2. A landlord may require an escrow account where it is necessary in order to ensure, with reasonable certainty, that funds will be available to pay for restoration at the end of the tenancy. The landlord may negotiate as part of such a restoration agreement a provision requiring that the tenant pay into an interest-bearing escrow account over a reasonable period, not to exceed the length of the lease, a reasonable amount of money, not to exceed the cost of restoration. The interest in any such account shall accrue to the benefit of the tenant. Failure by the landlord to utilize escrow funds for restoration of the premises within 90 days of the termination of the tenancy constitutes a forfeiture of the escrow fund, which shall revert to the tenant.
- g-3. A landlord may not require further restoration if the modifications satisfy either uniform federal accessibility standards or s. SPS 352.04, Wis. Adm. Code.
- g-4. No landlord may require the restoration of modifications made to public and common use portions of the premises if the modifications were necessary to make those portions readily accessible to and usable by persons in a protected class.
- h. Refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford persons in a protected class equal opportunity to use and enjoy a dwelling.
- i. In connection with the design and construction of a covered multifamily dwelling as defined in 24 C.F.R. s. 100.201, fail to design and construct those dwellings in such a manner that:
 - i-1. The dwelling has at least one building entrance on an accessible route, unless it is impractical to do so because of the terrain or unusual characteristics of the site.

i-2. With respect to a dwelling with a building entrance on an accessible route, the public use and common use portions of the dwelling are readily accessible to and usable by persons in a protected class.

i-3. All premises within the dwelling contain the following features of adaptive design:

i-3-a. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.

i-3-b. Reinforcements in bathroom walls to allow installation of grab bars.

i-3-c. Usable kitchens and bathrooms in which an individual in a wheelchair can maneuver.

2. PUBLIC PLACE OF ACCOMMODATION OR AMUSEMENT. In regard to a public place of accommodation or amusement:

a. Deny to another, or charge another a different price from the rate charged to others, the full and equal enjoyment of any public place of accommodation or amusement because of the person's protected class membership. An organization which operates a public place of accommodation or amusement and which sells memberships based on family status shall provide the same benefits to those of a protected class as are provided to other families.

b. Directly or indirectly publish, circulate, display, mail or otherwise disseminate any written communication which the person so doing knows is to the effect that any of the facilities of any public place of accommodation or amusement will be denied to any person by reason of protected class membership or that the patronage of a person is unwelcome, objectionable or unacceptable for any of these reasons.

c. Subject an individual, on the basis of a protected class of the individual, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.

d. Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, deny an individual in a protected class the opportunity to participate in programs or activities that are not separate or different.

e. Directly or through contractual or other arrangements utilize standards or criteria or methods of administration which have the effect of discrimination on the basis of a protected class.

3. EMPLOYMENT AND CONTRACT PROVISIONS. In regard to employment:

a. Discharge, fail or refuse to hire, or harass any individual, or otherwise discriminate against any individual with respect to the individual's compensation, terms, conditions, or privileges of employment, because of the individual's protected class membership; provided that an employer who is discriminating with respect to compensation in violation of this subsection shall not, in order to comply with this subsection, reduce the wage rate of an employee.

b. Limit, segregate, or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee, because of the individual's protected class membership.

c. Fail or refuse to refer for employment, or otherwise to discriminate against, any individual on the basis of his or her protected class membership.

d. Refuse to reasonably accommodate an employee's or prospective employee's protected class unless the employer can demonstrate that the accommodation would pose an undue hardship on the employer's program, enterprise or business.

e. Fail to include in all contracts negotiated, or renegotiated by a contracting agency of the city, a provision obligating the contractor not to discriminate against any qualified employee, or qualified applicant for employment, on the basis of a person's protected class membership, or based upon affiliation, or perceived affiliation, with any protected class, and shall require the contractor to include a similar provision in all subcontracts.

4. EXCEPTIONS. a. It is not a violation of this ordinance to restrict occupancy in a dwelling to persons in a protected class or to provide housing for protected persons as provided under any state or federal program that is specifically designed and operated to assist persons in a protected class, as defined in the state or federal program.

b. Notwithstanding any other provision of this section, it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify, or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or

109-11 Equal Rights

for an employer or a labor organization to admit or employ any individual in those certain instances where sex, age, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

c. It is not employment discrimination to deny or to refuse to issue a license or permit issued under this code if the person applying for or holding the license or permit has a pending criminal charge the circumstances of which substantially relate to the circumstances of the licensed activity or permit; or has been convicted of a felony, misdemeanor or other offense the circumstances of which substantially relate to the circumstances of the licensed activity, and has not been pardoned for that felony, misdemeanor, or other offense.

d. It is not employment discrimination to refuse to employ a person in a business licensed under s. 440.26, Wis. Stats., or as an employee specified in s. 440.26(5)(b), Wis. Stats., if the person has been convicted of a felony and has not been pardoned for that felony.

e. It is not employment discrimination to refuse to employ as an installer of burglar alarms a person who has been convicted of a felony and has not been pardoned.

f. Nothing contained in this section shall be interpreted to prohibit any employer from considering an individual's less-than-honorable discharge in cases where the circumstances of the discharge are substantially related to the circumstances of the particular job. However, in no case may an employer consider a less-than-honorable discharge that was made administratively and not pursuant to a court martial.

g. Notwithstanding any other provision of this section, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity, or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of protected class membership.

h. Nothing contained in this section shall be interpreted to require any employer, employment agency or labor organization to grant

preferential treatment to any individual or to any group because of the protected class.

109-11. Reporting. **1. DEPARTMENTS.** The department of administration, with the cooperation of all departments, shall regularly provide the commission with information of efforts and activities undertaken across city government to achieve the leadership objectives described in s. 109-1 to 3. This information shall from time to time identify programs and activities conducted by the city to promote equal rights and equal opportunity both within city government and goals, challenges and strategies. The department of administration shall provide the commission with information about activities and accomplishments with respect to the requirements in s. 350-203. Upon request of the commission, other city departments, agencies and units shall report to the commission orally, in writing, or both, at the pleasure of the commission.

2. MAYOR AND COMMON COUNCIL. The commission shall provide a written communication to the mayor and the common council, not less than annually, summarizing the activities of the commission and the progress of the city in meeting the leadership objectives specified in this chapter. This communication shall further include an examination of those conditions in the city at large which contribute to or detract from equal rights and an environment free from discrimination. The communication shall provide recommendations for furthering the purposes and objectives provided in this chapter.

109-13. Investigations. Pursuant to any investigation or hearing conducted under this chapter, the commission shall:

1. Require any person to submit in writing reports and answers to questions relevant to the proceedings conducted under this chapter as the commission may prescribe, submission to be made within the period and under oath or otherwise as the commission may determine.

2. Administer oaths and to require, by subpoena issued by it, the attendance and testimony of witnesses and the production of any documentary evidence relating to the investigation or hearing being conducted. Issuance of a subpoena requires action by the commission in accordance with s. 109-7-4-f.

3. Order testimony to be taken by deposition before any individual who is designated by the commission and has the power to administer oaths, and, in such instances, to compel testimony and the production of evidence in the same manner as authorized by sub. 2.

4. Pay witnesses the same fees and mileage as are paid in like circumstances by the courts of this state.

109-15. Probable Cause of Violation. At the conclusion of its investigation, the commission shall, in preliminary written findings of fact and conclusions based thereon, make a determination of whether probable cause exists to believe that a violation of this chapter has occurred. If the commission determines that no probable cause exists, it shall immediately send written notice of the determination to the accused and to the complainant. If the commission determines that there is probable cause for believing that a violation of this chapter has been committed, its preliminary findings of fact and conclusions shall contain an order setting a date for hearing to determine whether a violation of this chapter has occurred. The commission shall serve the order upon the accused. A hearing ordered under this subsection shall be commenced within 30 days after the date it is ordered unless the accused petitions for and the commission consents to a later date. Prior to any hearing ordered under this subsection, the parties shall be entitled to full discovery rights, including adverse examination of witnesses who will testify at the hearing at a reasonable time before the date of the hearing.

109-17. Hearing Procedure. 1. During any investigation and during any hearing which is conducted to determine whether a violation of this chapter has occurred, the parties may be represented by counsel of their own choosing, and the parties or their representatives, if any, shall have an opportunity to examine all documents and records obtained or prepared by the commission in connection with the matter heard, to bring witnesses, to establish all pertinent facts and circumstances, to question or refute testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses. During any hearing conducted by the commission to

determine whether a violation of this chapter has occurred, all evidence including certified copies of records which the commission considers shall be fully offered and made a part of the record in the proceedings. The parties shall be afforded adequate opportunity to rebut or offer countervailing evidence. Upon request of the parties, the commission shall issue subpoenas to compel the attendance of necessary witnesses.

2. In cases in where the commission deems it necessary, the commission shall appoint a hearing examiner to conduct hearings under this section. Any person whose name is mentioned or who is otherwise identified during a hearing being conducted by the commission and who, in the opinion of the commission, may be adversely affected thereby, may, upon request of the person or a representative of the person, or upon the request of any member of the commission, appear at the hearing to testify on his or her own behalf or have a representative appear to so testify, and the commission may permit any other person to appear and to testify at a hearing.

3. After the conclusion of the hearing the commission shall as soon as practicable begin deliberations on the evidence presented at the hearing and shall then proceed to determine whether the defendant has violated this chapter.

109-19. Determinations; Commission Actions.

If the commission determines that no violation of this chapter has occurred, it shall immediately send written notice of the determination to the complainant and defendant. If the commission determines that a violation of this chapter has occurred, its findings of fact and conclusions may contain one or more of the following orders or recommendations:

1. An order requiring the defendant to conform his or her conduct to this chapter.

2. Fines in accordance with s. 109-25.

3. In the case of a licensee of the city, a recommendation of suspension or revocation of the license. The recommendation shall be submitted to the city clerk's office.

109-21. Settlements. An action may be settled for such sum or terms as may be agreed upon between the applicable parties.

109-23 Equal Rights

109-23. Public Inspection of Records.

1. Except as provided in sub. 2, all records in the possession of the commission are open to public inspection at all reasonable times.

2. Notwithstanding sub. 1, the following records in the commission's possession shall not be open for public inspection:

a. Records obtained in connection with a request for an advisory opinion other than summaries of advisory opinions that do not disclose the identity of individuals requesting such opinions or organizations on whose behalf they are requested. The commission may, however, make such records public with the consent of the individual requesting the advisory opinion or the organization or governmental body on whose behalf it is requested. A person who makes or purports to make public the substance of or any portion of an advisory opinion requested by or on behalf of the person shall be deemed to have waived the confidentiality of the request for an advisory opinion and of any records obtained or prepared by the commission in connection with the request for an advisory opinion.

b. Records obtained or prepared by the commission in connection with an investigation, except that the commission shall permit inspection of records that are made public in the course of a hearing by the commission to determine if a violation of this chapter has occurred. Whenever the commission refers such investigation and hearing records to the appropriate party under s. 109-19, they may be made public in the course of prosecution initiated under this chapter.

109-25. Forfeiture. 1. Any person who willfully violates this chapter or any lawful order of the commission under this chapter shall, for the first violation, forfeit not less than \$500 nor more than \$5,000.

2. For each successive violation within 5 years of having been adjudged to be in violation of this chapter or any lawful order of the commission under this chapter, the person shall forfeit not less than \$1,000 nor more than \$10,000.

109-27. Enforcement. 1. Whenever in the judgment of the commission, the enforcement of a forfeiture imposed for violation of this chapter or of an order under this chapter is necessary, the commission shall refer the matter in writing to the city attorney for enforcement in the name of the city or the commission.

2. Upon referral, the city attorney may seek enforcement of this chapter in a court of competent jurisdiction and as provided in ss 66.0114 and 66.1011(2), Wis. Stats., or otherwise.

3. At any time after a complaint is filed, the commission may request the city attorney to file a petition in circuit court, seeking appropriate temporary relief against the respondent, pending final determination of proceedings under this chapter, including an order or decree restraining the respondent from performing an act tending to render ineffectual an order the commission may enter with respect to the complaint.

For legislative history of chapter 109, contact the Municipal Research Library.

[Pages 651-656 are blank]

**CHAPTER 110
CRIMES AGAINST PROPERTY**

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110-1. Damaging or Tampering with Coin Machines, etc. Any person who, without lawful authority, opens, removes or damages any coin machine, coin telephone or other vending machine dispensing goods or services, or a part thereof, or possesses a key or device specifically designed to open or break any coin machine, coin telephone or other vending machine dispensing goods or services, or possesses a drawing, print or mold of a key or device specifically designed to open or break any coin machine, coin telephone or other vending machine dispensing goods or services within the limits of the city, shall be fined not less than \$50 nor more than \$500 or, upon default of payment thereof, shall be imprisoned in the house of correction of Milwaukee county for not more than 30 days.

110-3. Damaging of Drinking Fountains, etc.

1. PROHIBITED. All persons are prohibited from breaking or otherwise injuring any bubbler, drinking fountain or any drinking bubbler, or in any way injuring, soiling, tampering with or defacing any such bubbler or drinking fountain, or placing dirt, leaves, refuse or matter of any sort in or upon any such bubbler, drinking fountain or drinking bubbler, in any public park, street, sidewalk or ground, or any public building, schoolhouse, hall, museum, library or branch

library, bathhouse, pavilion, recreation house or natatorium in the city.

2. PENALTY. Any person violating this section shall upon conviction be fined not less than \$5 nor more than \$50.

110-4. Damaging of Public Property. 1. TREES, GRASS, STRUCTURES. All persons are prohibited from breaking or otherwise injuring any tree, shrub or plant; breaking, soiling or defacing any fountain, statue or other ornamental structure; treading, walking or riding upon any grass plot; or in any way injuring, soiling or defacing any public property in any public park, square, sidewalk or ground in the city, whether the same shall be owned or held in trust by said city or held in trust for the use of any district of said city.

2. PENALTY. Any person violating this section shall upon conviction be fined not less than \$5 nor more than \$50.

110-8. Breaking of Street Lamps or Windows. Any person who shall break glass in any street lamps or windows of any building owned or occupied by the city shall be punished by a fine of not less than \$10 for each and every offense.

110-10. Trespassing Upon Lands, Buildings or Premises; Signs. 1. PROHIBITED GENERALLY. It shall be unlawful for any person within the limits of the city to go upon or in, or remain upon or in, the land, building, or premises of another or any part, portion or area thereof after having been forbidden to do so or warned not to do so, either orally or in writing, by the owner or other lawful occupant, including a lessee, custodian or other person in possession thereof or his or her agent or representative, or after having been forbidden to do so or warned not to do so by a sign posted on such land, building, premises or part, portion or area thereof at a place where such sign may be reasonably seen, provided that this section shall not apply to police officers or fire fighters in the discharge of official duties. A visible posted sign indicating that such land, building, or premises or part, portion or area thereof is closed a time certain is sufficient warning and notice to all persons that their presence on or in such land, building, or premises or part, portion or area thereof is contrary to this subsection and unlawful. This subsection shall not apply to a person lawfully

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carrying a firearm as defined in s. 105-34-2-h if the person is licensed under s. 175.60, Wis. Stats., or permitted as an out-of-state licensee, to carry a firearm and if the intent of the owner or lawful occupant is solely to prevent a licensee or out-of-state licensee from carrying a firearm on the land of the owner or lawful occupant.

2. TRESPASS TO BUILDINGS WHILE CARRYING A FIREARM.

a. Definitions. In this section:

a-1. "Carry" means to go armed with.

a-2. "Dwelling unit" means a structure or that part of a structure which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

a-3. "Implied consent" means conduct or words or both that imply that an owner or occupant of land has given consent to another person to enter the land.

a-4. "License" means a license to carry a concealed weapon under s. 175.60, Wis. Stats.

a-5. "Licensee" means a licensee, as defined in s. 175.60 (1) (d), Wis. Stats., or an out-of-state licensee, as defined in s. 175.60 (1) (g), Wis. Stats.

a-6. "Nonresidential building" includes a nursing home, a community-based residential facility, a residential care apartment complex, an adult family home and a hospice as these are defined in ch. 50, Wis. Stats.

a-7. "Place of employment" has the meaning given in s. 101.01 (11), Wis. Stats.

a-8. "Private property" means real property that is not owned by the United States, this state or a local governmental unit.

a-9. "Open land" means land that meets all of the following criteria:

a-9-a. The land is not occupied by a structure or improvement being used or occupied as a dwelling unit.

a-9-b. The land is not in the immediate vicinity of a structure or improvement being used or occupied as a dwelling unit.

a-9-c. The land is not occupied by a public building.

a-9-d. The land is not occupied as a place of employment.

a-10. "Special event" means an event that is open to the public, is for a duration of not more than 3 weeks, and either has designated entrances to and from the event that are locked when the event is closed or requires an admission.

b. Prohibited. It is unlawful for any person, while carrying a firearm, to enter or remain:

b-1. At a residence that the actor does not own or occupy after the owner of the residence, if he or she has not leased it to another person, or the occupant of the residence has notified the actor not to enter or remain at the residence while carrying a firearm or with that type of firearm. In this paragraph, "residence," with respect to a single-family residence, includes the residence building and the parcel of land upon which the residence building is located, and "residence," with respect to a residence that is not a single-family residence, does not include any common area of the building in which the residence is located or any common areas of the rest of the parcel of land upon which the residence building is located.

b-2. In a common area in a building, or on the grounds of a building, that is a residence that is not a single-family residence if the actor does not own the residence or does not occupy any part of the residence, if the owner of the residence has notified the actor not to enter or remain in the common area or on the grounds while carrying a firearm or with that type of firearm. This paragraph does not apply to a part of the grounds of the building if that part is used for parking and the firearm is in a vehicle driven or parked in that part.

b-3. In any part of a nonresidential building, grounds of a nonresidential building, or land that the actor does not own or occupy after the owner of the building, grounds, or land, if that part of the building, grounds, or land has not been leased to another person, or the occupant of that part of the building, grounds, or land has notified the actor not to enter or remain in that part of the building, grounds, or land while carrying a firearm or with that type of firearm. This paragraph does not apply to a part of a building, grounds or land occupied by the state or by a local governmental unit, to a privately or publicly-owned building on the grounds of a university or college, or to the grounds of or land owned or occupied by a university or college, or, if the firearm is in a vehicle driven or parked in the parking facility, to any part of a building, grounds or land used as a parking facility.

b-4. At a special event if the organizers of the special event have notified the actor not to enter or remain at the special event while carrying a firearm or with that type of firearm. This paragraph does not apply, if the firearm is in

a vehicle driven or parked in the parking facility, to any part of the special event grounds or building used as a parking facility.

b-5. In any part of a building that is owned, occupied or controlled by the state or any local governmental unit, excluding any building or portion of a building under s. 175.60 (16) (a), Wis. Stats., if the state or local governmental unit has notified the actor not to enter or remain in the building while carrying a firearm or with that type of firearm. This paragraph does not apply to a person who leases residential or business premises in the building or, if the firearm is in a vehicle driven or parked in the parking facility, to any part of the building used as a parking facility.

b-6. In any privately or publicly-owned building on the grounds of a university or college, if the university or college has notified the actor not to enter or remain in the building while carrying a firearm or with that type of firearm. This paragraph does not apply to a person who leases residential or business premises in the building or, if the firearm is in a vehicle driven or parked in the parking facility, to any part of the building used as a parking facility.

c. Determining Implied Consent. A determination that a person has implied consent to enter the land of another shall be based upon consideration of all the circumstances existing at the time the person entered the land, including all of the following whether the owner or occupant permitted previous entries by the person or by other persons under similar circumstances, the customary use of the land by other persons, whether the owner or occupant represented to the public that the land may be entered for particular purposes and the general arrangement or design of any improvements or structures on the land.

d. Methods of Providing Notice. A person has received notice from the owner or occupant within the meaning of par. b if he or she has been notified personally, either orally or in writing, or if the land is posted. Land is considered to be posted or notice is considered given if:

d-1. A sign at least 11 inches square is placed in at least 2 conspicuous places for every parcel to be protected. The sign shall provide an appropriate notice and the name of the person giving the notice followed by the word "owner" if the person giving the notice is the holder of legal title to the land and by the word "occupant" if the person giving the notice is not the holder of legal title but is a lawful occupant of the land. Proof that appropriate signs as provided in this

subdivision were erected or in existence upon the premises to be protected prior to the event complained of is sufficient to prove that the premises to be protected were posted as provided in this subdivision.

d-2. Markings at least one-foot long, including in a contrasting color the phrase "private land" and the name of the owner, are placed in at least 2 conspicuous places for every 40 acres to be protected. The sign shall be at least 5 inches by 7 inches.

d-3. Notice has otherwise been provided consistent with s. 943.13(2)(bm)2, Wis. Stats.

3. TRESPASSING UPON STREETCAR, VEHICLE OR RAILROAD TRAIN. It shall be unlawful for any person within the limits of the city to go upon or in, or remain upon or in, the Milwaukee streetcar, or any public or private vehicle as defined by s. 340.01(74), Wis. Stats., or railroad train as defined by s. 340.01(48), Wis. Stats., of another or any part, portion or area thereof after having been forbidden to do so or warned not to do so, either orally or in writing, by the owner or other lawful occupant, including a lessee, custodian or other person in possession thereof or his or her agent or representative, or after having been forbidden to do so or warned not to do so by a sign posted on such streetcar, public or private vehicle or railroad train of another or any part, portion or area thereof where such sign may be reasonably seen, provided that this subsection shall not apply to police officers or fire fighters in the discharge of official duties.

4. PENALTY. a. Any person violating this section shall upon conviction be fined not less than \$100 nor more than \$1,000 and upon default of payment may be imprisoned as provided by law.

b. Any person violating this section while carrying a firearm or other dangerous weapon who is not licensed under s. 175.60, Wis. Stats., or permitted as an out-of-state licensee, to carry a firearm, shall upon conviction be fined not less than \$500 nor more than \$1,000 and upon default of payment may be imprisoned as provided by law.

110-11. Nonpayment of Motor Bus Fare.

1. DEFINITION. In this section, "motor bus" has the meaning specified in s. 340.01 (31), Wis. Stats.

2. PROHIBITION. No person who intentionally enters a motor bus that transports persons for hire shall:

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a. Refuse to pay, without delay, upon demand of the operator or other person in charge of the motor bus, the prescribed transportation fare.

b. Attempt to avoid payment of the fare either partially or in full through various means, including but not limited to, the use of a counterfeit, stolen, mutilated or altered ticket, pass, transfer or other bus fare medium.

c. Aid another person to avoid payment of the prescribed transportation fare.

3. PENALTY. Any person who violates this section shall be subject to a forfeiture of \$25 and upon default of payment shall be imprisoned in the county jail or house of correction of Milwaukee county for one day.

110-12. Eviction, Forcible Entry and Denial of Access to a Premises. 1. PROHIBITED ACTS.

a. No landlord, landlord's agent or anyone acting under color of authority from a landlord may make any forcible entry into the premises of a residential tenant, or threaten to make such a forcible entry, or attempt to enter the premises by the use of stealth or strategem during the term or after the expiration of the tenant's tenancy. No landlord, landlord's agent, or person acting under color of authority of a landlord may forcibly hold possession of residential premises or a tenant's personal property, the possession of which was obtained without the use of force.

b. No tenant or anyone acting at the direction of a tenant may change or add locks or physically alter the structure of the premises or any fixtures located on the premises without the express written permission of the landlord. No tenant or any member of a tenant's household may deny a landlord access to the premises under sub. 3-b.

2. DEFINITION. In the section "forcible" means any of the following:

a. The actual or threatened use of physical force against a tenant or any member of the tenant's household.

b. The actual or threatened use of force with respect to any of the tenant's personal property.

c. Denial of access to the tenant or any member of the tenant's family to the premises or any personal property located on the premises.

d. Changing the locks or the physical alteration of the structure of the premises or any fixtures located on the premises with the intent to deprive the tenant of access thereto.

e. The actual or threatened interruption to the premises of the supply of fuel, heat, electricity or water.

f. Removal of doors, windows or other building components affecting the health or safety of the occupants.

3. EXCEPTIONS. a. This section does not apply to the exercise of liens of innkeepers and keepers of hotels or boarding or lodging houses under s. 779.43, Wis. Stats., or affect the provisions of s. ATCP 134.09, Wis. Adm. Code.

b. The landlord may upon advance notice and at reasonable times inspect the premises, make repairs and show the premises to prospective tenants or purchasers. If the tenant is absent from the premises and the landlord reasonably believes that entry is necessary to preserve or protect the premises, the landlord may enter without notice and with such force as appears necessary. Advance notice means at least 12 hours advance notice unless the tenant, upon being notified of the proposed entry, consents to a shorter time period.

4. PENALTY. Any person who violates this section shall upon conviction forfeit not less than \$25 nor more than \$500 together with costs of prosecution or, in default of payment, may be imprisoned in the house of correction of Milwaukee County for not more than 90 days. Each day during which a violation continues shall be determined a separate and distinct offense.

110-15. Vandalism. Whoever within the limits of the city intentionally causes damage to any physical property of another without his or her consent shall upon conviction thereof be fined not more than \$500, and upon default of payment shall be imprisoned in the Milwaukee county jail or the house of correction of Milwaukee county for not more than 60 days.

110-15.5. Vandalism - Graffiti Related.

1. PROHIBITED CONDUCT. No person may write, paint, or draw any inscription, figure, or mark of any type on any public or private building or other real or personal property owned, operated or maintained by a government entity or any agency or by any person, firm or corporation unless the express permission of the owner or operator of the property has been obtained.

2. PENALTIES. a. Any person convicted of violating this section shall forfeit not less than \$500 nor more than \$2,000 per violation, or upon default of payment be imprisoned for not more than 80 days, if the

amount of defacement, damage or destruction to physical property is \$500 or less.

b. Any person convicted of violating this section shall forfeit not less than \$1,000 nor more than \$2,000 per violation, or upon default of payment be imprisoned for not more than 80 days, if the amount of defacement, damage or destruction to physical property is more than \$500.

110-15.7. Vandalism; Vacant Buildings.

1. FINDINGS. The common council finds that a significant relationship exists between the vandalizing of vacant buildings and increased calls for police services, higher incidence of fires, both accidental and intentional, and decline and disinvestment in neighborhoods. Vandalized vacant buildings become havens for vandalism, arson and drug crimes, representing not only a drain of valuable governmental resources, but also creating a significant reduction of the quality of life for the surrounding neighborhood. The common council further finds that vandalized vacant buildings are rarely repaired and become a neighborhood blight, eventually requiring demolition of buildings. These abandoned buildings place an undue and inappropriate burden on the taxpayers of the city and pose an increased risk to public safety. This section is intended to reduce and prevent neighborhood blight, to ameliorate conditions that threaten the health, safety and welfare of the public, to promote neighborhood stability and residential owner occupancy by preserving the condition and appearance of residential properties, and to maintain residential property values and assessments.

2. PROHIBITED CONDUCT. No person may vandalize or remove materials from a vacant building without the express permission of the owner or operator of the property or by order of the department of neighborhood services relating to razing of the building.

3. PENALTIES. a. Any person convicted of violating this section and causing more than \$500 damage to a vacant building shall forfeit not less than \$1,000 nor more than \$5,000 per violation, and in default of payment thereof may be imprisoned in an appropriate county facility as allowed by law.

110-16. Theft. 1. DEFINITIONS. In this section:

a. "Movable property" shall mean property whose physical location can be changed without limitation, including electricity and gas, documents which represent or embody

intangible rights, and things growing on, affixed to or found in land.

b. "Property" means all forms of tangible property, whether real or personal, without limitation including electricity, gas and documents which represent or embody a chose in action or other tangible rights.

c. "Property of another" includes property in which the actor is a co-owner and property of a partnership of which the actor is a member, unless the actor and the victim are husband and wife.

d. "Value" means the market value at the time of the theft or the cost to the victim of replacing the property within a reasonable time after the theft, whichever is less, but if the property stolen is a document evidencing a chose in action or other intangible right, value shall mean either the market value of the chose in action or other right or the intrinsic value of the document, whichever is greater. If the thief gave consideration for, or had a legal interest in, the stolen property, the amount of such consideration or value of such interest shall be deducted from the total value of the property.

2. INTENTIONAL. Whoever intentionally takes and carries away, uses, transfers, conceals or retains possession of movable property of another valued at less than \$500 without his or her consent and with intent to deprive the owner permanently of possession of such property may be penalized as provided in sub. 4.

3. AIDING AND ABETTING. Whoever is concerned in the commission of a violation of this section is a principal and may be charged with and convicted of the commission of a violation of this section although he or she did not directly commit it and although the person who directly committed it has not been convicted or has been convicted of some other violation based on the same act. A person is concerned in the commission of a violation of this section if he or she: directly commits a violation of this section; intentionally aids and abets the commitment of it; or is a party to a conspiracy with another to commit it or advises, hires, counsels or otherwise procures another to commit it. Such a party is also concerned in the commission of any other violation of the code which is committed in the pursuance of the intended violation of this section and which under the circumstances is a natural and probable consequence of the intended violation of this section. This subsection does not apply to a person who voluntarily changes his or her mind and no longer desires that a violation of this

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section be committed, and notifies the other parties concerned of his or her withdrawal within a reasonable time before the commission of a violation of this section so as to allow the others also to withdraw.

4. PENALTY. Any person violating this section upon conviction thereof shall be fined not more than \$500 and upon default of payment shall be imprisoned in the county jail or the house of correction of Milwaukee county for not more than 60 days.

110-18. Tapping of Public Utilities.

1. PROHIBITED. Any person who, without permission and for the purpose of obtaining electrical current, gas or water with intent to defraud any vendor of electricity, gas or water doing any of the following shall be subject to the forfeiture provided in sub. 2.

a. Connects or causes to be connected by wire or any other device with the wire, cables or conduits of any vendor.

b. Connects or disconnects the meters, pipes or conduits, or connects with the meters, pipes or conduits by pipes, conduits or other instruments.

2. PRESUMPTIVE EVIDENCE. The existence of any of the conditions with reference to meters, pipes, conduits or attachments, described in this section, shall be presumptive evidence that the person to whom gas, electricity or water is at the time being furnished by or through the meters, pipes, conduits or attachments has, with the intent to defraud, created or caused to be created the conditions. The presumption shall not apply to any person furnished with gas, electricity or water less than 31 days or until there has been at least one meter reading.

3. ENFORCEMENT. The police department and department of neighborhood services shall have responsibility for the enforcement of this action.

4. PENALTY. a. Any person violating this section shall be subject to a forfeiture of not less than \$100 nor more than \$500, and in default of payment thereof, may be imprisoned as provided by law.

b. Any person who commits a second or subsequent violation of this section shall be subject to a forfeiture of not less than \$200 nor more than \$500, and in default of payment thereof, may be imprisoned as provided by law.

110-32. Fraud on Hotel or Restaurant Keeper.

1. UNLAWFUL. Whoever does either of the following within the limits of the city shall, upon conviction, be fined not more than \$500 or upon default of payment may be imprisoned in the house of correction of Milwaukee county for not more than 60 days:

a. Having obtained any food, lodging or other service or accommodation at any hotel, motel, boarding or lodging house, or restaurant, intentionally absconds without paying for it.

b. While a guest at any hotel, motel, boarding or lodging house or restaurant, intentionally defrauds the keeper thereof in any transaction arising out of such relationship as guest.

2. INTENT TO DEFRAUD. Under this section, prima facie evidence of an intent to defraud is shown by:

a. The refusal of payment upon presentation when due, and the return unpaid of any bank check or order for the payment of money, given by any guest to any hotel, motel, boarding or lodging house, or restaurant, in payment of any obligation arising out of such relationship as guest. Such facts shall also be deemed prima facie evidence of an intent to abscond without payment.

b. The failure or refusal of any guest at a hotel, motel, boarding or lodging house or restaurant, to pay, upon written demand, the established charge for food, lodging or other service or accommodation actually rendered.

c. The giving of false information on a lodging registration form or the presenting of false or fictitious credentials for the purpose of obtaining lodging or credit.

d. The drawing, endorsing, issuing or delivering to any hotel, motel, boarding or lodging house, or restaurant, of any check, draft or order for payment of money upon any bank or other depository, in payment of established charges for food, lodging or other service or accommodation, knowing at the time that there is not sufficient credit with the drawee bank or other depository for payment in full of the instrument drawn.

110-35. Retail Theft. 1. INTENTIONAL. Whoever intentionally alters indicia of price or value of merchandise or who takes and carries away, transfers, conceals or retains possession of merchandise held for resale by a merchant or property of a merchant, without his or her consent and with intent to deprive the merchant

permanently of possession of the full purchase price of the merchandise, may be penalized as provided in sub. 6 if the retail price of the merchandise involved is less than \$500.

2. CONCEALMENT. The intentional concealment of unpurchased merchandise which continues from one floor to another or beyond the last station for receiving payments in a merchant's store is evidence of intent to deprive the merchant permanently of possession of such merchandise without paying the purchase price thereof. The discovery of unpurchased merchandise concealed upon the person or among the belongings of such person or concealed by a person upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing such goods.

3. DETAINMENT. A merchant or merchant's adult employee who has probable cause for believing that a person has violated this section in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a peace officer, or to his or her parent or guardian in the case of a minor. The detained person must be promptly informed of the purpose of the detention and be permitted to make phone calls, but he or she shall not be interrogated or searched against his or her will before the arrival of a peace officer, who may conduct a lawful interrogation of the accused person. Compliance with this subsection entitles the merchant or his or her employee effecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.

4. EVIDENCE. a. In any action or proceeding for violation of this section, duly identified and authenticated photographs of merchandise which was the subject of the violation may be used as evidence in lieu of producing the merchandise.

b. A merchant or merchant's adult employee is privileged to defend property as prescribed in s. 939.49, Wis. Stats.

6. PENALTY. Any person violating this section upon conviction thereof shall be punished by a fine not to exceed \$500 together with costs for each and every offense, and in default of payment of either such fine or costs shall be confined in jail or the house of correction in Milwaukee county for a term of not more than 90 days at the discretion of the court.

110-36. Shopping Cart Management.

1. FINDINGS. The common council finds abandoned shopping carts blight neighborhoods, reduce property values, obstruct pedestrian and vehicular traffic in the public rights-of-way, and constitute a hazard to the health, safety, and general welfare of the city.

2. DEFINITIONS. In this section:

a. "Abandoned shopping cart" means an unattended shopping cart on any public street, alley, sidewalk, or other public or private way within the city other than the cart provider's premises.

b. "Cart provider" means any business establishment that provides 25 or more shopping carts for use by patrons.

c. "Cart provider's premises" means the area maintained or managed by a cart provider for the conduct of business, including buildings, parking areas, storage areas and adjacent walkways.

d. "Shopping cart" means a basket of any size, mounted on wheels, rollers or similar devices, provided by a cart provider for transporting merchandise of any kind on the cart provider's premises.

3. CART IDENTIFICATION AND POSTING. a. The cart provider's name and premises address shall be securely attached to, or marked in a conspicuous place, upon each shopping cart provided for customers, or within 5 business days of the purchase of a new or a replacement shopping cart.

b. The cart provider shall post or cause to be posted a copy, or a summary, of sub. 4 and sub. 8-a in a conspicuous place within the cart provider's premises.

4. CART REMOVAL, POSSESSION OR ABANDONMENT. a. No person shall remove, or cause to be removed, a shopping cart from the cart provider's premises without express permission of the cart provider.

b. No person shall be in possession of a shopping cart beyond the boundaries of the cart provider's premises without express permission of the cart provider.

c. No person shall abandon or leave unattended a shopping cart upon any public street, alley, sidewalk, or other public or private way within the city other than the cart provider's premises.

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5. ANTI-THEFT MEASURES. If the department of public works retrieves or returns 100 or more shopping carts provided by a single cart provider within 12 months under sub. 7, the cart provider shall implement one of the following anti-theft measures to prevent shopping cart removal from the cart provider's premises:

a. Equip all carts with devices to disable and render inoperable any cart removed from the cart provider's premises.

b. Require a security deposit for the use of each shopping cart, refundable upon return of the shopping cart to a designated area on the cart provider's premises.

c. Install of bollards, chains, fences of other physical measures to prevent the removal of shopping carts from the cart provider's premises.

d. Assign personnel employed directly or indirectly by the cart provider to be primarily responsible for preventing removal of shopping carts from the cart provider's premises.

6. SHOPPING CART RETURN. Each cart provider shall make reasonable efforts to promptly return to its premises any abandoned shopping cart removed from the cart provider's premises.

7. DISPOSITION OF ABANDONED SHOPPING CARTS. Any abandoned shopping cart not promptly returned to its premises by the cart provider shall be, at the sole discretion of the department of public works, be disposed of in one of the following manners:

a. Retrieved by the department of public works, and transported to the city self-help center. Carts not claimed at the city's self-help center within 5 days shall be the property of the city of Milwaukee. A reasonable attempt shall be made by the department retrieving and transporting an abandoned shopping cart to notify the cart provider of the shopping cart's abandonment at the time of retrieval, or within 5 days of the shopping cart's transport to the city self-help center.

b. Returned by the department of public works to the premises of the cart provider.

8. PENALTIES. a. Removal, Possession or Abandonment. Any person who violates sub. 4 shall forfeit not less than \$25 nor more than \$500 for each offense, and in default of payment thereof, be imprisoned as provided by law.

b. Cart Retrieval or Return. For each shopping cart retrieved or returned in a calendar year by the department of public works under sub. 7, a cart provider shall incur the following forfeiture:

b-1. \$50 for the first through the 25th shopping cart.

b-2. \$100 forfeiture for the 26th through the 50th shopping cart.

b-3. \$150 forfeiture for the 51st through the 100th shopping cart.

b-4. \$250 forfeiture for the 101st and all subsequent shopping carts.

c. Failure to Identify Carts. A cart provider shall forfeit not less than \$250 nor more than \$1,000 per shopping cart retrieved by the department of public works under sub. 7 without proper identification as provided under sub. 3-a, and in default of payment thereof, be imprisoned as provided by law.

d. Failure to Implement Anti-theft Measures. Any cart provider who violates sub. 5 shall, upon conviction, forfeit not less than \$250 nor more than \$1,000 per shopping cart unprotected by an anti-theft measure, and in default of payment thereof, be imprisoned as provided by law.

**LEGISLATIVE HISTORY
CHAPTER 110**

Abbreviations:

am = amended
cr = created

ra = renumbered and amended
rc = repealed and recreated

rn = renumbered
rp = repealed

<u>Section</u>	<u>Action</u>	<u>File</u>	<u>Passed</u>	<u>Effective</u>
110-10	rc	110471	10/15/2013	11/1/2013
110-10-0	am	190279	6/18/2019	7/5/2019
110-10-1	rc	190279	6/18/2019	7/5/2019
110-10-3	rn to 110-10-4	190279	6/18/2019	7/5/2019
110-10-3	cr	190279	6/18/2019	7/5/2019
110-11	cr	050516	2/28/2006	3/17/2006
110-12	cr	86-1909	3/17/87	4/3/87
110-12-3-a	am	930451	7/27/93	8/13/93
110-14	cr	950451	7/14/95	7/29/95
110-14	rp	980134	5/27/98	6/13/98
110-15.5	cr	932002	4/26/94	5/13/94
110-15.5-2	rc	041220	2/1/2005	2/18/2005
110-15.7	cr	111512	4/11/2012	4/28/2012
110-16	rc	84-1161	12/11/84	
110-16-1-b	rn to 110-16-1-c	882437	4/4/89	4/22/89
110-16-1-b	cr	882437	4/4/89	4/22/89
110-16-1-c	rn to 110-16-1-d	882437	4/4/89	4/22/89
110-16-2	am	020654	9/24/2002	10/11/2002
110-18	cr	130640	9/24/2013	10/11/2013
110-35-1	am	020654	9/24/2002	10/11/2002
110-36	rc	170927	2/6/2018	2/23/2018
110-36-0	am	031615	6/15/2004	7/2/2004
110-36-1	rc	031615	6/15/2004	7/2/2004
110-36-3	rc	031615	6/15/2004	7/2/2004
110-36-3-b	am	881930	3/7/89	3/25/89
110-36-4	am	881930	3/7/89	3/25/89
110-36-4	rc	031615	6/15/2004	7/2/2004

110-- Crimes Against Property

[Pages 666 to 700 are blank]

CHAPTER 113 ARRANGEMENT OF CITY STREETS

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113-1. Uniform Numbering System. 1. BASE LINES. There is established a uniform numbering system of numbering all houses and buildings fronting on all streets, avenues and highways in the city of Milwaukee. In establishing said system, N. First Street, the Milwaukee River and S. First Street and S. Chase Avenue shall constitute the north and south base line and the Milwaukee River to the Menomonee Canal and the section line in W. Canal Street from the South Menomonee Canal to the west city limits shall constitute the east and west base line.

2. HOUSE NUMBERING. Numbers on all houses and buildings running east and west or north and south from said base lines shall be extended each way, upon the basis of one number for each 15 feet of property

frontage, wherever possible, starting at the base line with the number 100 and continuing with consecutive hundreds at each intersection, wherever possible. All even numbers shall be placed upon houses and buildings on the north and east side of said streets, avenues and highways and all odd numbers upon houses and buildings on the south and west side of said streets, avenues and highways.

3. DEFINITION OF STREET. For the purpose of interpretation, application and enforcement of this section and s. 113-2, the term street shall include any private street or way open to public use.

4. STREET NAMES. Before house numbers can be assigned to houses or buildings fronting on private rights-of-way, a street name must be established by the common council. This name shall conform to the existing street names in the area, wherever possible. The owners of the street must supply the city with a legal description of the private street to be named and must place street name signs in a conspicuous place adjacent to the roadway to properly identify the approved street name.

5. PRIVATE ROAD SIGNS. The owner must place street name signs in a conspicuous place adjacent to the roadway to properly identify the approved street name. This sign shall be on brown background with white reflective letters or internally illuminated. It shall be double-faced, a 9 inch blank, with 4 inch letters and shall include the phrase "private road" in 2 inch letters in parenthesis.

113-2. Assigning of House Numbers. 1. BY CITY ENGINEER. The city engineer shall make the necessary survey and assign to each house and building located on any street, avenue or highway in the city, its respective number under the uniform system provided for in s. 113-1. House number assignments shall not use honorary street names. When the city engineer shall have completed the survey and assigned to each house and building so located its respective number or numbers, the owner, occupant or agent shall place or cause to be placed upon each house or building controlled by him or her the number or numbers assigned by the city engineer under the uniform system provided for in s. 113-1. Such number or

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numbers shall be placed within 15 days after the city engineer has assigned the proper numbers. The cost of any number or numbers on any new house, building or structure erected shall be borne entirely by the owner or occupant of any house or building, the numbers in all instances to comply with the standard set forth in s. 113-1.

2. MAINTAINING OLD NUMBERS. It shall be the duty of the owner, occupant or agent of any house or building, to which a new number is assigned as provided in this chapter, to maintain the old number now upon said house or building, together with the new number for a period of 6 months after the said city engineer has assigned the new number or numbers to the premises, after at which time the old number or numbers shall be removed, and thereafter it shall be unlawful to maintain any number other than the new number, as designated by the city engineer.

3. SUFFIXES. Where only one number is available for any house or building, the owner, occupant or agent of the house or building who shall desire distinctive numbers for the upper and lower portion of the house or building, or for any house or building, fronting on any street, the owner, occupant or agent shall use the suffixes A, B, C, etc. as may be required. These suffixes shall only be used if the required number or numbers are not available.

4. IMPROPER NUMBERS. It shall be unlawful for any person to alter any number or retain any improper number, other than the one given by virtue of s. 113-1 and this section.

5. SIZE AND LOCATION OF NUMBERS. All numbers placed on houses and buildings in accordance with s. 113-1 and this section shall not be less than 3 inches, including background, in height and shall be distinctly legible and shall be posted in a conspicuous place on the front of each house or building, and at the rear or side of properties that abut or are adjacent to alleys, so as to be easily seen and read from such public ways. In no event shall the number proper, where a background is used, be less than 2 inches in height.

6. INFORMATION. It shall be the duty of the city engineer to inform any party applying therefor, the number or numbers belonging or embraced within the limits of said lot or property, as provided in s. 113-1.

7. NEW BUILDINGS. No building permit shall be issued for any house, building or structure until the city engineer or person

designated by the city engineer has assigned an official number for the premises. Whenever any new house, building or structure shall be erected in the city, in order to preserve the continuity and uniformity of numbers of the houses, buildings and structures, it shall be the duty of the owner or his or her agent, to procure the correct number or numbers, as designated by the city engineer, for the property and the owner or agent shall immediately fasten the number or numbers so assigned upon the house, building or structure in a conspicuous place at the entrance of the house, building or structure; and display the designated number at the rear of side of properties that abut or are adjacent to alleys.

8. DUTY OF POLICEMEN. It shall be the duty of all policemen of the city to report violations of s. 113-1 and this section, inclusive.

9. VIOLATIONS. Any owner, occupant or agent of any house or building failing or refusing to comply with s. 113-1 and this section, inclusive, shall, upon conviction thereof be punished by a fine of not less than \$25 nor more than \$50 and costs of prosecution for each such neglect and refusal, and in default of payment of such fine and costs, by imprisonment in the house of correction of Milwaukee county for not exceeding 2 days.

113-3. Naming of Public Buildings, Facilities and Streets.

1. POLICY. To preserve the city's heritage and protect the public safety and convenience, existing names of public buildings, facilities and streets may be changed only in exceptional cases and only when compelling reasons for change are evident. In the naming of new public buildings and facilities, in the assignment of honorary street names and in the exceptional cases of renamings of public buildings, facilities and streets, priority shall be given to names reflecting the city's cultural diversity and the contributions of groups underrepresented in the existing nomenclature.

2. EXEMPTION. a. The procedures and guidelines contained in this section shall not apply to the naming of new or replacement buildings or facilities when the names used are simply administrative identifiers or reflect the functions of the structures. In addition, these procedures and guidelines shall not apply to the naming of new streets.

b. City buildings, facilities or other assets identified by the Milwaukee civic partnership initiative, established under s. 310-21, shall be

exempt from this section, if authorized by common council resolution.

3. CITIZEN ADVISORY COMMITTEE. There is created a citizen advisory committee on the naming of public buildings, facilities and streets which shall make recommendations to the common council regarding proposals to name or rename public buildings, facilities and streets or to assign honorary street names. The committee shall consist of 7 members who are residents of the city of Milwaukee and who hold no other public office or public employment. Committee members shall be appointed by the mayor and confirmed by the common council to serve staggered 3-year terms. The mayor shall designate the chair. Members of the committee shall include at least one recognized local historian, one representative of a local business association or chamber of commerce and one employee of a local nonprofit community organization. Four members of the committee shall constitute a quorum.

4. PROCEDURE. Proposals to name new public buildings and facilities, to rename existing public buildings, facilities and streets, or to assign honorary street names shall be processed in the following manner:

a. A proposal to name or rename a public building, facility or street, or to assign an honorary street name, shall be submitted in writing to the city clerk, who shall refer the proposal to the citizen advisory committee, the appropriate standing committee of the common council and the relevant city department or agency. Each proposal shall include:

a-1. The specific building, facility or street being proposed for naming or renaming, or the specific street or street segment being proposed for honorary street naming, including a sketch showing its location.

a-2. The full form of the name being proposed, as well as the form suggested for use in the naming, renaming or honorary street naming.

a-3. The origin or meaning of the proposed name.

a-4. If the proposed name refers to an individual, a brief biography of that individual.

a-5. The rationale for naming or renaming the building, facility or street with the proposed name or for assigning the honorary street name, including, if applicable, an explanation of how the name or individual is or

has been associated with the building, facility or street or the area in which the building, facility or street is located.

a-6. Any letters from appropriate organizations and individuals which provide evidence of substantial local support for the proposal.

b. Following submission of a naming, renaming or honorary street naming proposal, and, in the case of an official street renaming, the application fee required by ch. 81, the relevant city department or agency shall evaluate the proposed name in terms of the criteria contained in this section. In the case of an official street renaming, the department or agency shall also conduct a postcard survey of residents, businesses and owners of property along the street, with all postage costs relating to the survey to be borne by the applicant. An official street renaming proposal shall not be given further consideration by the city unless the results of the postcard survey indicate that at least 50 percent of all property owners, residents and businesses along the street support the proposal. One postcard shall be sent to each owner of property along the street and to each address along the street, including each individual apartment, unit, room or suite number. No postcard survey shall be required if the renaming is initiated by the city and the renaming is necessary to eliminate a threat to public safety, such as but not limited to a situation where 2 streets have the same name and identical addresses exist or could be created.

c. If the proposal was submitted in accordance with the requirements of par. a, the relevant city department or agency shall forward the findings of its review of the proposed naming, renaming or honorary street naming to the common council committee. The department or agency's report shall include information on the number of signs or name plates that will be required, the number of residences and businesses that will be affected, the estimated public costs of the naming, renaming or honorary street naming and an evaluation of the proposed name in terms of the criteria set forth in this section.

d. In the case of a proposed honorary street naming, the city clerk shall mail, to each owner of property along the street segment to which the honorary name would apply, notice of the meeting of the citizen advisory committee at which the proposal will be discussed.

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e. The common council committee shall conduct a public hearing on the naming, renaming or honorary street naming proposal in accordance with the following guidelines:

e-1. The citizen advisory committee shall be present at the hearing and shall present its comments and recommendation.

e-2. In the case of a proposed official street renaming, the city clerk shall mail notice of the hearing to each owner of property along the street and to each address along the street, including each individual apartment, unit, room or suite number.

e-3. The common council committee shall evaluate the proposal based on comments from the citizen advisory committee, the public and the individual or individuals submitting the proposal, as well as on the report of the relevant city department or agency and the criteria contained in this section.

e-4. The committee shall forward its recommendation regarding the proposal to the common council for action on the matter.

e-5. In the case of a proposed official street renaming or a proposed honorary street naming, the common council committee hearing shall not be scheduled until the applicant has paid, to the relevant city department or agency, all costs of fabricating and installing the new street signs.

e-6. In the case of a proposed official street renaming, the common council committee hearing shall not be scheduled until the applicant has paid, to the relevant city department or agency, all postage costs relating to the postcard survey required by par. b.

f. Each naming or renaming shall take effect 90 days after common council action on the proposal. In the case of an honorary street naming, signs bearing the honorary street name shall be installed within 60 days of receipt of the signs from the petitioner or, if the signs are fabricated by the city, within 90 days of the date of common council approval.

5. GENERAL CRITERIA. In reviewing a proposed naming or renaming of a public building, facility or street, or a proposed honorary street naming, city staff, the citizen advisory committee and the common council committee shall consider the proposed name in light of the following criteria:

a. Distinctive names, including names of individuals, landmarks, topographic features and neighborhoods, shall be given preference over purely locational names.

b. A name proposed for a public building, facility or street shall not be considered if it duplicates or sounds similar to an existing name for the same type of public property. An honorary street name shall not duplicate any official street name.

c. A proposal to rename a public building or facility that has already been named after a person shall not be considered.

d. When a new public building or facility has been named, when an existing public building, facility or street has been renamed, or when an honorary street name has been assigned, no name change or honorary naming proposals shall be considered for a period of 10 years following the effective date of the naming, renaming or honorary street naming.

e. Names that could be considered derogatory to a particular person or organization, to any racial, religious or ethnic group or to disabled persons shall not be considered.

f. Names that could be considered obscene, blasphemous or not in good taste shall not be considered.

6. NAMES OF INDIVIDUALS. The following guidelines shall apply to the naming or renaming of public buildings, facilities or streets after individuals and to the use of the names of individuals as honorary street names:

a. The name of an individual may be considered only if it is determined that it is in the public interest to honor the individual or the individual's family for historical or commemorative reasons.

b. The name of an individual shall not be given consideration unless the individual portrays a positive image and is or was associated with or made a significant contribution to the public building or facility being named or renamed or to the area in which the building, facility or street is located.

c. Names of individuals who have made contributions in the arts, entertainment and business shall be considered along with names of individuals known for outstanding careers of public service.

d. Names of individuals who have made significant contributions to the Milwaukee community shall be preferred over names of national figures.

e. In the naming of parks, health centers, libraries, fire and police stations and other facilities with specific missions or functions, preference shall be given to names of individuals who have made significant

contributions in occupations related to those facilities.

f. In and of themselves, contributions of land or money for public facilities shall not be considered ample justification for naming or renaming facilities after individuals.

g. The name of an individual may be considered only if the individual is deceased or has attained the age of 70 years.

h. An individual's epithet, nickname or title may be used if it would provide a more appropriate, interesting or enduring name.

i. Full names shall not be considered in the naming or renaming of a public building, facility or street unless use of an individual's last name only would render the building, facility or street unidentifiable or create confusion with other such buildings, facilities or streets. Full names may be used in honorary street names.

7. STREET NAMES. The following guidelines apply to the official renaming or honorary naming of public streets:

a. In order to facilitate the location of addresses, particularly for the purposes of mail delivery and the provision of emergency services, a street shall bear the same official name throughout its length, where appropriate. An honorary street name need not apply to the entire length of the street, but may be applied to one or more block-long segments of the street.

b. Street names shall not exceed 13 characters in length, including spaces between words but not including cardinal direction letters and abbreviations for street types. This requirement shall not apply to honorary street names, which shall be limited in length only by font size and the size of the sign.

c. Only one honorary street name may be applied to a particular street segment or block at any given time.

8. HONORARY STREET NAMES. Whenever an honorary street name is assigned to a street or a street segment, the street or street segment shall retain its official name, which shall be used for all official and legal purposes. The honorary street name shall be indicated on a sign mounted at each intersection. Addresses using the honorary street name shall not be assigned.

9. REAPPLICATION. a. Official Street Renaming. In the event a request for official renaming of a street is not approved, or that a proposed official renaming is not considered because the postcard survey results

indicate less than 50 percent support for the renaming, no new official street renaming proposal for the same street or any portion thereof, or proposal to officially rename a different street with the same name originally proposed, shall be considered for a period of one year from the date on which the common council denied the request or the date on which city staff determined that support for the renaming was less than 50 percent.

b. Honorary Street Naming. In the event that a request for an honorary street naming is not approved, the applicant may not reapply for use of the same honorary street name on the same street segment or any other street segment for a period of one year from the date on which the common council denied the request. Nor may the applicant apply for the use of a different honorary street name for the same street segment to which the first request applied for a period on one year from the date on which the common council denied the first request.

Note: File #060656, passed 9/26/2006, effective 10/13/2006, added the following noncodified text to s. 113-3:

Part 1. The provisions of s. 113-3 of the Milwaukee Code of Ordinances shall be suspended whenever the city clerk receives a request to rename a street or assign an honorary street name to honor or memorialize the victim of a crime. A request of this type shall receive no further consideration under s. 113-3.

Part 2. This ordinance shall be in effect until such time as the Common Council passes an ordinance amending s. 113-3 to establish a policy on the use of crime victim names in official street renamings or honorary street namings.

113-4. Alternative Naming and Renaming Procedure. The provisions of s. 113-3 shall be suspended whenever at least four-fifths of the members elect of the common council vote to approve the naming or renaming of any public street, building, or facility.

113-11. Permanent Bench Marks Established. All grades and elevations that shall or may be hereafter established in the city of Milwaukee are and shall be described by reference to the level of the Milwaukee river as it was in the month of March, A.D., 1836, assumed as a base or datum line from which all elevation and the height of all grades shall be measured in feet and decimal fractions of a foot, and for the purpose of fixing and establishing the level of said base or datum

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line, it is ordained and declared that the same is the number of feet and decimal fractions of a foot below the permanent bench mark which is hereby established as follows:

ELEVATION

N. Jackson Street and E. Wells Street,
northwest corner....54.830

113-12. Grade and Width of Sidewalk Area.

When not otherwise especially provided, the grade or elevation of the sidewalk areas on the sides of the streets in said city shall be as follows, to-wit:

1. GRADE. The grade of the sidewalk areas at the curb line shall be the same as the established grade at the center of the street opposite, and the grade of the sidewalk areas at the lot line shall be, on sidewalk areas of less than 10 feet in width, 2/10 of a foot higher; on sidewalk areas varying from 10 to 14 feet in width, 3/10 of a foot higher; on sidewalk areas greater than 14 but less than 18 feet in width, 4/10 of a foot higher; and on sidewalk areas of 18 feet in width or more, 5/10 of a foot higher than the established grade at the center of the street opposite.

2. WIDTH. When the width of the sidewalk area is over 8 feet, the inner edge of the sidewalk pavement shall in all cases be laid not more than 2 feet from the lot line. When the width of the sidewalk area is 8 feet or less, the inner edge of the sidewalk pavement shall in all cases be laid not more than 6 inches from the lot line. If, in the opinion of the city engineer, it is impractical or inadvisable to conform to this section, the location of the sidewalk pavement shall be determined by the city engineer, subject to the approval of the commissioner of public works.

3. DEFINITION. In this section the "sidewalk area" shall be deemed that portion of the street between the roadside or face of the curbing and the lot line. The "sidewalk pavement" shall be deemed the pavement laid in the sidewalk area, and the "inner edge of the sidewalk pavement" shall denote the edge toward the lot line.

4. COMPLIANCE. a. All new sidewalk pavements hereafter to be constructed, or any old sidewalk pavements which have to be relaid on any of the streets in the city, where the grade of the sidewalk area is not established by special ordinance, shall be laid in accordance with this section.

b. The width of all sidewalk pavements, either new or reconstructed, shall be determined by the city engineer subject to the approval of the commissioner of public works, and all ordinances establishing the width of the sidewalk pavements are repealed.

113-12.5. Sidewalks, When and Where Laid; Exceptions. Concrete sidewalks shall be installed on both sides of any street whenever said street is improved by installing permanent pavement, curb and gutter; provided, however, that the common council may waive or defer this requirement.

113-13. Procedure When Sidewalks Laid Contrary to Grade. In case any owner or owners, or any agent of any owner or owners, shall hereafter lay or cause to be laid any new sidewalk or relay or cause to be relaid any old sidewalk on any of the streets in the city to a grade deviating from that of any special ordinance establishing the grade of such sidewalk, or contrary to the provisions of this section, the commissioner of public works shall give proper notice to such owner or owners, or agent of such owner or owners, to take up such sidewalk within 10 days and to lay the same according to the established grade. Should such owner or owners, or agent of such owner or owners, refuse or neglect to comply with the order of the commissioner of public works within the specified time, then the said commissioner of public works shall cause such sidewalk to be taken up and relaid to the established grade of the sidewalk and charge the expense of such work against the lot, part of lot or parcel of land in front of which the same has been performed, and cause the same to be collected as other special taxes.

113-14. Grades of Alley Approaches. The grade and slope of the sidewalk pavement at an alley approach may be depressed in the manner provided by ss. 115-24 to 115-26.

113-17. Mitchell Center Project Pedestrian Malls. 1. CREATED. In accordance with s. 66.0905, Wis. Stats., pedestrian malls are established along West Mitchell Street between South 5th Street and South 14th Street on West Mitchell Street and along certain intersecting streets and alleys adjoining thereto, to be known as the "Mitchell Center Project".

To enhance their purpose and function, mall areas shall be limited to pedestrian users, as well as emergency, public works maintenance and utility transportation vehicles.

2. AREA. The general area included in the "Mitchell Center Project" shall be West Mitchell Street from South 5th Street to South 14th Street and West Forest Home Avenue from West Mitchell Street to South 14th Street.

3. LOCATIONS. Certain streets and alleys specifically included in the "Mitchell Center Project" are designated as follows:

a. The north 120 feet more or less of the north-south leg of the alley in the block between West Maple Street, West Mitchell Street, South 8th Street and South 9th Street, more particularly described as follows: Commencing in the northeast corner of lot 6 in block 4 of Mitchell's subdivision in the northwest 1/4 of section 5, township 6 north, range 22 east; running thence east along the extension of the north line of lot 6 aforesaid, 19.5 feet to a point in the west line of the previously vacated east 0.5 feet of said alley; thence south along said west line, 120.28 feet to the north line of the east-west alley in said block 4; thence west, 19.5 feet to the southeast corner of said lot 6; thence north along the west line of lot 6 aforesaid, 120.28 feet to the place of commencement.

b. The south 120 feet more or less of the north-south leg of the alley in the block between West Lapham Boulevard, West Mitchell Street, South 8th Street and South 9th Street more particularly described as follows: Commencing in the northeast corner of lot 18 in block 143 of L. W. Weeks subdivision in the northwest 1/4 of section 5, township 6 north, range 22 east; running thence east, 20 feet to the northwest corner of lot 17 in said block 143; thence south along the west line of lot 17 aforesaid, 120 feet to the southwest corner of said lot 17; thence west, 20 feet to the southeast corner of said lot 18; thence north, 120 feet to the place of commencement.

c. The south 120 feet more or less of the north-south leg of the alley in the block between West Lapham Boulevard, West Mitchell Street, South 9th Street and South 10th Street, more particularly described as follows: Commencing in the northeast corner of lot 18 in block 142 of L. W. Weeks subdivision in the northwest 1/4 of section 5, township 6 north, range 22 east; running thence east, 20 feet to the northwest corner of lot 17 in said block 142; thence south along the west line of lot 17 aforesaid, 120 feet to the southwest corner of

said lot 17; thence west, 20 feet to the southeast corner of said lot 18; thence north along the east line of lot 18 aforesaid, 120 feet to the place of commencement.

d. The north 120 feet more or less of the north-south leg of the alley in the block between West Maple Street, West Mitchell Street, South 10th Street and South 11th Street, more particularly described as follows: Commencing in the northeast corner of lot 6 in block 6 of Mitchell's subdivision in the northwest 1/4 of section 5, township 6 north, range 22 east; running thence east, 20 feet to the northwest corner of lot 5 in said block 6; thence south along the west line of lot 5 aforesaid, 120.52 feet to the southwest corner of said lot 5; thence west, 20 feet to the southeast corner of said lot 6; thence north along the east line of lot 6 aforesaid, 120.52 feet to the place of commencement.

e. The south 120 feet more or less of the north-south leg of the alley in the block between West Lapham Boulevard, West Mitchell Street, South 11th Street and South 12th Street, more particularly described as follows: Commencing in the northeast corner of lot 18 in block 140 of L. W. Weeks subdivision in the northwest 1/4 of section 5, township 6 north, range 22 east; running thence east, 20 feet to the northwest corner of lot 17 in said block 140; thence south along the west line of lot 17 aforesaid, 120 feet to the southwest corner of said lot 17; thence west, 20 feet to the southeast corner of said lot 18; thence north along the east line of lot 18 aforesaid, 120 feet to the place of commencement.

f. The north 120 feet more or less of the north-south leg of the alley in the block between West Maple Street, West Mitchell Street, South 11th Street and South 12th Street, more particularly described as follows: Commencing in the northeast corner of lot 6 in block 7 of Mitchell's subdivision in the northwest 1/4 of section 5, township 6 north, range 22 east; running thence east, 20 feet to the northwest corner of lot 5 in said block 7; thence south along the west line of lot 5 aforesaid, 120.64 feet to the southwest corner of said lot 5; thence west, 20 feet to the southeast corner of said lot 6; thence north along the east line of lot 6 aforesaid, 120.64 feet to the place of commencement.

g. The south 120 feet more or less of the north-south leg of the alley in the block between West Lapham Boulevard, West

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Mitchell Street, South 12th Street and South 13th Street, more particularly described as follows: Commencing in the northeast corner of lot 17 in block 139 of L. W. Weeks subdivision in the northwest 1/4 of section 5, township 6 north, range 22 east; running thence east, 14.35 feet to the northwest corner of lot 16 in said block 139; thence south along the west line of lot 16 aforesaid, 120 feet to the southwest corner of said lot 16; thence west, 14.35 feet to the southeast corner of said lot 17; thence north along the east line of lot 17 aforesaid, 120 feet to the place of commencement.

113-18. North Division Neighborhood Pedestrian Malls. 1. CREATED. In accordance with s. 66.0905, Wis. Stats., the common council establishes pedestrian malls in areas previously used for vehicular thoroughfares between W. North Avenue, W. Burleigh Street, N. 8th Street, and N. 20th Street.

2. AREA AND LOCATIONS. The area and locations included as North Division neighborhood pedestrian malls are between W. North Avenue, W. Burleigh Street, N. 8th Street and N. 20th Street specifically described as follows:

a. Description of a portion of N. 13th Street, north of W. Center Street, to be used for mall purposes. Commencing at a point in the southeast corner of parcel 1 of certified survey map no. 4188 in the northeast 1/4 of section 18, township 7 north, range 22 east, said point being 37.00 feet north of, as measured normal to, the south line of said 1/4 section; running thence east along a line which is parallel with and 37.00 feet north of the south line of said 1/4 section, 42.00 feet to a point in the west line of the northwest 1/4 of section 17, township 7 north, range 22 east; thence north 89E 42' 20" east along a line which is parallel with and 37.00 feet northerly of the south line of said northwest 1/4 section, 49.36 feet to a point in the easterly line of N. 13th Street as now laid out; thence north 17E 56' 43" west, along said easterly line of N. 13th Street, 113 feet to the original east line of said N. 13th Street; thence south 0E 17' 40" east along the southerly extension of said original east line of N. 13th Street, said extension being parallel with and 15.00 feet easterly of, as measured normal to, the west line of said northwest 1/4 section, 21.86 feet to a point of curve; thence southwesterly and westerly, 63.97 feet along the arc of said curve which has a radius of 48.00 feet with its center to the

northwest and whose cord bears south 73E 32' 47" west, 59.34 feet to the west line of N. 13th Street as now laid out in said northeast 1/4 section; thence south 0E 17' 40" east along said west line of N. 13th Street also being the east line of parcel 1 aforesaid, 69.41 feet to the point of commencement.

b. Description of a portion of W. Hopkins Street, north of W. Hadley Street, to be used for mall purposes. Commencing at the point of intersection of the north line of W. Hadley Street and the present northeasterly line of W. Hopkins Street, said point also being in the south line of lot 14 in block 1 of Haertel's addition, in the northeast 1/4 of section 18, township 7 north, range 22 east, running thence northwesterly along said northeasterly line of N. Hopkins Street to the easterly line of N. Teutonia Avenue; thence southeasterly along the extension of the easterly line of N. Teutonia Avenue to a point in the extension of the north line of W. Hadley Street; thence east along the extension of the north line of W. Hadley Street, to the point of commencement.

3. MAP ON FILE. A map of the pedestrian mall areas described above is on file with the city clerk.

4. PURPOSE. This section will limit the use of the designated pedestrian mall areas to pedestrian users and to emergency, public works maintenance and utility transportation vehicles.

113-19. North Broadway Pedestrian Mall.

1. In accordance with s. 66.0905, Wis. Stats., a pedestrian mall is established in an area previously used for vehicular thoroughfare in North Broadway between East Erie Street and East Menomonee Street. The designated area shall be limited to pedestrian users and to emergency, public works maintenance and utility transportation vehicles.

2. The area and location to be included in the pedestrian mall established under this section is specifically described as follows: Commencing at the intersection of the south line of East Menomonee Street and west line of North Broadway; thence southerly, along the west line of North Broadway to its point of intersection with the northeasterly line of East Erie Street; thence southeasterly, along the extension of the northeasterly line of East Erie Street to its point of intersection with the southwesterly extension of the present

northwesterly line of North Young Street; thence northeasterly, along said extension of North Young Street, to its point of intersection with the east line of North Broadway; thence northerly, along said east line, to the point of intersection of said east line and the south line of East Menomonee Street; thence westerly, to the point of commencement. A map of the pedestrian mall area described in this subsection is on file with the city clerk

113-20. Erie Street Plaza Pedestrian Mall.

1. CREATED. In accordance with s. 66.0905, Wis. Stats., a pedestrian mall is established in an area previously used for vehicular thoroughfare in East Erie Street adjacent to the harbor entrance. The designated area shall be limited to pedestrian users and to emergency, public works maintenance and utility transportation vehicles.

2. AREA AND LOCATIONS. The area and locations included in the pedestrian mall established under this section are specifically described as follows: That part of East Erie Street in the Northwest 1/4 of Section 33, Township 7 North, Range 22 East described as follows: Commencing at the southeast corner of Lot 3 of Certified Survey Map No. 7370; thence South 33°19'02" East, along the southeasterly extension of the easterly line of Lot 3 aforesaid, 21.67 feet to a point lying 20.00 feet southeasterly of, as measured normal to, the southerly line of Lot 3, said point being the point of beginning of the land to be described; thence South 34°16'47" West, parallel to said southerly line, 110.57 feet to a point in the westerly line of said Certified Survey Map, said westerly line also being the established dock line of the east bank of the Milwaukee River; thence South 33°18'29" East, along said westerly line and said established dock line, 11.45 feet to a point; thence South 67°20'57" East, along said westerly line and said established dock line, 47.50 feet to a point in the southerly line of said Certified Survey Map; thence North 85°48'29" East, along said southerly line, 86.59 feet to a point in the southeasterly extension of the easterly line of Lot 3; thence North 33°19'02" West, along said southeasterly extension, 135.09 feet to the point of beginning. Said area contains 8,420 square feet or 0.1933 acres of land.

3. MAP ON FILE. A map of the pedestrian mall area described in sub. 2 is on file with the city clerk.

113-21. North 4th Street Pedestrian Mall.

1. CREATED. In accordance with Section 66.0905, Wisconsin Statutes, a pedestrian mall is established in an area previously used for vehicular thoroughfare in North 4th Street from West Highland Avenue to West Juneau Avenue. The designated area shall be limited to pedestrian and bicycle-friendly users and to emergency, maintenance, utility and mass transit related vehicles.

2. AREA AND LOCATIONS. The area and locations included in the pedestrian mall established under this section are specifically described as follows: All of North 4th Street, as presently laid out, in the Northeast 1/4 of Section 29, Township 7 North, Range 22 East, lying between the north line of West Highland Avenue extended and a line drawn from the present northeast corner of Lot 1 in Block 43 of Plat of the Town of Milwaukee on the West Side of the River, a recorded subdivision in said 1/4 Section, and the northwest corner of Parcel 1 of Certified Survey Map No. 5020.

3. MAP ON FILE. A map of the pedestrian mall area described in sub. 2 is on file with the city clerk.

113-22. Arena Connector Pedestrian Mall.

1. CREATED. In accordance with Sections 66.0905 and 62.71, Wisconsin Statutes, a pedestrian mall is established in an area previously used for vehicular thoroughfare in the east-west alley and a portion of the north-south alley in the block bounded by West Highland Avenue, West Juneau Avenue, North Old World Third Street and the North 4th Street Pedestrian Mall. The designated area shall be limited to pedestrian and to emergency, maintenance and utility related vehicles.

2. AREA AND LOCATIONS. The area and locations included in the pedestrian mall established under this section are specifically described as follows: The east-west 20-foot wide alley and a portion of the north-south 20-foot wide alley as platted in Block 42 of Plat of the Town of Milwaukee on the West Side of the River, a recorded subdivision, in the Northeast 1/4 of Section 29, Township 7 North, Range 22 East, described as follows: Commencing at the northeast corner of Lot 9 in said Block 42; thence Westerly, along the north line of Lot 9, to the northwest corner of Lot 9; thence Southerly, along the west line of Lot 9, to

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a point in the south line of the north 8.00 feet of Lot 9; thence Westerly, along the westerly extension of said south line, to a point in the east line of Certified Survey Map No. 8878, thence Northerly, along said east line, to a point in the westerly extension of the north line of the south 8.00 feet of Lot 5 in said Block 42; thence Easterly, along said westerly extension, to a point in the west line of Lot 5; thence Southerly, along the west line of Lot 5 and Lot 8 in said Block 42, to the southwest corner of Lot 8; thence Easterly, along the south line of Lot 8 to the southeast corner of Lot 8; thence Southerly to the point of commencement.

3. MAP ON FILE. A map of the pedestrian mall area described in sub. 2 is on file with the city clerk.

113-23. Westlawn Pedestrian Mall.

1. CREATED; AREA; LOCATIONS. In accordance with Wisconsin Statute Section 66.0905, a pedestrian mall is established in the following areas: Outlots 1 and 2 of Block 1, Outlot 1 of Block 3, Outlot 1 of Block 4, Outlots 1 and 2 of Block 5, all in the subdivision known as Westlawn West recorded in the Milwaukee County Register of Deeds Office on December 18, 2017 as Document No. 10735796, as corrected by an Affidavit of Correction recorded June 14, 2018 as Register of Deeds Document No. 10782017; and also that part of Lot 1 of Certified Survey Map 8895, which certified survey map was recorded in the Milwaukee County Register of Deeds Office on March 3, 2017 as Document No. 10653887, that is 14-foot wide and 127.924 feet long and that abuts Outlot 2 of Block 1 of Westlawn West; and also the eastern 14 feet of the vacated public service drive north of Lot 1 of CSM 8895; and also the following areas that were dedicated to the City of Milwaukee for pedestrian way purposes in, and by means of the subdivision plat known as Westlawn East, the pedestrian way area that abuts Lot 3 in Block 8 of Westlawn East, the pedestrian way area that is between Lot 1 and Lot 2 in Block 4 of Westlawn East, and the pedestrian way area that is between Lot 5 and Lot 6 in Block 4 of Westlawn East. The designated areas shall be limited to pedestrian and bicycle-friendly users and to emergency, maintenance, utility and mass transit related vehicles.

2. MAP ON FILE. A map of the pedestrian mall area described in sub. 1 shall be on file with the city clerk.

113-24. Historic Mitchell Street Pedestrian Mall.

1. CREATED; AREA; LOCATIONS. In accordance with s. 66.0905, Wis. Stats., a pedestrian mall is established in the following area, a portion of the east-west 20-foot wide alley, in the block bounded by West Historic Mitchell Street, South 10th Street, West Lapham Boulevard, and South 9th Street, more particularly described as follows: All that part of the east-west 20-foot wide alley as presently laid out in Block 142 of L.W. Week's Subdivision, a recorded subdivision, in the Northwest 1/4 of Section 5, Township 6 North, Range 22 East, in the City of Milwaukee, County of Milwaukee, State of Wisconsin, lying between the west line of South 9th Street extended and a line 64.00 feet east of and parallel to the east line of South 10th Street extended. The designated area shall be limited to pedestrian and bicycle-friendly users and to emergency, maintenance, utility and mass transit related vehicles.

2. MAP ON FILE. A map of the pedestrian mall area described in sub. 1 is on file with the city clerk.

113-25. Rogers Street Academy Pedestrian Mall.

1. CREATED. In accordance with s.66.0905, Wis. Stats., a pedestrian mall is established in an area previously used for vehicular thoroughfare in South 24th Street between West Rogers Street and the east-west alley bounded by South 23rd Street, South 24th Street, West Rogers Street and West Burnham Street. The designated area shall be limited to pedestrian and bicycle users and to emergency, public works maintenance, and utility transportation vehicles.

2. AREA AND LOCATIONS. The area and location to be included in the pedestrian mall established under this section is specifically described as follows: All that portion of the 70-foot-wide South 24th Street lying between the westerly prolongation of the south line of Lot 26, Block 2, Muskego Avenue Heights, and the north right-of-way line of West Rogers Street, as located in the Northwest Quarter of the Southwest Quarter of Section 6, Township 6 North, Range 22 East, City of Milwaukee, Milwaukee County, Wisconsin.

3. MAP ON FILE. A map of the pedestrian mall area described in sub. 2 is on file with the city clerk.

113-30. Official Map Established. Under and pursuant to the provisions of s. 62.23(6), Wis. Stats., the city of Milwaukee hereby establishes the procedure for the creation, amendment and alteration of an official map.

113-31. Procedures. 1. DUTIES OF CITY ENGINEER. The official map shall be prepared by the city engineer as an atlas of quarter section maps drawn at a scale of 200 feet to the inch on materials from which reproductions can be made. The map shall include all of the existing streets, alleys, parkways, highways and expressways, whether under the jurisdiction of the city, the county or the state of Wisconsin. Expressways and state highways shall be shown by exterior boundaries of such rights-of-way, but in all other streets, highways and parkways owned by the city of Milwaukee or Milwaukee county, platted measurements shall be used wherever available. Street names or designations shall be used if such names or designations have been established. In addition to the above duties, other duties of the city engineer which relate to changes in the official map are contained in s. 113-32-1.

2. DUTIES OF THE CITY PLAN COMMISSION. All maps when completed by the city engineer shall be forwarded to the city plan commission for further action. Pursuant to the applicable provisions of s. 62.23(6), Wis. Stats., the city plan commission shall recommend approval or disapproval of such maps and shall forward a report thereon to the common council for further processing and shall recommend to the common council the necessity for a public hearing thereon. The plan commission may have hearings if it so desires.

3. DUTIES OF THE COMMON COUNCIL. Upon the receipt of the maps from the city plan commission, the common council shall make an official file thereof related to a specific ordinance number which shall cover all official map proceedings to be known as the official map, and after introduction, such file shall be referred to a committee of the common council. Upon receiving the recommendation of the committee, the common council may adopt or refuse to adopt such maps as the official map of the city, or in the alternative, may refer the

matter back to the committee and to the city plan commission for further proceedings before taking final action thereon. Such official map is deemed to be final and conclusive with respect to the location and width of streets, alleys, parkways, highways and expressways.

4. DUTIES OF THE CITY CLERK. Upon adoption of the official map by the common council, the city clerk shall cause to be recorded in the office of the register of deeds a certificate showing that the city has established such official map. The city clerk shall also forward certified copies of the official map and the resolution or ordinance adopting the same, to the commissioner of neighborhood services, the city plan commission and the city engineer.

113-32. Procedure for Changes to Official Map. 1. DUTIES OF THE CITY ENGINEER.

The official map may also be changed or added to so as to establish the exterior lines of planned new streets, alleys, parkways, highways and expressways, whether under the jurisdiction of the city, county or the state of Wisconsin, or to widen, narrow, extend or close existing streets, alleys, parkways and expressways. Whenever any change or addition is proposed for any portion of the official map heretofore adopted by the common council, it shall be the duty of the city engineer to set forth such proposed amendment as a change in the applicable quarter section page of such official map, delineating and identifying the change or addition or amendment proposed to be made as on the original page. He shall forward such quarter section page or pages to the common council. The common council shall refer the matter to the city plan commission for its report thereon, and, at the same time, the common council shall refer the matter to a committee of the common council.

2. DUTIES OF THE CITY PLAN COMMISSION. Pursuant to the provisions of s. 62.23(6), Wis. Stats., the city plan commission shall study such proposed change or addition and shall make a report thereon to the common council. Copy of such report shall be forwarded to the committee of the common council to which the matter was referred. The plan commission shall also make recommendation to the common council and to the committee as to the necessity for a public hearing where it is that type of matter for which a hearing is not necessarily required as

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stated in s. 113-34-3. If the city plan commission shall not make its report within 60 days of the date the matter was referred to it by the common council, it shall forfeit the right to further suspend action.

3. DUTIES OF THE COMMON COUNCIL. The committee of the common council to which the matter was referred, upon receiving a copy of the report from the city plan commission shall, if required by law, hold a public hearing thereon. Notice of the public hearing shall be published as a class 2 notice under the provisions of ch. 985, Wis. Stats. After such public hearing, if required, and upon receiving the recommendation of the committee and also the report of the city plan commission, the common council may adopt or refuse to adopt such change or addition or may refer the matter back to the committee and the city plan commission for further proceedings before taking final action thereon. Such additions or changes, when adopted, shall become a part of the official map of the municipality and shall be deemed to be final and conclusive with respect to the location and width of the streets, alleys, parkways, highways and expressways shown thereon.

4. DUTIES OF THE CITY CLERK. Upon adoption of any change or addition to the official map by the common council, the city clerk shall cause to be recorded in the office of the register of deeds a certificate showing that the city has made such addition or change to such official map. The city clerk shall also forward certified copies of such changes or additions to the official map, and the resolution or ordinance adopting the same, to the commissioner of building inspection, the city plan commission and the city engineer.

113-33. Preserving Integrity of Official Map.

1. DUTIES OF THE COMMISSIONER OF NEIGHBORHOOD SERVICES. The commissioner of neighborhood services shall be the official custodian of the official map and he shall be charged with the duty of preserving the integrity of such official map, subject to and in accordance with the provisions of s. 62.23(6)(d), Wis. Stats. All applications for building permits within the bed of any streets, alleys, parkways, highways and expressways shall be denied within 30 days from the date of such application.

The commissioner of neighborhood services shall receive all appeals to the zoning board of appeals, and it shall be his duty to bring such appeals to the attention of the zoning board of appeals at the next regular meeting of such board.

2. DUTIES OF THE ZONING BOARD OF APPEALS. The zoning board of appeals, upon any such appeal, shall fix a time and place for the hearing of said appeal in the same manner as that established for other appeals within said board's jurisdiction; said hearing to be held not more than 40 days after such application is filed. The board may in its discretion or upon motion of the appellant or city attorney adjourn such matter. If the land within such mapped street, alley, parkway, highway or expressway is not yielding a fair return, the zoning board of appeals shall have power in a specific case, by the vote of a majority of its members, to grant a permit for a building in such street, alley, parkway, highway or expressway, which will as little as practicable increase the cost of opening such street, alley, parkway, highway or expressway, or tend to cause a change of such official map; and such board may impose reasonable requirements as a condition of granting such permit, which requirements shall be designated to promote the health, convenience, safety or general welfare of the community. Such board shall refuse a permit where the applicant will not be substantially damaged by placing his building outside the mapped street, alley, parkway, highway or expressway. Before taking any action authorized in this subsection, the board of appeals shall hold a hearing at which parties in interest and others shall have an opportunity to be heard. At least 15 days before the hearing, notice of the time and place of the hearing shall be published as a class 1 notice, under ch. 985, Wis. Stats. Any such decision shall be subject to review by certiorari by a court of record in the same manner and pursuant to the same provisions as in appeals from the decisions of a board of appeals upon zoning regulations.

113-34. Other Provisions of Official Map.

1. ALL NEW STRUCTURES TO BE SHOWN ON MAP. No public sewer or other municipal street utility or improvement shall be constructed in any street, highway or parkway until such street, highway or parkway is duly placed on the official map. No permit for the erection of any building shall be issued unless a street, highway or parkway giving access to such proposed structure has been duly placed on the official map. Where the enforcement of the provisions of this section would entail practical difficulty or unnecessary hardship, and where the circumstances of the case do not require the structure to be related to existing or proposed streets, highways or parkways, the applicant for such a permit may appeal from the decision of the commissioner of neighborhood services to the board of zoning appeals, and the same provisions are applied to such appeals and to such board as are provided in cases of appeals on zoning regulations. The board may in passing on such appeal make any reasonable exception, and issue the permit subject to conditions that will protect any future street, highway or parkway layout. Any such decision shall be subject to review by certiorari issued by a court of record in the same manner and pursuant to the same provisions as in appeals from the decision of such board upon zoning regulations.

2. PLANS NOT OFFICIAL. The placing of any street, alley, parkway or highway or expressway on the official map shall not in and of itself constitute or be deemed to constitute the opening or establishment of any street, alley, parkway, highway or expressway, or the taking or acceptance of any land for such purposes.

3. STREET CHANGES TO BE SHOWN. The locating, widening or closing, or the approval of the locating, widening or closing of streets, alleys, parkways, highways or expressways under provisions of law other than this section shall be deemed to be a change or addition to the official map and shall be subject to the provisions of ss. 113-30 to 113-34, except that changes or additions made by a subdivision plat approved by the city under ch. 236, Wis. Stats., shall not require the public hearing specified in this subsection if the changes or additions do not affect any land outside the platted area.

4. CITY OF MILWAUKEE ONLY. The city shall not include in the official map any highways, parkways or expressways maintained and operated by the county of Milwaukee without the approval of the county board of supervisors.

5. LAND RESERVED FOR STREET PURPOSES. Lands which have been reserved for street purposes, or which have been set aside by any grantor in any deed or other grant, shall not be separately shown on such map and shall not be identified as such, and the inclusion of any such lands within the bed of any street, alley, parkway, highway or expressway shown on such official map shall not be deemed to be an acceptance thereof by the city.

For the legislative history of chapter 113, contact the Municipal Research Library.

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[Pages 714-734 are blank.]

**CHAPTER 115
STREET CONSTRUCTION AND WORK ON PUBLIC WAYS**

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115-1. Definitions. In this chapter:

1. ALLEY means a public thoroughfare shown on a plat, which is primarily intended to provide secondary access to a lot, block, or parcel of land fronting upon a street and not for the use of through traffic. It includes the pavement and the area extending to the lot line on either side.

2. BLOCK means the distance along a street lying between center lines of street intersection.

3. COMMISSIONER means the commissioner of public works of the city of Milwaukee or a duly authorized agent.

4. EXCAVATION means any opening, hole or trench made in any public way or public place.

5. INSTALLATION means the construction, placement, or repair of pavement, sidewalk, curb or gutter, driveway, storm, sanitary and combined sewers and related

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facilities, water main and related facilities, utility pole, light pole, cable, conduit, alarm systems, hollow walk, other public and private appurtenances, and any other facility without limitation by reason of enumeration or any combination of the aforementioned installed under, upon, or over any public way or public place.

6. LOT LINE means the outer edge of the municipal easement or dedicated area.

7. PAVEMENT means the constructed surface of any public way or public place regardless of the type of materials utilized in its construction.

8. PEDESTRIAN WAY means the public thoroughfare dedicated or reserved for pedestrian purposes including the sidewalk pavement and the area extending to the lot line on each side.

9. PERSON means any natural person or persons, firm or corporation.

10. PUBLIC PLACE means city property under the jurisdiction of the common council, owned by or dedicated or reserved for the city for public purposes.

11. PUBLIC UTILITY means and embraces every corporation, company, individual, association and their lessees, trustees or receivers appointed by any court that may own, operate, manage or control any plant or equipment whatsoever within the city for the production, transmission, delivery or furnishing of heat, light, water or power or for providing or furnishing telephone, telegraph, radio, television or cable service, either directly or indirectly, to or for the public.

12. PUBLIC WAY means any public thoroughfare dedicated, condemned, acquired, or created in accordance with the statutes for street, alley or pedestrian way purposes.

13. ROADWAY means that portion of the street intended for vehicular traffic. Where curbs exist, it is that portion of the street between the faces of the curbs.

14. SIDEWALK means the paved portion of the sidewalk area or pedestrian way for through pedestrian traffic.

15. SIDEWALK AREA means that portion of the street located between the street lot line and the roadway. Where there are curbs, it shall be that portion of the street between the lot line and the face of the curb.

16. STREET means every highway within the corporate limits of the city except

alleys. It shall be the area between the lot lines including roadway pavement, curb and gutter and sidewalk.

17. TRAFFIC CALMING INSTALLATION means any device, object or material, other than a traffic sign, signal or other traffic control device as defined in s. 349.065, Wis. Stats., constructed or placed within a public way for the purpose of encouraging slower traffic or enhancing pedestrian safety.

115-2. Commissioner to Prescribe Rules. The commissioner is authorized and empowered to make and prescribe such additional specifications, rules and regulations to implement this chapter not inconsistent with the provisions of this chapter, as he may deem necessary for the public interest in all public places and public ways. A copy of such specifications, rules and regulations shall be kept on file, available to the public, in the office of the commissioner.

115-3. Permits for Excavation and/or Installations in Public Ways and Public Places.

1. No person shall make any excavation and/or installation in any public way or public place for any purpose whatsoever unless he or she possesses a currently-valid permit therefor from the commissioner, except where required by contract with the city for constructing, paving, or reconstructing a street. City forces charged with the duty of repairing or reconstructing streets and city forces charged with the duty of installing, replacing or removing street lighting, alarm systems or traffic control signal devices, poles or standards are not required to secure a permit, except that where electrical conduit is laid in the public way, a permit shall be taken out. If any work for which a permit has been issued has not been started, resumed or completed by the expiration date of the permit, the permit shall lapse and be void, and no work shall be begun, resumed or completed until a new permit is obtained and the appropriate fee paid.

2. The director of the department of public works infrastructure services division, or any official or employee of the division of infrastructure services that the director may designate, may issue a citation for any violation of this section pursuant to s. 50-25.

115-3.5. When Permits Not Issued. Except in an extreme emergency, the commissioner shall not issue a permit for a street excavation which would interfere with traffic that has been rerouted.

115-4. Granting of Permits. 1. Upon application for a permit for excavation or installation, or both, in a public way or public place and payment of the fees and deposits required in s. 115-7, the commissioner may, where not inconsistent with any other ordinance, issue a permit to excavate or disturb the surface of any public way or place.

2. The permit shall state the name of the applicant, the nature, purpose, and location of the excavation or installation, the amount of the permit and inspection fees, and the number of days for which the permit shall remain in force.

3. All permits shall be consecutively numbered and shall be made out in quadruplicate, one copy to be given to the permittee, 2 copies to be delivered to the director of the department of public works infrastructure services division, and one copy to remain on file in the office of the commissioner.

4. Permit applications for installations in public ways or public places shall be in the form and contain such additional information as required by the commissioner.

5. Whenever a permit for excavation or installation in a public way or public place is granted, the permit holder shall, as a condition of permit issuance, be required to serve written notice of the impending excavation or installation work to each occupant of abutting private property at least 72 hours prior to commencement of work if the excavation or installation will be in progress for more than 24 hours, impede or obstruct access to abutting private property, or result in interruption of utility service to abutting private property. If work will be in progress for more than 96 hours, the commissioner shall provide similar notice to the common council member in whose district the excavation or installation work will occur. The notice to the abutting property owners shall include a name and telephone number of a person who is affiliated with the permit holder and directly responsible for and knowledgeable of the work to be performed. The notice shall identify the type of work to be performed and the estimated duration of the work. A color photograph or video shall be taken by the permit holder or person affiliated with the permit holder

of the written notice being served. Photographs and video recordings shall be time and date-stamped and shall be maintained and made available to the commissioner, or the commissioner's designee, upon request. Proper photographs or video-recordings shall depict written notice being served to the occupants of abutting properties in a clear and unobstructed perspective, as determined by the commissioner. No notification shall be required for emergency public way excavation, such as but not limited to an excavation relating to a gas, water or steam leak or an electrical outage, or for an excavation carried out in conjunction with minor maintenance activities, such as but not limited to manhole adjustments, hydrant or valve repairs or work on utility services to individual properties.

6. **FAILURE TO NOTIFY.** If work is started or the public way occupied without first providing notification as required in sub. 5, any person, firm or corporation violating this section shall be subject to penalties as provided in s. 115-48.

115-4.5. Permit Fees and Refunds. 1. **PERMIT FEES.** a. Fees for permits issued under this chapter are as specified in ch. 81.

b. Agencies of the U.S. government and the state of Wisconsin are exempt from paying fees for permits issued under this chapter.

2. **DOUBLE FEES.** a. Where work is started, or the public way occupied without first obtaining a permit as required by this chapter, the fees specified shall be doubled, but the payment of such double fees shall not relieve any person from fully complying with all the regulations of this chapter in the execution of the work, nor from any other penalties prescribed in this chapter.

b. If application for a permit is sent through the U.S. mail, the official date of such application shall be deemed to be 2 days before its receipt in the office of the commissioner, excluding Saturdays, Sundays and holidays.

3. **REINSPECTION FEE.** Any person holding an expired permit for excavation or installation work which was not completed by the expiration date of the permit shall, in addition to a fee for a new permit to complete the work, also pay the applicable inspection fees of s. 81-50 for all department of public works inspection services performed after expiration of the permit.

4. **REFUNDS.** a. Requests for refunds shall be made in writing by the original

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permittee within 30 days of the issuance of the permit.

b. Any person requesting a refund for an unused permit shall be charged 20% of the permit fee with a minimum processing fee of \$20 except that no refund shall be made when the permit fee is \$20 or less.

c. Any person requesting a refund for a permit which was issued in error by the commissioner shall be entitled to a full refund of the permit fee.

d. No refund shall be made on a permit that has lapsed and been declared void.

e. Refunds shall be paid upon certification by the commissioner to the city comptroller who shall charge the refunds to the appropriate revenue accounts and shall annually inform the common council of the amount of fees refunded and the persons to whom refunds were made.

115-5. Permits for Excavation in New Street Pavements. 1. EMERGENCY SITUATIONS.

The commissioner, at his or her sole discretion, is authorized to issue a permit for excavation in any new street, reconstructed street or resurfaced street less than 3 years old upon finding that an emergency necessitating such excavation exists. Examples of emergency situations include, but shall not be limited to, structural failure, clogging, leakage or defect in any underground structure or facility. An application for new building sewers or water, steam, electrical or other utility service shall not be considered an emergency.

2. NON-EMERGENCY SITUATIONS. When the commissioner finds that no emergency exists, the commissioner may issue a permit for excavation in any new street, reconstructed street or resurfaced street where the pavement is less than 3 years old only upon:

a. Determining that no alternative to excavation is reasonably feasible.

b. Consulting with the local common council member or members. The commissioner shall deny the permit upon request of the council member.

3. RESPONSIBILITY FOR REPAIRS. Any permit issued pursuant to this section for excavation in street pavement less than 3 years old shall stipulate that the permit holder shall be financially responsible for any necessary repairs resulting from future defects in the affected pavement sections if such defects

can be clearly attributed to the permitted excavation work.

115-6. Register of Permits. 1. The commissioner shall prepare and keep a general register of permits issued, numbered chronologically showing date of issuance, name of person to whom issued, location of the public way or public place to be excavated or disturbed, time in which the work is to be completed, amount paid for issuing permit, deposit receipt number of amount deposited for restoring the public way or public place and reason for excavation, and such other and further items as will enable anyone to obtain a complete history of each permit from its issue to its termination. The copies of the permits kept by the commissioner shall constitute the general register.

2. A separate ledger record shall be kept for each permittee whose permit requires a deposit, showing date received, amount deposited, permit number and purpose of deposit. This ledger shall also show the final disposition of each deposit, i.e., invoice number and amount paid for required restoration (by city forces or otherwise) and amount refunded to permittee, if any.

115-7. Excavation Fees and Deposits.

1. PERMIT FEES. No permit shall be issued to any person other than city forces except upon payment of the excavation permit fees required in s. 81-50, and the deposit fees required in sub. 3.

2. INSPECTION FEES. See s. 81-50-5 for the fees required for inspection services, or the exemptions therefrom, for each excavation permit.

3. DEPOSITS. a. Public utilities owned or operated by a municipality shall be billed for the cost of restoration of the public way or public place and all installations and facilities thereon on each permit after such restoration is completed. If payment is not made within 30 days after the issuance of the bill, no further permit shall be issued to such utility until after such bill or bills are paid.

b. All other persons shall deposit a sum estimated as sufficient to pay the cost of restoration of the public way or public place and all installation and facilities thereon in accordance with a schedule provided by the commissioner. After the repair is made, if the actual cost exceeds the deposit, such person will be billed for the balance. If the actual cost is

less than the deposit, the excess shall be refunded. Any person failing to pay any bill issued under this section within 30 days after its issuance shall not be granted any additional permits until such bill is paid.

c. If any person shall file with the commissioner satisfactory proof that he has paid or contracted with a reputable person for restoration, the commissioner may at his discretion accept the same in lieu of the aforesaid deposits for restoring the public way or public place.

d. Whenever during an installation in a public way or public place, it becomes necessary to construct, reconstruct, alter, remove or protect any structure and/or facility owned by the city, such work shall be done at the expense of the applicant for such permit and under the direction and supervision of the commissioner. The commissioner may require a deposit to cover such cost. After the work is done, if the actual cost exceeds the deposit, such person will be billed for the balance. If the actual cost is less than the deposit, the excess shall be refunded. Any person failing to pay any bill issued under this section within 30 days after its issuance shall not be granted any additional permits until such bill is paid. This section shall specifically exclude interim wood poles under jurisdiction and control of the city, which may be relocated at no cost to the applicant when such pole is in direct conflict with a proposed driveway. Applications for removal of a pole in close proximity to a driveway or for convenience shall not be deemed a direct conflict.

4. EMERGENCY SERVICES. In addition to the fees and deposits hereinbefore set forth, any person who fails to keep the location for which the permit is issued in a safe condition at any time shall be billed for any emergency work performed by city forces in order to make the location safe. If such person fails to pay any such charge within 30 days after being billed for the same, no further permits shall be granted until the same is paid.

115-8. Excavating Methods and Regulations.

1. REQUIRED. When it is necessary to excavate in public ways and public places for an installation, the method shall be as prescribed in this section.

2. EXCAVATING METHOD. The excavation shall be of sufficient width and depth to permit the installation, special care being used to avoid damaging existing structures and/or facilities. The work is to be done in

compliance with the rules and requirements prescribed by the commissioner.

3. BACKFILLING OF EXCAVATIONS. Backfilling of excavations in public ways and public places shall be done in accordance with the current specifications on file in the office of the commissioner. Whenever any person shall fail to comply with said specifications, the commissioner is authorized and directed to order the permittee to re-excavate and backfill in accordance with said specifications. If the permittee fails to comply with such order within the time set forth in the order, the commissioner shall cause the same to be done and charge the cost thereof to the permittee.

4. OBSTRUCTIONS. Whenever any underground structures and/or facilities are encountered, the work is to be conducted so as not to disturb them, except where the contract specification requires that they be removed or relocated. Such structures and/or facilities which are not to be removed or relocated shall be protected and supported in accordance with the current specifications on file in the office of the commissioner and all other applicable laws.

5. DAMAGE TO UNDERGROUND STRUCTURES. Whenever any permittee, his agents, employees or subcontractors shall damage any underground structure and/or facility, the permittee shall notify the owner of such structure and/or facility immediately, and shall report the same to the owner in writing within 24 hours thereafter. If the owner is the city, such notice and report shall be made to the commissioner.

6. RESTORATION OF PAVEMENTS. Restoration of all types of pavements in any public way or public place shall be done in accordance with the current rules, regulations or specifications on file in the office of the commissioner, or in accordance with the specifications of any contractual agreement entered into with the city.

7. REMOVAL OF REFUSE. All refuse, excess dirt and material shall be removed from the public way or public place as the work progresses or immediately upon its completion where placing of such material on public ways or public places is permitted.

8. SIGNAGE. The permittee shall be required, prior to the start of construction until construction is completed, to prominently display an informational sign at a construction site in the public way. The sign will provide the nature of the construction; the contractor's name and phone number, and a city of Milwaukee contact

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phone number. Signage shall conform to and be placed in accordance with the current rules and specification on file in the office of the commissioner.

115-9. Drainage Ditch Obstructions or Structures. 1. PERMIT REQUIRED. No person shall construct any building, structure or dike, or reconstruct, alter, or repair any building, structure, or dike, or otherwise obstruct the flow of streamwater through any natural or man-made channel, or obstruct the flow of surface water through any natural or man-made channel, natural depression or natural draw through which surface waters normally flow unless a permit has been obtained from the commissioner of public works.

2. APPLICATION. a. Any person desiring to obtain a permit to construct any building, structure or dike, or reconstruct, alter or repair any building, structure, or dike, which obstructs the flow of streamwater through any watercourse or natural or manmade channel, or obstructs the flow of surface water through any natural or man-made channel, natural depression or natural draw, through which surface waters normally flow, shall file an application in writing with the commissioner of public works which shall state the following:

a-1. The name and address of the applicant, and, if the applicant is a corporation, the names and addresses of the principal officers thereof.

a-2. The place where such construction, reconstruction, repair or alteration is to take place.

a-3. The type of construction to be used in such construction, reconstruction, repair, or alteration, together with the materials to be used.

b. Accompanying such application shall be a site plan or drawing of the proposed work, which shall include information concerning existing ground elevations and proposed alterations to be made to the watercourse, or natural, or man-made channel, depression, or natural draw. If the commissioner of public works determines that the proposed structure, alteration, or repair will not interfere with the flow of natural storm water and will not injure adjoining property, he shall issue a permit to do the proposed work in the manner specified in the application and in accordance with the plan submitted with the application. The applicant, at the time of filing an application for any such

permit, shall deposit the fee required in s. 81-44 with the commissioner of public works.

3. ISSUANCE OF PERMIT. Whenever the flow of stream water through any watercourse or natural or man-made channel is obstructed, or the flow of surface water through any natural or man-made channel, natural depression or natural draw, through which any surface waters normally flow, is obstructed to the extent that such obstructions causes or will cause, in the opinion of the commissioner of public works, a damage or flooding of any public highway, or a surcharging with storm, ground or surface water or any sanitary sewer, or damage or flood or water soak any public property, the commissioner of public works is authorized to enter upon such private land to remove any such obstruction so as to provide for the free flow of water therein. If, in the judgment of the commissioner of public works, negligence is involved, the cost of this work may be charged to the property owner.

4. PENALTY. Any person, firm or corporation violating this section shall upon conviction thereof be subject to penalties as provided in s. 200-19.

115-10. Temporary Occupancy of Public Ways.

1. GENERAL REGULATIONS.

a. The permit to occupy a public way during construction work is intended for use in connection with the actual erection, construction, enlargement, alteration, repair, renovation, maintenance, removing or demolition of buildings and structures. No signs or advertising devices of any kind, except signs as regulated in chs. 244 and 295, may be displayed in the public way.

b. No person shall erect, place or store any material, equipment, shed, roof, fence, or temporary walk, guard, device, or any other structure within the public way without first obtaining a permit from the commissioner of public works. Fees for such permits shall be as regulated in s. 115-11.

c. These regulations shall not apply to the temporary or partial obstruction of a public sidewalk for a period of not longer than 30 minutes and not more than 2 times a week by vehicles used in fuel delivery or refuse collections provided that during such loading and unloading operations there remains an unobstructed sidewalk width not less than 3 feet for pedestrian traffic.

2. CONDITIONS OF OCCUPANCY. Permits for the temporary occupancy of public ways and the duration of such permits shall be contingent upon compliance with the conditions of this section and rules and regulations established by the commissioner of public works.

a. Such occupancy shall be limited to that part of the public way abutting the premises on which construction work is in progress.

b. Such occupancy, including temporary sidewalk, if one is required, shall not extend into the roadway of a public way more than 1/3 the width of the roadway and in no case more than 20 feet, and provided further that no such occupancy shall be within 6 feet of the rail of any railroad track.

c. Such materials, equipment, temporary buildings or structures referred to in sub. 1 shall not be placed, stored or erected within 4 feet of any tree, nor within 2 feet of any standpipe, fire or police alarm box, utility catch basin or manhole, nor within 15 feet of a fire hydrant, measured along the curb line, and shall not obstruct the access to any fire hydrant, fire cistern, standpipe, fire or police alarm box, utility box, catch basin or manhole.

d. Such materials, equipment, temporary buildings or structures referred to in sub. 1 shall not be located within 20 feet of a street intersection, nor so placed, stored or erected as to obstruct normal observation of traffic or traffic control lights, signals, or signs, fire hydrants, fire and police alarm boxes, or to hinder the use of bus loading platforms or zones.

e. The drainage in street gutters shall be maintained at all times.

f. Persons securing permit shall be responsible for placing and maintaining lights during darkness and at night in full view of the public at each excavation, pile of material, equipment, fence, temporary walk, shed, enclosure, or other obstruction referred to in sub. 1 on any public way.

g. Pedestrian traffic shall be maintained at all times, either on the existing sidewalk or on a temporary walkway in the roadway, or as otherwise determined by the commissioner of public works. A fence, railing, or other approved guard, if required by the commissioner of public works, not less than 3 feet 6 inches high shall be erected on both sides of the temporary walkway. A fence at least 4 feet high shall be erected on the building side of

the existing sidewalk if an excavation is within 10 feet of a public way, s. 228-2-3.

h. Approved canopies shall be erected over street walks as provided in s. 228-2-2. For any occupancy of the public way in connection with the erection, construction, enlargement, alteration, repair, renovation, maintenance, removal or demolition of a building or structure on property in a C9 downtown zoning district, where the work is occurring more than 10 feet above grade, a protective canopy roof providing full pedestrian protection and meeting the standards of s. 228-2-2 shall be required.

i. Unless permitted by the commissioner of public works, earth or rubbish shall not be stored on any public way.

j. The commissioner of public works may issue permits for the erection of temporary guy lines beyond the area permitted in a street permit, provided such guy lines are at least 20 feet above the public way.

k. The permittee shall be required, at least one week prior to the temporary occupancy, to notify all abutting property owners of the anticipated period of occupancy, the number of working days involved, the date the occupancy is scheduled to begin, the date it is to end, the parking restrictions which shall apply and the traffic congestion which may occur.

115-11. Permits for Temporary Occupancy of Streets.

1. GENERAL REGULATIONS. Permits for the temporary occupancy and use of public ways and any construction therewith regulated in s. 245-4-20, shall be obtained from the commissioner of public works as regulated in s. 115-10 and by the rules and regulations established by the commissioner of public works.

2. PERMIT FEES AND DEPOSITS. See s. 81-102 for the required permit fees for the temporary occupancy of a public way for the placing, storing, or erecting of any material, equipment, buildings or structures, necessary for construction work, or for the placing or creating of any safeguards required by ch. 228.

115-11.5. Dumpsters in the Public Way; Temporary Basis.

1. RESPONSIBILITY TO OBTAIN PERMIT. For any dumpster placed in the public way on a temporary basis, it shall be the responsibility of the business placing the dumpster to obtain the permit required by s. 115-10. No permit shall be required for any

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dumpster placed in the public way by the city. For any dumpster placed in the public way on an ongoing or permanent basis, it shall be the responsibility of the owner of the property served by the dumpster to obtain a special privilege as provided in s. 245-12.

2. STANDARDS. For any dumpster placed in the public way on a temporary basis, it shall be the responsibility of the commissioner (for a dumpster placed by the city) or the business placing the dumpster (for all other dumpsters) to provide:

a. The name and telephone number of the city agency or private business placing the dumpster, applied to the exterior of the dumpster in letters and numbers at least one inch high.

b. Either of the following:

b-1. Alternating red and white DOT-C2-approved 2-inch-wide retroreflective conspicuity tape applied along at least 50% of the exterior sides of the dumpster and entirely across the front and back ends of the dumpster. In addition, 2 2-inch-by-12-inch segments of white retroreflective conspicuity tape shall be placed together to form an inverted "L" on the exterior of each upper corner of the dumpster.

b-2. One Type I barricade with an attached flashing yellow light. This barricade shall be placed on the side of the dumpster which faces approaching traffic. For a dumpster in an alley or sidewalk area, barricades of this type shall be provided on both sides of the dumpster which face vehicular or pedestrian traffic.

115-12. Delaying of Work. Any person making or causing any excavation in any street, alley, sidewalk or on other public property, shall proceed and complete such excavation, and backfill same within a reasonable time, and to the satisfaction of the commissioner of public works. Failure to complete any excavation and backfilling, in accordance with an order so to do by the commissioner of public works, shall be sufficient reason for the commissioner of public works to order the backfilling of such excavation and charge the cost thereof to the person to whom the permit has been issued. No further permits shall be issued to such person until such costs have been paid.

115-13. Sewers; Damaging or Entering Sewers Prohibited. No person shall disturb, damage or enter any public sewer pipe, manhole, catch basin or other part of a sewer system without a special permit from the

commissioner of public works or his authorized representative.

115-14. Street Design Standards. The following design standards apply to the design, construction or reconstruction of new or existing streets by the commissioner of public works and by the city:

1. The commissioner shall employ street design standards to minimize street pavement width and to provide only the pavement width necessary to ensure safe movement of traffic. The pavement width for a local street, as defined in s. 295-201-643, shall be not less than 22 feet and not more than 36 feet unless otherwise approved by the common council.

2. The minimum radius for the paved portion of a cul-de-sac shall be 35 feet.

3. A landscaped island shall be created in any cul-de-sac having a paved-area radius greater than 35 feet. This requirement may be waived by the common council.

4. Alternatives to cul-de-sac turnaround design, including but not limited to hammerheads and loop roads, shall be permitted for residential streets.

5. Vegetated open channels shall be permitted along residential streets with openings in the curb face or other conveyance methods that maintain curb and gutter.

6. Flush curbs or curb cuts that direct runoff into landscaped islands shall be permitted.

7. The minimum width of a tree border on a local street, as defined in s. 295-201-643, shall be 6 feet. This requirement may be waived by the common council.

8. The portion of the street right-of-way commonly known as the tree border and located between the curb and the outside line of the sidewalk closest to the curb may be designated and used for storm water treatment purposes.

115-15. Interference With Installations. No person shall interfere with, hinder or obstruct any installation authorized by the common council or the commissioner.

115-16. Changing of Grade Prohibited. No person shall alter the grade of any public way or public place unless authorized or directed to do so by the common council or the commissioner.

115-17. Addition or Removal of Material Prohibited. No person shall deposit any material on any public way or public place unless authorized or directed to do so by the common council or the commissioner. No person shall remove any material owned by the city in or on any public way or public place unless authorized or directed to do so by the common council or the commissioner.

115-18. Correction of Improper Construction. Whenever an installation is constructed or a maintenance activity undertaken in violation of this chapter, the commissioner shall order such installation to be removed and properly placed and the area restored. Upon refusal of the person making or maintaining such installation to do so within the time set forth in the order, the commissioner shall cause the necessary work to be done and charge the expense to such person.

115-18.5. Maintenance of Facilities. All facilities located on, under or over any public way, public place or any property owned by the city or any public board, commission, authority or agency for which a franchise, privilege or permit has been issued, shall at all times be kept and maintained in a safe, adequate and substantial condition and in good order and repair. Permittees shall, at all times, employ ordinary care and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury or nuisance to the public.

115-19. Plans of Structures or Facilities Within Public Ways. The commissioner shall prepare or cause to be prepared drawings, plans, and profiles and any deviations therefrom of all structures or facilities installed by the city or any departments thereof on, over and under the public way or public place and shall keep the same until such time as the structure or facility is removed or replaced.

115-20. Submission of Plans. 1. Complete plans for proposed installation, removal, or abandonment of structures and/or facilities under, upon, or over any public way or public place shall be submitted and approved when required by the commissioner before a permit is issued; and complete plans of existing structures and/or facilities used, occupied or maintained in pursuance of a permit, resolution, ordinance or franchise under, upon or over any public way or

public place shall be submitted when requested by the commissioner.

2. In the event that actual construction departs from plans submitted prior to the issuance of a permit, complete "as built" plans shall be submitted.

3. Complete plans, as required in sub. 1, shall include all drawings, profiles and plans necessary to clearly indicate the number, location, character, extent and amount of space occupied by the structure and/or facility. The plans shall also include a schedule of operation, including the anticipated commencement date, completion date and total number of working days necessary for the project. Such plans shall be prepared at the expense of the person owning, occupying or maintaining the structure and/or facility.

115-21. Utility Wires, Poles, Cables, etc.

1. **AUTHORITY OF COMMISSIONER OF PUBLIC WORKS.** The purpose of this section is to set forth the duties, powers and functions of the commissioner with respect to effectuating the removal or relocation by public utility companies of poles, aerial wires and cables, and other aerial appurtenances or devices used in the operation of the business of public utility companies when streets are paved or repaved with concrete or with a concrete base and a bituminous surface, within the city so as to maintain, protect, safeguard and advance the public safety and general welfare; and this section is predicated upon the police powers of the city provided for by law.

2. **UTILITY COMPANIES TO COMPLY.** Any public utility company which maintains, uses or has poles, aerial wires and cables, or any other aerial appurtenances and devices, or articles used by such public utility company in the operation of its business, or owned by it, on, along, or upon any city street, highway or thoroughfare, excluding alleys, upon notice from the commissioner to the effect that the common council by resolution has determined to pave, improve, repave, construct, alter or change a city street, highway, or thoroughfare, excluding alleys, in the manner set forth in sub. 1, shall, before the expiration of the time provided for in such notice, remove or relocate such poles, aerial wires and cables, or other aerial appurtenances and devices, or articles maintained or used in the operation of such public utility business. Such poles, aerial wires and cables or other aerial appurtenances, devices or articles maintained or used in the

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operation of said public utility business shall, at the expense of such public utility company, be removed, relocated or laid in underground conduits.

3. BY COUNCIL RESOLUTION. Prior to November 15 of each year, the commissioner shall prepare and recommend to the common council a list of streets to be paved, repaved or reconstructed, and a copy of such list shall be sent to the utility companies affected. Thereafter, the common council shall, on or before December 31 of each year, or as soon thereafter as the same can be effected, by resolution declare its intention to pave, repave or reconstruct certain streets, and shall in such resolution set forth the time within which there shall be removed or relocated poles, aerial wires and cables and other aerial appurtenances or devices maintained or used in the operation of the business of public utility companies. The commissioner, as is provided for in sub. 4, shall notify such public utility company, in writing, by registered mail, provided the paving project set forth in the resolution is to be carried into effect in the ensuing year as evidenced through the adoption of the city budget; such notice shall be sent within 30 days after the common council has adopted the resolution setting forth the time within which the poles, aerial wires and cables and other aerial appurtenances or devices maintained or used in the operation of the business of public utility companies are to be removed or relocated.

4. WRITTEN NOTICE. The commissioner, as provided in sub. 2, shall notify such public utility company in writing, by registered mail, informing such public utility company of the proposed work to be done by the city, and shall approve the manner in which such poles, aerial wires and cables or other aerial appurtenances and devices or articles maintained or used in the operation of such public utility business, shall be removed or relocated or laid underground; and no public utility company shall permit its poles, aerial wires and cables or other aerial appurtenances and devices or articles maintained or used in the operation of its business on, along, or upon any city street, highway or thoroughfare, excluding alleys, from which it has been directed by the commissioner to remove or relocate the same as hereinbefore set forth; and any failure by such public utility company to remove or relocate its poles, aerial wires and cables or other aerial appurtenances and devices or articles maintained or used in the

operation of its business upon the expiration of the time provided for in such notice, or any written extension of time granted by the commissioner, shall constitute a violation of this section and shall be punished in the manner set forth in sub. 6.

5. HEARINGS; OBJECTIONS. Any public utility company may, if it feels itself aggrieved by reason of the notice, file, within 20 days after receipt of such notice from the commissioner, its verified objections thereto with the common council, and shall be heard in the manner directed by the common council. The committee of the common council to which the objections are referred may direct that a view of the area involved shall be had in determining the merits of the objections filed. Unless within 30 days after such written objections are filed with the common council, the common council shall otherwise direct the removal or relocation of the poles, aerial wires and cables, or other aerial appurtenances and devices or articles maintained or used in the operation of said public utility business shall be made as provided for in said notice and in this section. The common council committee to whom the verified objections are referred for consideration may, in its discretion, enlarge the period of time in which a review should be had under the provisions of this subsection.

6. PENALTY. Any public utility company failing to comply with this section shall, upon conviction thereof, be subject to a penalty of not less than \$5 nor more than \$15 for each and every offense committed. However, the overall aggregate penalty for each day if any such public utility company fails to comply with the notice of the commissioner as herein provided shall not exceed the sum of \$25 per day.

7. APPLICABILITY. Whenever it shall appear to the common council that because of the extensive paving program to be undertaken by the city during the year, the periods of time or the procedures applicable produce substantial administrative difficulties when carrying out the provisions of this section, the common council by resolution may determine that this section is inapplicable and may in such event establish an alternative procedure by resolution, and in such instance the provisions of the section shall be inapplicable and inoperative.

115-22. Utilities to Change Structures Upon Request. Any public utility operating under a franchise, privilege or permit whether under the ordinances of this city or of the statutes of the state of Wisconsin, owning and maintaining any structures and/or facilities under such franchise, privilege or permit on, under, or over any public way or public place or any property owned by the city or any public board, commission, authority or agency which shall at any time interfere with or obstruct or be in the path of any public works or improvements of any nature whatsoever undertaken by the city in its own behalf, or any public board, commission, authority or agency, shall, upon written notice from such city, public board, commission, authority, or agency or the commissioner of public works, or their duly authorized agents, make such changes in the construction or location, or both, of the structures and/or facilities at the cost and expense of said utility as will permit such public works or improvements.

115-22.5. Street and Alley Construction. The use of permeable paving, as defined in s. 200-08-68.5, shall be permitted for city streets and alleys.

115-22.7. Coal Tar Sealants and High PAH Sealants Prohibited. No person shall apply any coal tar sealant product or high PAH sealant product, as defined in s. 66-30-1 and 2, on any public way or public place in the city.

115-23. Driveways. The commissioner is empowered to determine the type, width, location and number of driveways and to regulate the distance between driveways to provide for the safety of pedestrians, provided, however, any driveway in excess of 30 feet in width must be approved by the common council. He or she may issue a permit for the construction of a standard, depressed or raised street pavement driveway. See s. 81-45 for the required permit fee. All driveways shall be constructed in accordance with the provisions of the specifications of the city which may be supplemented by any additional reasonable rules and regulations of the commissioner as to the materials used and the manner and methods to be adopted and employed during the construction of such driveways. The use of permeable paving, as defined in s. 200-08-68.5, in the construction of driveways shall be permitted.

115-24. Sidewalk Construction; Exceptions.

1. Sidewalks shall be constructed of concrete or permeable paving, as defined in s. 200-08-68.5, and constructed in accordance with the specifications of the city. Provided further, that so much of the sidewalk area commonly known as the tree border and located between the curb and the outside line of the sidewalk closest to the curb, may be laid or constructed of permeable paving stone, brick or concrete pavers where the material and manner of laying are approved by the commissioner. The tree border may also be used for storm water treatment purposes.

2. Sidewalks shall be constructed and conform with established street grades or as otherwise determined by the city engineer where usage or unusual conditions require a change for the welfare and best interest of the city and abutting property owners. This section shall not apply under the following conditions:

a. Temporary sidewalks authorized by the commissioner.

b. Temporary repairs authorized by the commissioner.

c. Repaving of the surface of hollow sidewalks found by the commissioner to be structurally sound.

d. Where the sidewalk crosses a railroad track. Wood planking may be used between the rails and within 2 feet of the outside of said rails where approved by the commissioner.

e. On public bridges.

f. In tunnels.

g. Under other conditions with the approval of the commissioner.

115-25. Restoration of Street Pavement, Curb, Gutter and Sidewalk. When the improvements on or the use of property which is being served by a driveway is so changed that the driveway in the opinion of the commissioner is no longer needed, the owner of the property shall, through the services of a licensed contractor, cause the restoration of the street pavement, curb, gutter and sidewalk to conform with the adjoining street pavement, curb, gutter and sidewalk. Upon failure of the owner of the property to do so, the commissioner is authorized to perform such restoration and assess the costs thereof to the property. Whenever a permit is issued by the commissioner of city development for work which will result in the discontinuance of the

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use for an existing driveway, the proper restoration shall be a condition of the issuance of the permit.

115-26. License for Concrete Construction in the Public Way. Persons desiring to construct, reconstruct or alter any concrete driveway, sidewalk, curb and/or gutter, or hollow walk in the public way shall, before engaging in such work, make application to the commissioner for a license which shall be issued to the applicant therefore authorizing the licensee to engage in such work upon the payment of the license fee to the city treasurer in the amount required in s. 81-38, and upon filing with the commissioner a performance bond in accordance with s. 115-27, and an indemnity bond or in lieu thereof a certificate of insurance in accordance with s. 115-28.

115-27. Performance Bond. The performance bond shall be executed by the applicant and a corporate surety and shall provide in substance that the applicant and surety are firmly bound unto the city of Milwaukee in the penal sum of \$5,000, and that the bond shall be void if the applicant shall perform and sufficiently complete all work for which permits are issued in the calendar year of the license and bond in accordance with all ordinances of the city within a reasonable period of time, and shall reimburse the city for all damages to any city property resulting from such work operations, regardless of whether the damage is done by the applicant, his or her agents, employees or subcontractors. In addition to the aforesaid provisions, the bond shall guarantee all work for 3 years from the date of completion thereof. The corporation surety shall be authorized to execute in the state of Wisconsin and have a power of attorney to file in the city attorney's office.

115-28. Indemnity Bond. 1. REQUIRED. An indemnity bond duly executed by the applicant and corporate surety, or, in lieu thereof, a certificate of insurance from an insurance company, shall bind the same unto the city of Milwaukee in the penal sum of \$10,000 and shall be conditioned that the applicant and

surety of insurance carrier will indemnify and save harmless the city, its officers and agents against any and all injuries and/or property damage resulting or arising from any single injury or act on the part of the applicant, his agents, employees and subcontractors, and that said applicant or his insurer shall notify the city in writing at least 10 days prior to the cancellation of any certificate of insurance afforded hereunder. Said certificate to be in full force and effect as to any permits issued prior to said cancellation, and all work done under said permits within the calendar year for which the license is issued.

2. AUTHORIZED AGENCY. The corporate surety or insurance carriers shall be authorized to execute bonds or sell insurance in the state of Wisconsin and have a power of attorney on file in the city attorney's office.

3. EXCEPTION. Any company or industry regulated under ch. 196, Wis. Stats., shall be exempt from the provisions of this section requiring the filing of and indemnity bond or certificate of insurance, but agrees as a condition of accepting a permit to save harmless the city of Milwaukee, its officers and agents, from all and any claims for injuries to persons and/or property resulting or arising from any injury or act on the part of any such company or industry, its agents, employees or subcontractors arising from the construction for which the permit was issued.

115-29. Barriers and Lights. 1. Any person installing, excavating, constructing, reconstructing, grading, filling, or doing any other repairing or improving in any public way or public place shall provide adequate barricade lights and such other protective devices as may be necessary to adequately warn the public of the condition of the area and prevent injury to any person or property.

2. It shall be unlawful for any person without proper authority to remove, throw down, or cause to be removed or thrown down any barrier or barricade or any part

thereof; or to remove, or put out or destroy, or turn out or tamper with, or cause to be removed, put out or destroyed, or turned out or tampered with, any light or lamp erected, or put up, in or upon any public way or public place.

3. It shall be unlawful for any unauthorized person to drive through or into barricade areas in any public way or public place unless the person driving through or into such barricaded area secures permission from the commissioner.

115-30. Temporary No Parking Areas, Construction. 1. The commissioner is authorized to place temporary no parking signs in areas in which authorized work is being done or will be done.

2. It shall be unlawful to place, park or allow to stand any vehicle in any public way or public place where temporary no parking signs have been erected, except vehicles being used in such work.

3. It shall be unlawful to remove, throw down, or cause to be removed without proper authority, any such no parking signs.

115-31. Open Stairwell Protection. Open stairwells in the public way shall be protected on all open sides by a railing or permanent barrier at least 3 feet high approved by the commissioner and shall comply with ss. 245-4-11 and 245-5-3.

115-32. Obstruction on Public Ways. 1. No person shall build, place or maintain or cause, permit, or allow to be placed, built, or maintained, or pile, deposit, or place, or permit to be piled, deposited, or placed in, upon, or over any public way or public place in the city any obstruction, encroachment, building, structure, wares, merchandise, rubbish, garbage, wood, coal, dirt or other article or obstruction of any kind whatsoever, or so occupy or obstruct any public way or public place so as to interfere with the complete, free and convenient use of the same by the public or any member thereof, except the following obstructions specifically permitted by law:

a. Newspaper stands as provided by s. 115-33.

b. Permissible projection, obstructions, and encroachments as provided by s. 245-4.

c. Special privilege permits granted pursuant to common council resolution.

e. Ducts or conduits in the sidewalk as provided by s. 115-36.

f. Lawn sprinklers in the sidewalk area as provided by s. 115-37.

g. Facilities for the collection and distribution of mail as provided by s. 115-38.

h. Telephone booths as provided for in s. 115-39.

i. Other obstructions of a temporary nature permitted by the commissioner or the common council.

j. Poles permitted under this chapter.

k. Newspaper vending boxes as provided by s. 115-33.5.

L. Bicycle parking facilities as provided by s. 115-32.5.

m. Flower pot holders as provided in s. 115-33.6.

n. Sidewalk area dining facilities as provided by s. 115-32.6.

2. a. The location of any permitted obstruction shall not be construed or deemed to be a vested interest. A permittee shall remove or modify an obstruction at his or her own expense and restore the public way to the satisfaction of the commissioner whenever the city determines that the public convenience would be enhanced by such removal or modification. Except as otherwise provided, the owner shall remove the obstruction from the public way within 30 days, or any special privilege within 10 days, of the receipt of written notice from the commissioner. If the owner fails to carry out the required work, the commissioner may cause the removal, certify the costs thereof in the proper manner to have them levied as special charges against the property and, if the charges become delinquent, the proper city officials shall enter the charges on the tax rolls for payment, settlement and collection as provided in ch. 19 of the city charter.

b. The owner of any non-permitted obstruction shall remove, at his or her own expense, the obstruction within 5 days of receipt of written notice from the commissioner. The owner shall restore the public way to the satisfaction of the commissioner. If the owner fails to carry out the required work, the commissioner may cause such removal and certify the costs thereof in the proper manner to have them levied as special charges against the property and, if the charges become delinquent, the proper city officials shall enter the charges on the tax rolls for payment, settlement and

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collection as provided in ch. 19 of the city charter.

3. The director of the department of public works infrastructure services division, or any official or employee of the division of infrastructure services that the director may designate, may issue a citation for any violation of this section pursuant to s. 50-25.

115-32.5. Bicycle Parking Facilities; Permits.

1. PURPOSE. The purpose of this section is to reduce safety hazards to pedestrians by setting aside sidewalk areas under certain conditions for the parking of bicycles, thereby separating the pedestrians from parked bicycles.

2. DEFINITIONS. a. A "bicycle locker" shall mean a lockable, enclosed storage compartment designed for the storage of a bicycle and bicycle-related gear.

b. A "bicycle parking facility" shall mean a bicycle rack, a bicycle parking stand or holder, a bicycle locker, a hitching post or a bicycle ring.

c. A "bicycle parking stand or holder" shall mean a device designed for individual use into which one or both of the bicycle wheels is/are fitted and secured either by a chain/cable and lock or a lock supplied by the bicycle owner.

d. A "bicycle rack" shall mean a frame of metal tubing generally designed as a unit for use by more than one bicycle, into which one of the bicycle's wheels is fitted and locked by a chain and lock supplied by the owner.

e. A "bicycle ring" shall mean one or more rings attached to a structure to which bicycles can be securely fastened.

f. A "hitching post" shall mean a free standing unit into which one or more bicycles can be attached by chains or ropes.

g. A "person" shall mean any individual, partnership, corporation, firm, group or association.

3. PERMIT REQUIRED. It shall be unlawful for any person to install a bicycle parking facility in the public way without having first secured a permit. No permit shall be required for installation of a bicycle parking facility by the department of public works.

4. PERMIT. a. Application. Applications for such a permit shall be made to the commissioner of public works on blanks furnished by the commissioner, and shall state thereon:

a-1. The name and permanent address of the person.

a-2. The address of the property adjacent to which the proposed bicycle parking facility will be installed.

a-3. A brief description of the proposed bicycle parking facility together with a scaled plan showing its proposed location in the public way shall be submitted.

a-4. Each person shall file a signed statement that he is the owner of the private property immediately adjacent to the proposed location of the bicycle parking facility and that he shall be fully responsible for maintaining it in good repair. If the person applying for the permit is not the owner, then an individual must be designated who will be responsible for maintaining the bicycle parking facility in good repair, and a consent form signed by the property owner immediately adjacent to the proposed parking facility stating that he approves its location shall also be submitted.

a-5. The person shall file with the commissioner of public works a certificate of insurance indicating that the person holds a public liability policy in the sum of at least \$25,000 covering bodily injury to any one person and \$50,000 covering bodily injury to more than one person in any one accident, and \$10,000 covering property damage to any one owner in the area included within the permit, and naming the city of Milwaukee as an insured. The person shall also file with the commissioner of public works a bond of a surety company duly incorporated in the state of Wisconsin or duly licensed to do business in this state in such sum as the commissioner may require but not exceeding \$10,000, such bond to be approved by the city attorney. Individual sureties shall not be deemed in compliance with this section. Both bond and insurance policy shall provide that they shall not be cancelled until after at least 30 days' notice in writing to the commissioner of public works.

a-6. Each applicant shall execute a signed statement that the information given is full and true and known to him to be so.

b. Issuance. b-1. The application for said permit shall be submitted by the commissioner of public works to the local alderman, the city engineer and the commissioner of neighborhood services for their review and comment.

b-2. The commissioner shall issue a permit to the applicant when all the requirements of this section have been complied with and upon the payment of a fee.

b-3. When the commissioner of public works determines that the permit should not be issued, the applicant shall have the right to appeal the decision in accordance with s. 115-41.

c. Fee. c-1. See s. 81-11 for the required permit fee.

c-2. The permit shall expire on the 30th day of June after the granting thereof, unless sooner revoked. The permit shall automatically renew upon payment of an annual fee and the filing of the location of all bicycle parking facilities relocated since the last renewal date.

d. Revocation. At any time that the permittee shall violate any of the conditions upon which said permit was issued, the commissioner of public works or his/her agent shall forthwith serve a written notice upon the permittee specifying the nature of the violation and ordering correction or removal within 30 days. Upon noncompliance with this order to correct a violation, the commissioner of public works shall notify the common council, which shall hold a public hearing thereon, after the permittee shall have had 10 days written notice of such hearing. Thereafter, for cause shown, the common council may revoke such permit and require the removal of the bicycle parking facility. If the common council revokes such permit and approves a new application for the same permittee during the same year, it shall be in the same manner and after payment of the same fee as provided for in the original issuance of a permit. Nothing contained in this subsection shall be construed to limit the power of any enforcement officer in prosecuting violations of the code.

e. Display of Permit. The permit shall be displayed conspicuously upon the premises adjacent to the bicycle parking facility at all times.

5. REGULATIONS. a. The permittee shall maintain the bicycle parking facility in good repair and keep it in such condition that it does not become a hazard to pedestrians.

b. The permittee shall keep the sidewalk adjacent to his property free from obstructions to pedestrians by placing the bicycle parking facility so that a walk space not less than 6 feet wide shall at all times be kept open for pedestrians.

c. The bicycle parking facility shall be installed and maintained in the public way immediately adjacent to the permittee's property.

d. The permittee shall be fully liable for damages to persons or property by reason of the granting of said permit, and the city shall be held harmless of any damages arising with regard to bicycle parking facilities.

6. REMOVAL. a. If the bicycle parking facility becomes a hazard or an obstruction to pedestrians, the commissioner of public works shall order the permittee to repair or remove the bicycle parking facility in the public way or public place by a certain date, not less than 3 nor more than 30 days from the date of service of the order. If the permittee fails to comply with the order, it shall be the duty of the commissioner to immediately deliver a certified copy of the order to the chief of police together with the demand for compliance within not less than 3 and not more than 30 days after service of the order. The chief of police shall within 3 days after the receipt of the order, serve or cause to be served by a police officer a copy of said order upon the owner or person named in the order. After being notified of the order, the owner or his or her agent named in such order shall repair, remove, or cause to be removed, at his expense, the obstruction from the public way or public place within the time specified in the order. If the owner or his or her agent named in the order fails to comply with such order, the commissioner shall remove the obstruction and charge the cost of removal to the owner. If the charge becomes delinquent, the charge shall be placed on the tax roll and become a lien upon the property for payment, settlement and collection as provided in ch. 19 of the city charter.

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b. The permittee shall temporarily or permanently remove, at his expense, a bicycle parking facility within a reasonable time after being ordered to do so by the city if the removal becomes necessary or appropriate to the accomplishment of any public improvement or to the operations of any city forces. If the permittee fails to do so within a reasonable time, city forces shall do so and bill the permittee for the cost of removal. Failure of the permittee to pay the bill shall cause the delinquent charge to be levied as a special charge against the property and to be placed on the tax roll and become a lien upon the property for payment, settlement and collection as provided in ch. 19 of the city charter.

7. PENALTY. Any person who shall violate this section shall, upon conviction thereof, be subject to a fine of not less than \$25 nor more than \$250 for each violation, and upon default of payment thereof, be punished by imprisonment in the house of correction for a period of not more than 60 days. Where the violation consists of failing to do a required act, each day shall be regarded as a separate offense.

115-32.6. Sidewalk Area Dining Facilities;

Permits. 1. PURPOSE. The purpose of this section is to establish reasonable rules and regulations governing placement, operation and maintenance of sidewalk area dining facilities in the public right-of-way. The city welcomes such uses in the public way but must also ensure that convenience, safety and general access for pedestrians will be maintained.

2. DEFINITION. A "sidewalk area dining facility" shall mean an open air space located in the public right-of-way and created for the purpose of consuming food or beverages prepared on private property adjacent thereto.

3. PERMIT REQUIRED. It shall be unlawful for any person to use the public right-of-way as a sidewalk area dining facility without first obtaining a permit therefore. The application and annual space rental fee for sidewalk area dining facilities shall be as specified in s. 81-106.7.

4. APPLICATION. Application for a permit shall be made to the city clerk in accordance with s. 85-12. An application shall include both a written plan of operation and a plan drawing.

a. The plan of operation shall, at a minimum, indicate:

a-1. The expected starting date and ending date of the sidewalk area dining facility.

a-2. The proposed daily hours.

a-3. The planned capacity of the sidewalk area dining facility.

a-4. Whether any of the proposed sidewalk area dining facility improvements would be physically attached to public infrastructure and, if so, how.

a-5. The number of customers expected on a daily basis at the premises.

a-6. The legal occupancy limit of the premises.

a-7. Plans the applicant has to provide security for the premises.

a-8. Plans the applicant has to ensure the orderly appearance and operation of the premises with respect to litter and noise.

a-9. A description of any provisions made for clean-up of the premises.

b. The plan drawing shall be legible, submitted on 8.5" x 11" paper and include, at a minimum, the following:

b-1. The business name, address, phone number, contact person's name and contact person's phone number.

b-2. The length and width of each proposed sidewalk seating area.

b-3. The curb line, property line and building face.

b-4. All tables, chairs, benches, planters, server stations, umbrellas, heating lamps and other furniture or fixtures.

b-5. The names of all streets shown on the drawing.

b-6. A north arrow.

b-7. Any other information the city clerk would from time to time require.

c. The application shall be signed by both the applicant and the property owner (if other than the applicant).

5. CHANGES TO BE REPORTED. See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

6. PERMIT FEE. See ch. 81 for the required permit fee.

7. INSURANCE. Prior to issuance of a permit, every person applying for a permit shall file with the city clerk a certificate of general liability and property damage insurance that maintains the minimum insurance coverages specified in s. 245-12-3-b. Every certificate shall be executed by an insurance company licensed to do business in the state of Wisconsin.

8. AGE QUALIFICATION. No permit shall be issued to any person or any agent of a corporation or limited liability corporation who is not 18 years of age or older.

9. DISQUALIFICATION. Whenever any application is denied, or a permit is revoked, surrendered or not renewed, the procedures for disqualification for permit and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

10. INVESTIGATION REQUIREMENTS. Each application for a new license shall be referred to the commissioners of public works, neighborhood services and health in accordance with s. 85-21.

11. OBJECTION. An objection to issuance of a permit shall be based on the factors set forth in s. 85-2.7-4. If the local common council member or commissioner recommends against an application, no permit shall be issued unless the applicant requests, in writing, an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the recommendation of the common council member or commissioner. An appeal shall be forwarded by the city clerk to the licensing committee for its recommendation as to whether a permit should be granted. The procedure for considering an appeal shall be as provided in s. 5-2.7.

12. ISSUANCE. See s. 85-12.5 for provisions relating to the issuance of a permit.

13. PERMIT TERM. A sidewalk area dining permit shall expire the same date as other licenses issued for the premises.

14. POSTING. Each permit shall be displayed in proximity to the sidewalk seating area so that it is visible from the public sidewalk.

15. TRANSFER. See s. 85-19 for provisions relating to the transfer of a permit and the change of permit holder names.

16. RENEWAL. Application for renewal of a permit shall be made to the city clerk in accordance with the provisions of s. 85-26. The city clerk shall refer the application to the commissioner of public works. If the applicant still meets the permitting qualifications, the permit shall be issued unless a written objection has been filed under s. 85-3. If there is objection to renewal of the permit, the procedure for considering the renewal application shall be as specified in ss. 85-3 to 85-5.

17. REVOCATION OR SUSPENSION OF PERMIT. Any permit issued under this section may be suspended or revoked for cause by the common council after notice to the permit holder and a hearing. Notice and hearing on the revocation shall be conducted in accordance with s. 85-3.

18. OPERATIONAL REQUIREMENTS. a. Hours of Operation. The hours of operation of the sidewalk area dining facility shall be as approved by the common council.

b. Pedestrian Clearance. All sidewalk seating areas shall at all times maintain a minimum clearance of 5 feet for pedestrian traffic. The clearance area shall be clear of all obstructions and provide a straight pedestrian path to the greatest degree possible.

c. Paved Surface. At no time shall any furniture that is part of a sidewalk seating area be placed on grass, landscaping mulch or other unpaved surfaces. Sidewalk seating area furniture shall be placed on a paved surface of concrete, asphalt, pavers or other approved surface material.

d. No Permanent Attachment. No sidewalk seating area tables, chairs, planters, server stations or other furniture or fixtures shall be permanently affixed to the public sidewalk, light poles, traffic signal poles, bicycle racks, street trees or other public improvements. Nothing shall be hung from street trees, light poles, sign posts or traffic signal poles.

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e. Alterations of Public Improvements. Existing public improvements in the sidewalk area, such as benches, planter boxes, tree grates, bicycle racks, kiosks and trash receptacles, shall not be moved or removed to accommodate a sidewalk seating area unless it is determined that the improvements are no longer needed or that they can be appropriately relocated. Any alterations to public improvements shall be approved by the commissioner of public works and made at the permit holder's expense.

f. Food or Beverage Preparation Within Public Right-of-Way. Any food or beverages shall be stored and prepared within the affiliated establishment. No storage or preparation of food or beverages shall occur within the public right-of-way.

g. Compliance With Plan of Operation. Failure to comply with the approved plan of operation shall constitute grounds for modification, nonrenewal, suspension or revocation of a permit as provided in s. 85-4-4.

h. Other Requirements. The common council may establish other operational requirements as may be necessary to regulate the location, design and operation of the sidewalk seating area.

19. REMOVAL. The permit holder shall remove all tables, chairs, fencing and other material associated with the sidewalk area dining facility and restore the public way whenever public necessity so requires as determined by resolution of the common council or upon expiration of the permit. In addition, the commissioner of public works may order the temporary removal of sidewalk dining facilities for major civic events, emergency repairs or other public improvements. The permit holder shall not be entitled to any damages when/if removal is required.

20. MINIMUM SIDEWALK CLEARANCE. All sidewalk area dining facilities shall maintain a minimum sidewalk clearance of 5 feet, and the minimum clearance shall be kept clear of all obstructions, as specified in the guidelines provided by the commissioner under sub. 7.

21. GUIDELINES. The commissioner of public works in administering this section shall refer to guidelines adopted by the common council. These guidelines shall include standards regarding the location, design and operation of sidewalk dining areas.

22. LIMITATIONS. The commissioner of public works may only issue sidewalk area dining permits when the affiliated food or beverage establishment is a permitted use under the zoning regulations of the city. When the affiliated establishment is a special use under city zoning regulations, a sidewalk area dining facility may be permitted through special use procedures subject to applicable regulations of this section.

23. ASSOCIATED PERMITS. In order to construct and operate a sidewalk area dining facility, certain associated city permits or approvals may be required (e.g. building permit, extension of alcohol beverage premises license, health permit). Issuance of a sidewalk area dining permit does not alter the need to obtain any associated required permits.

115-33. Newspaper Stand Permits.

1. TEMPORARY STANDS. The chief of police is authorized to issue permits for temporary newspaper stands to be maintained on the public street corners in the city which shall be used for the purpose of exhibiting for sale of magazines and/or Sunday or daily newspapers and magazines.

2. REGULATIONS. Such stands shall be of uniform color as designated by the chief of police and shall contain no advertisement whatsoever, shall be constructed of steel, shall be at least 3 feet from a fire hydrant and shall have the following dimensions: width, 40 inches closed, 72 inches wide open; depth 40 inches; height 72 inches. Said stands are to have two sides, a back and a cover on top. The location of such temporary newspaper stands shall be determined by the commissioner and shall be removed at the discretion of the mayor, the commissioner, chief of police or common council. All applicants for permits shall show to the satisfaction of the chief of police that the Wisconsin statutes regulating street trade have been complied with.

115-33.5. Newspaper Vending Boxes.

1. DEFINITIONS. a. "Box" means newspaper vending box.

b. "Commissioner" means the commissioner of public works.

c. "Department" means the department of public works.

d. "Newspaper vending box" means any self-service or coin-operated box, container unit or dispenser installed, used or maintained for the display, distribution or sale of newspapers, periodicals or other publications.

e. "Public right-of-way" means any area which has been deeded or dedicated for public use by pedestrians or vehicles.

2. REGULATIONS. a. Location. No newspaper vending box shall be located:

a-1. Within 2 feet of the face of the curb.

a-2. Within 3 feet of any fire hydrant, callbox, or other emergency structure.

a-3. Within 3 feet of any bus shelter or bench.

a-4. Within 3 feet of any traffic sign or signal.

a-5. Within 5 feet of any driveway.

a-6. Within that portion of a pedestrian area adjacent to a designated handicapped-parking space or commercial loading zone.

a-7. Where a paved pedestrian area does not extend to the curb, and the width of the continuous, undivided space for pedestrian travel would be reduced to less than 4 feet as a result of the placement of a newspaper vending box.

a-8. Where a paved pedestrian area extends to the curb and the width of the continuous, undivided space for pedestrian travel would be reduced to less than 7 feet as a result of the placement of a newspaper vending box.

a-9. On the landscaped area of the public right-of-way between the curb and sidewalk wherein street trees are typically planted.

a-10. Within, or within 2 feet of, the area bounded by the curb, the front entrance of a business establishment, and 2 straight lines which extend from each outer edge of the entrance door frame to the curb and are perpendicular to the curb.

a-11. Within 30 feet of a catch basin.

b. Concentration. Not more than 8 newspaper vending boxes may be placed on any one city blockface as defined in s. 295-201-63.

c. Design and Placement. c-1. A freestanding newspaper vending box shall face away from the roadway, with the rear edge of each box being located on a line parallel to the curb. Each freestanding newspaper vending box shall be bolted to the sidewalk or pavement. If a box is removed, the sidewalk or pavement shall be restored to a safe condition. No vending box that has been designed to be freestanding may be strapped or in any way attached to a city light pole or other city fixture.

c-2. Newspaper vending boxes that are not freestanding may be banded to aluminum and concrete poles. No newspaper box shall be banded to a steel street light pole. A newspaper vending box which is not freestanding may only be attached to a city-owned light pole which is more than 20 feet in height. The box shall be securely strapped to the pole so as to prevent movement of the box and shall be oriented so that customers can stand on paved sidewalk when accessing it. Not more than 2 boxes may be strapped to any single pole. A newspaper vending box strapped to a light pole shall not obscure any traffic sign or reflector or in any way obstruct the visibility of the sign or reflector. Fastening straps shall be made of stainless steel and shall be painted to match the color of the affected light pole. No chains or cables may be used. A newspaper vending box may be attached to a pole owned by any other entity provided permission from the entity is presented to the department prior to installation.

c-3. A newspaper vending box shall have a door which swings closed and latches after each opening.

c-4. A newspaper vending box shall not exceed 50 inches in height, 26 inches in width, and 20 inches in depth.

c-5. A newspaper vending box shall bear the name and mailing address of the owner of the box.

d. Maintenance. Newspaper vending boxes shall be kept clean, graffiti-free, and in proper working order at all times. The responsible party shall clean, repair, or remove graffiti within 5 working days of notification by the commissioner of the condition.

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3. REMOVAL OF NEWSPAPER VENDING BOXES. a. If a newspaper vending box is found in violation of this section, the department may remove the box. A box may be transferred to a designated holding place as follows:

a-1. Notice shall be given prior to removal of the box. The department shall notify the owner that if the box is not removed within 10 working days following mailing of the notice by first-class mail to the owner's last known address, the department may relocate the box to a designated holding facility. The address of this facility shall be included in any notification.

a-2. If, 10 working days following mailing of the notice by first-class mail to the owner's last known address, the box has not been removed from the location, the department may relocate the box to the designated holding facility.

a-3. A box may be held at the facility until the box's owner claims it or until the department disposes of it. The fee for retrieving a newspaper vending box from the designated holding place shall be as provided in s. 81-78-4. The department may dispose of boxes that have been held for 15 days or more at the designated holding facility.

b. When it is deemed necessary that a newspaper vending box be removed for the maintenance or improvement of the public right-of-way, including when the public right-of-way is temporarily occupied by abutting land owners for construction, demolition, or other lawful purpose as set forth in ch. 115, and in cases of special privileges granted by the city pursuant to ch. 245, the department may take the following steps toward removing the box:

b-1. The department shall notify the owner of the box in writing that within 10 working days following mailing of the notice by first-class mail to the address provided on the box that the box shall be either removed or transferred to another location that has been specified by the department.

b-2. If the owner of the box fails to remove the box from the location after 10 working days following mailing of the notice to remove the box from the location or transfer the box to another location that has been specified by the department, the department may follow the same procedure specified in par. a-2 and 3.

c. If the owner of a box fails to comply with any condition specified in sub. 2, the department may take the following steps to remove the box:

c-1. The department may order the owner of the box in writing to correct the violation within 10 working days following the mailing of the order by first-class mail to the address provided on the box.

c-2. If the owner of the box fails to comply within the time allotted by the department, the department may follow the same procedure specified in par. a-2 and 3.

d. If the department removes a newspaper vending box pursuant to this subsection, the owner of the box shall not place a different box at the location from which the department removed the box.

115-33.6 Flower Pot Holders. 1. PERMIT REQUIRED. No person shall attach or place a flower pot holder on any parking meter pole without having first obtained a permit from the commissioner and paid the fee as stated in s. 81-52.7.

2. PERMIT APPLICATION. Applications for permits shall be made on forms provided by the commissioner and shall include the following information:

a. The type of permit applied for.
b. Name and address of the applicant.

c. The planned location of each flower pot holder to be installed, shown on a street map and listed by meter number and street location.

d. Evidence of liability insurance.
e. Evidence of a performance bond.
f. Such other reasonable and pertinent information that the commissioner may require.

g. A photograph, chart or facsimile of the flower pot holder, which denotes both the size and type of materials.

3. ISSUANCE OF PERMIT. If the commissioner finds that the information on the application is satisfactory, the commissioner shall issue a permit to the applicant.

4. REGULATIONS. No flower pot holder permitted under this section shall:

a. Be larger than 15 inches in diameter.

b. Have a sponsorship placard sign larger than 5x10 inches or be more than 1/4" thick.

c. Have anything other than the sponsor's name and address on the placard or information concerning a major nonprofit event or festival.

5. INSTALLATION. After obtaining the necessary permit, a flower pot holder shall be attached to a parking meter pole in the following manner:

a. The placard sign shall be attached using a stainless steel clamp to secure it to the pole.

b. The placard sign shall include a tag with the name, address and phone number of the permittee.

c. The flower pot holder shall be attached to the pole by first placing both halves around the pole and securing them together using nylon nuts and bolts and then placing a stainless steel band around it to secure it to the pole.

6. LIABILITY. a. The applicant shall be primarily liable for any damages to persons or property caused by a flower pot holder.

b. A certificate of public liability insurance, covering all of the applicant's flower pot holder installations, in the sum to be determined by the commissioner, naming the city of Milwaukee as an insured party, must be filed with the commissioner at the time the application is filed. The commissioner must be notified in writing by the insurer at least 30 days in advance if the insurance policy is cancelled.

c. The city shall be held harmless and assigned from all loss, damage, injury or liability of any kind whatsoever due to the installation, operation, inspection, maintenance, repair or removal of any flower pot holder.

7. PERFORMANCE BOND. The applicant must file a performance bond in the sum of at least \$1,000 with the commissioner at the time the application is filed. The commissioner must be notified in writing by the insurer at least 30 days in advance if the insurance policy is cancelled.

8. RESPONSIBILITY. The applicant accepts all responsibility for the appearance, placement, maintenance, replacement or removal of any flower pot holder, and agrees not to attach a flower pot holder to a parking meter pole in such a manner so as to interfere with the operation or maintenance of the meter.

9. REMOVAL. a. The city reserves the right to remove or replace any parking meter pole, as necessary. Any cost of work involved in removing a flower pot holder shall be done at the applicant's expense.

b. The city also reserves the right to require the removal of any flower pot holder if it is deemed to be in the public's best interest, or if the holder does not comply with this section.

115-34. Repair or Removal of Projection and Encroachments. If privileges, projections, or encroachments permitted in ch. 245 become out of repair or unsafe, the commissioner of neighborhood services shall notify the owner or persons in charge of the abutting property to repair or make such things safe. If the notice is not complied with within 5 days from the receipt thereof, the commissioner of neighborhood services shall thereupon notify the commissioner who shall repair or remove the privileges, projections or encroachments either by contract or by city forces and shall certify the costs thereof in the proper manner to have them levied as special charges against the property, and, if the charge becomes delinquent, the proper officers of the city are authorized and directed to enter the charges onto the tax rolls for payment, settlement and collection as provided in ch. 19 of the city charter.

115-35. Installation of Parklets.

1. DEFINITION. In this section, "parklet" means a platform that is located in the parking lane of a street, is at the same level as the abutting sidewalk, and is intended to provide additional space and amenities for the adjacent business establishment and its patrons.

2. PERMIT REQUIREMENTS. No person shall install a parklet in the public right-of-way without first obtaining all of the following:

a. A permit for occupancy of the public way, as required by s. 115-10. The applicant shall also pay the applicable fees and deposits set forth in ss. 81-83, 81-102 and 115-10.

b. Any applicable alcohol beverage license, as required by ch. 90, including but not limited to a permanent or temporary extension of premises.

c. A sidewalk area dining permit, if required by s. 115-32.6. If a sidewalk area dining permit has already been issued for the adjacent business establishment, the permit

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holder shall report the appropriate changes to the permit or the plan or operation, as required by s. 115-32.6-5.

3. ADDITIONAL REQUIREMENTS.

a. A parklet may be installed in the public right-of-way only between March 15 and November 15. However, the applicant may petition the commissioner of public works for permission to install the parklet before March 15, but no earlier than March 1, weather permitting.

b. A parklet shall not project more than 6 feet into a roadway, as measured from the outside edge of the curb, unless otherwise authorized by the commissioner of public works.

c. A parklet may occupy only the portion of the roadway that is directly in front of the applicant's property or building or, in the case of a building with multiple first-floor occupants, in front of the applicant's portion of the building frontage. A business improvement district or neighborhood association may petition the commissioner of public works for permission to install a parklet in its defined district or neighborhood with the permission of adjoining property owners.

d. The parklet shall comply with all parklet design and safety requirements promulgated by the commissioner of public works, including, but not limited to, placement of wheel stops at both approaching and departing traffic sides of the parklet, a reflective traffic hazard marker at the approaching traffic side, and a reflective flexible bollard at the departing traffic side.

e. No building permit shall be required for the installation of a parklet.

115-36. Heated Pavements. 1. PERMISSION. Pipes or conduits for warming pavements may be placed within or below pavements in a public way when installed or maintained as regulated in this chapter and upon the condition that the right to install or maintain such installations may be revoked by the commissioner. Such installations shall not interfere with any public work or improvements, and the city in granting the right to install said pipes or conduits reserves the right to install municipally owned utilities under, upon or over the heated pavement sections.

2. IDENTIFICATION. The surface of all heated pavement hereafter constructed shall bear identification marks as required and regulated by the commissioner.

3. REMOVAL. The owner of the property shall remove at his or her own expense all heated pavements and all appurtenances thereto within the public way whenever public necessity or public safety require when ordered by the commissioner, and all pavements shall be restored in accordance with the current rules regulations or specifications or as directed by the commissioner, without claim for damages by reason of such removal or pavement restoration. If the order to remove a heated pavement is not complied with within 30 days of receipt thereof, the commissioner may remove the heated pavement and all appurtenances thereto within the public way either by contract or by city forces, and shall certify the costs thereof in the proper manner to have them levied as special charges against the property, and, if the charges become delinquent, the proper officers of the city are authorized and directed to enter the charges on the tax rolls for payment, settlement and collection as provided in ch. 19 of the city charter.

115-37. Underground Lawn Sprinkling System.

1. Underground sprinkling systems may be installed within a public way when installed and maintained as regulated in this chapter and upon condition that the right to install or maintain such installation may be revoked by the commissioner. Such systems shall not interfere with any public works or improvements and shall be installed and operated in such a manner so as not to create a nuisance or hazard to pedestrians and vehicles using the public ways, and shall comply with all state statutes and city ordinances.

2. The property owner shall at his own expense remove sprinkling systems within the public way when so ordered by the commissioner. Pavements shall be restored in accordance with s. 115-8. If the order to remove a sprinkling system from the public way is not complied with within 30 days of receipt thereof, the commissioner may cause the removal of said sprinkling system and shall certify the costs thereof in the proper manner to have them levied as special charges against such property, and the proper officials of the city are authorized and directed to enter such charges on the tax rolls.

115-38. Mail Collection Boxes. 1. PRIVATE MAIL BOXES. Where direct to door postal deliveries are not made, private mail boxes may be placed adjacent to roadway pavements at locations designated by the United States postal department upon condition that said mail boxes shall be removed at the owner's expense when so ordered by the commissioner of postal authorities, and do not interfere with the use of or obstruct the street or sidewalk.

2. UNITED STATES POSTAL DEPARTMENT BOXES. Facilities for the collection and distribution of mail may be placed within public ways at the discretion of the United States postal department, provided the same do not interfere with the use of or obstruct the street or sidewalk.

115-39. Erection of Telephone Booths on Public Property. 1. No public utility, as defined in s. 196.01, Wis. Stats., which owns, operates or has under its management or control any plant or equipment, or part of a plant or equipment, within this state for the conveyance of telephone messages, shall erect, maintain or operate any public telephone booth on public property, including any permanent fixture upon which or within which a telephone is provided, except in accordance with this section.

2. Application for permission to install a public phone booth shall be made on forms provided by the department of public works. Such application shall state the name and address of the applicant and, if it be a corporation, signed by the proper officer or agent thereof. Such application shall have attached to it a sketch showing the proposed location of such phone booth with relation to the street lines and the building lines of adjacent buildings.

3. The applicant shall pay to the city treasurer the sum of \$10 and a duplicate copy of the receipt of the city treasurer shall be attached to the application. Such fee is to cover the costs incidental to the regulation of the placing of public phone booths and the processing of such application. The applicant shall save the city harmless from all liability for damages and from all claims, actions and causes of action, and liens of any kind whatsoever, and from all costs, charges and expenses incurred in defending such suits or actions which may in any way arise out of the installation and maintenance of said booth or result therefrom.

4. The department of public works shall secure on said application the approval of the city engineer, and shall approve said application if the plans for such public phone booths conform to all ordinances and regulations of the city. No application shall be granted unless said booth is proposed to be lighted at applicant's expense and unless adequate access walks leading from the public sidewalk to said phone booth are to be provided at the expense of the applicant.

5. After approvals have been secured, the department of public works shall issue a permit for each booth so approved. Such permit may be revoked by the city at any time upon giving at least 30 days written notice to the public utility. The public utility may remove any booth on public property at any time upon giving at least 30 days written notice to the city. In the event of any such removal, the permit for such location shall be cancelled.

6. The public utility shall compensate the city for permitting said installation, on at least a quarterly basis, by payment of a commission at the same rate paid by the public utility to all other owners of property on which public booths are located, said payments to be forwarded to the city treasurer, who shall place said moneys in the general fund.

7. There shall be posted inside of or visibly upon the booth in a conspicuous space and in large type the telephone numbers of the police department and fire department together with a notice that "911" may be called in an emergency without customer charge by direction of the U.S. federal communications commission.

8. Upon a 48 hour notice in writing that a telephone booth including any permanent fixture upon which or within which a telephone is provided has been found to be out of compliance with this section, the telephone booth may be removed by the department of public works at the expense of the public utility if the telephone booth is not brought into compliance.

115-42. Special Assessment Procedure.

1. STATE COMPLIANCE. All special assessments levied by the city of Milwaukee for public work or improvements shall be made in accordance with s. 66.0703, Wis. Stats., and this section.

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2. COUNCIL APPROVAL. a. Public works shall be initiated by a preliminary resolution which shall be submitted to the common council by the commissioner as required by s. 66.0703(4), Wis. Stats.

b. Upon adoption of the preliminary resolution the city engineer shall prepare plans, estimates of cost, and other information as may be required.

c. After the plans and the estimate of the total cost have been prepared by the city engineer, the commissioner shall prepare the report required in s. 66.0703(5), Wis. Stats. All city agencies, departments and officials shall assist the commissioner in preparing the report. The commissioner shall file with the city clerk the report required in s. 66.0703(5), Wis. Stats.

3. NOTICE OF HEARING. The commissioner shall prepare and mail the notice of public hearing in conformance with s. 66.0703(7)(a), Wis. Stats.

4. COMMITTEE HEARING. The hearing required by s. 66.0703(7)(a), Wis. Stats., shall be held before an appropriate committee of the common council. The chairman of said committee may appoint, on a temporary basis, any other member or members of the council to serve on said committee during the absence of any member thereof. After the hearing, the committee may take action approving, modifying, or disapproving of said report or final resolution or both, and may make recommendation concerning the same to the council. The council may thereafter take action according to s. 66.0703(8), Wis. Stats.

5. PUBLICATION. Upon adoption of the final resolution directing that the work or improvement be carried out in accordance with the report as finally approved and that payment be made as therein provided, the city clerk shall publish the final resolution required by s. 66.0703(8), Wis. Stats. The commissioner shall be responsible for the mailing of said final resolution to the owner(s).

6. COMMISSIONER TO PROCEED. After the adoption of the final resolution, the commissioner shall immediately proceed to make said public improvement in accordance with the said final resolution.

7. TO NOTIFY CITY TREASURER. Upon the completion of the work and the acceptance thereof, the commissioner shall transmit to the treasurer's office a copy of the department of public works' assessment list of

the work performed. An invoice shall be prepared in the correct amount for each property and mailed to all interested persons, if with reasonable diligence their names and addresses may be obtained.

8. PAYMENT TERMS. Any person required to pay for work performed under this section shall have 2 options for payment:

a. After adoption of the final resolution any person may make a prepayment to the city treasurer in advance of the issuance of an invoice in the correct amount for his or her property. The comptroller shall cause such prepayment to be posted to a trust account established by the comptroller in the permanent improvement fund. After the invoice in the correct amount is issued, the comptroller shall apply the funds on account from the permanent improvement fund to the payment upon the invoice, and the treasurer shall cause a credit thereon to be entered upon the invoice. Upon request of the person who made the overpayment within 2 years of the date of the initial billing, excess funds resulting from such overpayment shall be refunded to the payer. Any deficiency in an account shall be invoiced by the treasurer to the property owner.

b. Upon receipt of an invoice, any person may pay the invoice, without interest, by remitting the payment to the city treasurer within 45 days of the date of the invoice. In the event such invoices are not paid in full within the specified time, they shall be placed upon the tax roll under the following terms and conditions and in the following manner:

b-1. If the total amount of the principal of the invoice remaining unpaid is the sum of \$125, or over, it shall be spread equally over the first available and next succeeding 9 tax rolls.

b-2. If the total amount of the invoice remaining unpaid is less than \$125, the amount shall be placed on the first available tax roll.

b-3. In addition to the principal remaining, interest shall be added commencing after the billing date of the invoice. A 45-day grace period for payment shall be granted from the date of billing, and if not paid within the period, interest shall be charged on a restorative basis to the date of the billing. The interest rate charged shall be set annually as of the last business day in June as an approximation of the prime rate plus 1%. For the purpose of this subdivision, the prime rate shall be defined as the Wall Street Journal prime rate which is

published in the Wall Street Journal. The monthly rate of interest shall be computed by dividing such average prime rate plus 1% by 12 rounded to the nearest 100th percent. The comptroller shall review such interest rate annually and shall notify the department of public works of such interest rate. The interest rate shall become effective as of the public hearing date in September at which annual assessment rate changes are submitted to the appropriate committee of the common council as prescribed by s. 115-43. The interest rate in effect at the time of the public hearing held by the appropriate common council committee for an individual project shall be fixed for the 10-year duration of the installment payments.

b-4. After being placed on the tax roll in annual installments or otherwise, such amounts of special assessments shall be paid within the time allowed for the payment of general property taxes. If the taxpayer fails to pay a special assessment within the time allowed for payment, it shall become delinquent and shall be treated in the same manner and subject to the same laws as a delinquent general property tax.

9. PETITION AND WAIVER OF HEARING. As provided by s. 66.0703(7)(b), Wis. Stats., the common council may levy and assess the whole or part of the cost of any municipal improvement whenever notice of hearing is waived in writing by all the owners of property affected by such special assessment. In addition to the requirement of sub. 2, the commissioner shall attach said signed waiver of public hearing to either the preliminary resolution or the report in cases where a preliminary resolution was previously approved by said council.

115-42.5 Traffic Calming Installations.

1. PURPOSE. It is the purpose of the common council to establish a traffic calming program in the city that incorporates traffic calming installations within new construction and repair projects where appropriate and effective, and to otherwise promote public health, safety and the peaceful enjoyment of neighborhoods and residential areas by encouraging the initiation of traffic calming installations. It is furthermore the purpose of this section to provide property owners a process for initiating public works for the construction or placement of traffic calming installations. It is the intent of the common council that this process supplement

and not replace other processes for initiating public works.

2. PETITION. a. By Property Owners.

a-1. Upon submission to the commissioner of a petition of support for traffic calming signed by at least 50% of the owners of parcels in the affected area as determined by the commissioner, a preliminary resolution shall be prepared and submitted as provided in s. 115-42-2.

a-2. The petition submitted pursuant to this subsection shall substantially conform to a sample petition to be prepared and approved by the commissioner and shall include the name of the owner, the address of the parcel or parcels abutting the block or alley, address of the owner if different, date of signature, a clear statement that a traffic calming installation is requested, and any other information the commissioner determines to be necessary or appropriate.

3. COUNCIL APPROVAL. The procedures provided in s. 115-42 shall apply to the process for approval of the construction or placement of traffic calming installations.

4. SPECIAL ASSESSMENT. Upon adoption of a resolution by the common council directing the construction or placement of a traffic calming installation sought initially by petition to the commissioner under sub. 2, the recovery ratio provided in s. 115-43-2-a-4 shall be applied to those properties or parcels abutting the street or alley within which the installation is placed or constructed, as determined by the commissioner.

115-43. Recovery Rates for Assessable Improvements.

1. PURPOSE. The purpose of this section is to establish minimum recovery rates for assessable improvements to recover a portion of actual costs incurred for assessable improvements. Costs for assessable improvements include construction costs, and design, engineering and indirect costs attributable to improvements.

2. RECOVERY RATES AND RATIOS. Rates shall be updated by the commissioner of public works and shall be based on prior years actual cost experience pursuant to sub. 1. The commissioner shall present updated assessment rate changes to the appropriate committee of the common council in September for information purposes for implementation. Recovery ratios for assessable improvements shall be as follows:

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- a. New Construction.
- a-1. Paving - 90%.
- a-2. Sanitary Sewer - 90%.
- a-3. Storm Sewer Nominal Size - 70%.
- a-4. Placement of Traffic Calming Installation - 33%.
- a-5. Water Main - 90%.
- a-6. Water Main Suburban - 100%.
- b. Reconstruction.
- b-1. Alley - 50%.
- b-2. Driveway - 90%.
- b-3. Walk - 50%, except for those sections of walks damaged by city trees which shall have a recovery ratio of 0%, provided however, that this provision should only apply to scattered site repairs.
- b-4. Subdivision 1 shall apply to all alley reconstruction projects approved by the common council after May 3, 2011.

115-44. Deferred Special Assessments.

1. DEFINITIONS. In this section:
 - a. "Household income" means the gross income of the applicant and the applicant's spouse, including all income reported for state income tax purposes as well as social security, veteran's benefits and pensions, other pensions and annuities, interest on securities, worker's compensation, support payments, aid to families with dependent children, federal food stamps, general relief, supplemental security income, scholarships, fellowships or any other source of financial compensation.
 - b. "Special assessment" means any assessment levied against real property for the purpose of defraying part or all of the cost of a specific physical improvement which will benefit the property, including, but not limited to a new or reconstructed sidewalk, curb, gutter, sod, alley, driveway, sanitary sewer, water main or lateral. For purposes of this section this does not include special charges levied for, but not limited to, snow or weed removal, delinquent water accounts, benefit assessments under ch. 32, Wis. Stats., razing of condemned buildings, nuisance abatement or special privilege fees.
2. PAYMENT AUTHORIZED. The common council may direct the city treasurer to pay all or any portion of any special assessments placed upon the current or next tax roll against property owned and inhabited by

indigent persons as provided in sub. 3, including a 6% annual interest rate. Funds to pay for deferred special assessments approved by the common council shall be charged to the special purposes account established for this purpose.

3. ELIGIBILITY. Applicants for deferred assessments shall meet the following eligibility requirements:

- a. Be at least 18 years of age at the time of application.
- b. Have a maximum annual household income of \$30,000.
- c. Not be claimed as a dependent on anyone else's federal income tax return for the last full year preceding the date of application.
- d. Be the occupant of a dwelling located on the real property to which the deferment would apply.
- e. Not owe any delinquent taxes on the dwelling.
- f. Own no real property other than the property to which the deferment would apply.

4. APPLICATIONS. a. Applications for deferment shall be made upon a form provided by the department of public works which shall include the name, address, social security number, age, employment status, sources of income, assets, liabilities and other pertinent information of each applicant. Financial information shall be confidential. The applicant shall also state the reason for applying for deferment.

b. Each application shall be reviewed by a 3-member committee appointed by the mayor and confirmed by the common council. All committee members must be city residents and own property within the city. Members shall serve 3-year terms. At the committee's request, the city comptroller, city treasurer and commissioner of public works may assist the committee in making its recommendations to the common council. The committee shall periodically review eligibility requirements for deferments and make any recommendations to modify the requirements to the common council.

5. TERMINATION OF DEFERMENTS. The committee established under sub. 4 shall review annually deferments granted under this section. If the eligibility requirements in sub. 3 are no longer met, the committee shall recommend to the common council that deferments be terminated. Upon termination of a deferment, the committee shall specify the

repayment terms of the deferred special assessment. The terms of repayment may be as provided in s. 115-42-8.

115-45. Selling Articles from Parked Vehicles.

1. REGULATIONS. a. Findings. To help protect the safety of pedestrians and drivers, to help relieve traffic congestion on certain public highways and sidewalks within the city and to provide for the freer flow of traffic, both vehicular and pedestrian, on such highways and sidewalks, it is declared to be unlawful for any operator to park any vehicle on any public highway or sidewalk enumerated specifically or by area or classification in this section during the periods specified, or on any public highway or sidewalk within 300 feet thereof, during such periods for the purpose of offering for sale or selling any articles of any nature whatsoever in a public manner from such vehicle.

b. Specific Streets and Highways Where Selling Prohibited. The public highways, sidewalks and areas to which this section applies may be found in the common council proceedings, the official record on file in the city clerk's office, and the code on file in the legislative reference bureau.

2. LOCATIONS WHERE SELLING PROHIBITED. a. Near Schools or Residences

a-1. Within 300 feet of any entrance to any grade, junior high or high school or combination thereof while such school is open to students.

a-2. Adjacent to blocks containing residential premises; provided, however, that vehicles shall not be considered in violation of this provision if:

a-2-a. They stop for no more than 2 hours in any single block and such stops are otherwise in compliance with posted time limits and are separated by a 6 hour period, nor

a-2-b. If special permission is granted (which special permission shall not be unreasonably withheld) in writing for a specified vehicle for a specific location, date and time period by the public safety and health committee of the common council.

b. From the Median or Safety Island. Except when the roadway has been closed to traffic by common council resolution and the vehicle is otherwise in compliance with this section.

c. Near Restaurants.

c-1. Within 50 feet of a restaurant without drive-through facility, as defined in s. 295-201-501.

c-2. Notwithstanding the foregoing, subd. 1 may be waived by the common council.

3. TIMES WHEN SELLING PROHIBITED. a. The sale of items from parked vehicles shall be prohibited as follows:

a-1. Between the hours of 3 a.m. and 6 a.m. Monday through Friday.

a-2. Between the hours of 3:30 a.m. and 6 a.m. Saturday and Sunday.

a-3. As established by a plan of operation approved by the common council.

b. This prohibition shall not apply on January 1, Memorial Day, Juneteenth, the 3rd and 4th of July, Labor Day, on city streets adjacent to State Fair Park during the run of the Wisconsin State Fair or during any other specific dates specified by the common council by resolution.

4. PENALTY. Any person violating this section shall upon conviction forfeit not less than \$50 nor more than \$500 and in default of payment shall be imprisoned as provided by law.

115-47. Railroad Cars Not to Obstruct Street.

No corporation operating, or person having charge of any railroad car, engine or tender, or any railroad or any street railway train or car in the city shall suffer any railroad car, engine or tender or any railroad or any street railway train, or car operated by it, or under his control or charge to stand, so slowly move, or in any other manner remain in any street in the city so as to obstruct the free passage of vehicles or traffic along such street and across such railroad track more than 5 minutes at any time. It shall be unlawful for any street railway train or car to stop within an intersection or on a crosswalk for the purpose of receiving or discharging passengers.

115-48. Penalty, General. Any person who shall violate any of the provisions of this chapter shall, upon conviction thereof, be subject to a fine of not less than \$25 nor more than \$250 for each violation, and upon default of payment thereof, be punished by imprisonment in the house of correction for a period of not more than 60 days. Where the violation consists of failing to do a required act, each day shall be regarded as a separate offense.

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For legislative history of chapter 115,
contact the Municipal Research Library.

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**CHAPTER 116
USE OF PUBLIC WAYS AND PLACES**

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116-2.5. Installation of Signs, Signals, Markings. It shall be the duty of the commissioner of public works to make, erect and install, wherever deemed necessary or as provided by law, ordinance or resolution, all highway traffic parking, warning, regulatory and guide signs and traffic signals and paint or otherwise properly mark all highway centerlines,

traffic lanes, parking zones, school zones and crosswalks on the highways under his jurisdiction.

116-4. Crime Watch Sign Program.

1. ESTABLISHMENT. There is created a crime watch sign program to assist residents, businesses, property owners and the police department in identifying neighborhood crime watch areas, business watch areas and block watch areas, and in achieving the crime-prevention and crime-reduction goals of neighborhood watch, business watch and block watch groups and associations.

2. ELIGIBILITY. The chief of police shall establish eligibility guidelines for participation of neighborhoods, businesses and block watch groups in the crime watch sign program.

3. APPLICATION. A neighborhood association, business or block watch group interested in participation in the crime watch sign program shall apply to the police department through the community liaison officer at the district police station.

4. SIGN TYPES. Three types of signs shall be made available through the crime watch sign program:

a. Signs installed at locations along the perimeter of a participating neighborhood crime watch area announcing to persons passing the signs that they are entering a neighborhood crime watch area and that residents of the area report suspicious activity to the police department.

b. Signs installed in a business watch area indicating that a business watch program is in effect and that the participating business reports suspicious activity to other businesses in the area and to the police department.

c. Signs installed on an individual block announcing the presence of a neighborhood block watch and that residents report suspicious activity to the police department.

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5. SIGN STANDARDS. To ensure consistent and effective signage, the chief of police shall, in coordination with the commissioner of public works, set standards for each of the 3 types of crime watch program signs described in sub. 4. These standards may relate to sign placement, size, wording, color, reflectivity and any other characteristic that the chief and commissioner deem appropriate. In addition, as required by s. 66.0429(2), Wis. Stats., the design of each sign type shall be approved by the Wisconsin department of transportation.

6. SIGN INSTALLATION. The department of public works shall install all signs to be placed under the crime watch sign program. Signs shall be installed on city poles in the public right-of-way. Sign installation shall be at no cost to the neighborhood association, participating business or block watch club, but the association, business or club shall be responsible for any maintenance costs or costs related to damaged, lost or stolen signs.

7. COSTS. At the discretion of the sponsoring neighborhood association, business or block watch club, fabrication of crime watch program signs may be performed either by the city or by a private vendor selected by the citywide block watch council established in s. 312-14. In either case, signs shall be fabricated in accordance with the standards promulgated by the chief of police and commissioner of public works under sub. 5. The neighborhood association, business or block watch club shall be responsible for all sign fabrication costs. At the discretion of the chief of police, the police department may also assume the costs of acquiring crime watch program signs.

116-5. Historic District Identification Signs.

1. PROGRAM ESTABLISHED. There is established a program to permit the installation of special historic district identification signs above street name signs in any locally or nationally designated historic district in the city. The city engineer shall administer this program.

2. APPLICATION. An application for historic district identification signs in a particular historic district shall be filed with the city engineer on a form provided by the city engineer. The application shall specify the name of the historic district, the name, address and telephone number of the applicant, and the number and locations of signs requested. The

application shall be accompanied by the application fee specified in ch. 81.

3. DESIGN, FABRICATION AND INSTALLATION. The applicant shall design and fabricate the signs in accordance with standards promulgated by the city engineer. The city engineer shall install the signs within 60 days of receipt of the signs from the applicant and upon receipt of full payment from the applicant of the cost of installation of the signs. The payment amount shall be based on the number of signs and the per-sign fee specified in ch. 81.

116-8. Sidewalks to be Kept Clean. 1. SNOW AND ICE. The owner, occupant or person in charge of any real property abutting or fronting upon a paved public sidewalk or crosswalk shall remove and clear away all snow and ice on the entire paved surface within 24 hours after the snow or ice has ceased to fall. Whenever ice has so formed on any sidewalk that it cannot be removed, then the persons responsible for snow and ice removal under this subsection shall prevent the remaining ice from presenting a hazard to the users of the sidewalk by applying sand, abrasive material or any product that melts ice to the entire paved surface. Upon placement of excessive amounts of snow in the crosswalks by city plows or other mechanical devices, the commissioner of public works shall be responsible for mechanical clearing of such accumulations so as to provide reasonable pedestrian access from the public sidewalk to the roadway crosswalk. After mechanical clearing by the city is complete, the owner, occupant or person in charge shall be responsible for any needed hand-clearing of the crosswalk opening as required in this subsection.

2. COMPLAINT. In construing the provisions of this section, only owners of vacant lots or vacant premises are deemed to be the proper person whose duty it shall be to comply with this section; where the real property consists of a single family residence or is solely used for business, the owner or occupant shall be deemed to be the proper person whose duty it shall be to comply with this section; and as to any other real property, the owner or any occupants, unless a person has been designated by the owner to be in charge of the premises and is residing thereon, are deemed to be the proper persons whose duty it shall be to comply with this section.

3. MUD AND DIRT. It shall also be the duty of the owner, occupant, or person in charge of the property to keep the sidewalk clean of any dirt, dust, cinders, mud, oil or other similar substances when the sidewalks are clear of snow and ice.

4. CHARGES AND COSTS. a. If a person is found to be in violation of the requirements of this section, the person shall be subject to a special charge of \$50. There shall be an additional special charge of \$75 for failure to clear or otherwise abate any condition that remains in violation of this section. Upon a subsequent failure to comply with this section in the same calendar year, the person shall be subject to a special charge of \$100. Any costs incurred by the city in abatement or remediation shall constitute additional special charges.

b. Special charges made under this subsection shall be due and payable 30 days after billing or, if not paid within that time, become a lien on the subject property as provided in s. 66.0627, Wis. Stats. The lien shall take effect as of the date of delinquency and shall include an administrative charge of \$10. The lien shall automatically be extended upon the current or next tax roll as a delinquent tax against the property and all proceedings in relation to the collection, return and sale of the property for delinquent real estate taxes shall apply to such charge.

116-9. Raingutter Drainage on Sidewalks.

Every person owning any building in the city of Milwaukee, situated as described in s. 116-8, shall cause the pipes conducting the water from the eaves of the building to be so constructed as not to spread the water over the sidewalks, and every person neglecting the requirements of this section shall be subject to a fine of not less than \$5, nor more than \$10.

116-12. Snow Plowing Equipment License.

1. LICENSE ISSUED BY CITY CLERK. No person, firm, or corporation shall engage in the business of removing snow or ice from the public sidewalks or public alleys of the city by means of motorized sweepers or plows or receive compensation for doing such work without first obtaining a license therefor in the manner hereinafter provided. The license shall be obtained from the city clerk upon approval of the commissioner of public works and pursuant

to ch. 85. The city clerk shall publish to the city's website a list of all snow plowing equipment license holders.

2. INSURANCE REQUIRED. No license shall be granted unless the applicant has filed with the city clerk a public liability insurance policy in the sum of at least \$5,000 or a proper certificate showing such policy to be in force, conditioned among other things, that the person shall pay any and all damages which may happen to any tree, pavement, street, or sidewalk or to any utility pole or to any other property belonging to the city, whether the damage shall be inflicted by the person or his or her employees or workers, and conditioned also that the person shall save and indemnify and keep harmless the city against all liability, judgments, costs, and expenses which may in any way accrue against the city in consequence of the granting of the license.

3. ISSUANCE. The licensee shall comply with the conditions of any license which may be issued. Upon filing with the city clerk of the public liability insurance policy or certificate of insurance, and upon payment of the license fee required in s. 81-114 to the city treasurer, the license shall be issued.

4. PENALTY. Any person violating this section shall forfeit to the city a penalty of not less than \$50 nor more than \$100 for each offense, and in default of payment thereof shall be imprisoned in the house of correction or county jail of Milwaukee county for a period not to exceed 60 days, or until such penalty and costs shall be paid.

116-15. Vacant Lots to be Cleaned.

1. OWNER TO BE NOTIFIED. Whenever an unoccupied or partially unoccupied lot or parcel of land in the city has been left in an unsafe or unsightly condition, or both, because of debris, unsightly materials, or surface irregularities, or unprotected or unfinished excavations, it shall be the duty of the commissioner of public works to notify the owner or person in charge in writing, to clean up and, if necessary, protect the premises. The time in which the owner or person in charge must comply with the aforementioned order shall be in the discretion of the commissioner of public works, but the time given in such order shall not be less than 3 days, nor more than 30 days. In the event such order is not complied with, the

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commissioner of public works may proceed to clear the premises and assess the cost thereof in the manner provided in s. 11.28 of the city charter against the premises in the manner in which similar assessments are made.

2. PENALTY. Any person, firm or corporation found guilty of violating this section, or who shall fail, omit, neglect or refuse to obey any of the provisions of this section, or any order promulgated therein by the commissioner, shall be subject to a fine of not less than \$1 nor more than \$100, together with the costs of such action, and every person, firm or corporation shall be deemed guilty of a separate offense for each day of such violation, omission, guilt or refusal; provided, however, that such accumulated penalties recoverable in any one action shall not exceed the sum of \$1,000, exclusive of the assessment hereinabove referred to.

116-16. Owners and Occupants to Clean Sidewalks. It shall be the duty of every owner, occupant, agent or person in charge of any premises, improved or vacant, that shall front upon any sidewalk to keep the same free from rubbish, dirt or dust.

116-17. Steam Shovel or Heavy Equipment Permits. **1. PERMIT REQUIRED.** No steam shovel, concrete or concrete mixer, sewer digger or other similar machine weighing more than 6,000 pounds except a road roller, and no similar machine having lugged wheels shall be driven or operated upon or along any street, alley or public place in the city, unless a permit therefor shall first be secured from the commissioner of public works, which permit shall specify the route to be taken by such machine, and it shall be unlawful to deviate from such route. The commissioner of public works shall have authority to require the removal from any such machine of any flanges, cleats or other removable parts which would damage the street, and also to require, whenever in his judgment it is necessary, that planks or other sufficient protection for the street shall be provided by the persons driving or operating any such machine and shall be placed by such person or persons on the street, and the

machine shall be run upon such planks or other protection when such requirement is made. The purpose of this section is to protect streets against damage from any machine with rough wheels, and this section is intended to apply to all such machines.

2. PENALTY. Any person who shall violate this section shall be subject to a penalty of not less than \$25 and not more than \$100 for each offense together with the costs of the action, and in default of payment of such penalty and costs shall be committed to the county jail or house of correction of Milwaukee county for a period not to exceed 90 days, or until such penalty and costs shall be paid.

116-19. Moving Buildings on Streets.

1. LICENSE REQUIRED. No person, firm or corporation may remove or cause or permit to be removed or may aid or assist in removing any building into, along or across any street in the city without first obtaining the license therefor. Licenses shall be obtained from the commissioner of public works. No license shall be granted until the person applying shall be given a bond in the sum of \$10,000 with good sufficient sureties, which shall run to the city of Milwaukee for the use and benefit of any person or persons intended to be protected thereby, and which shall be conditioned, among other things, that the person shall pay any and all damages which may happen to any tree, pavement, street or sidewalk or to any telephone pole or to any other public or private property, whether the damage shall be caused or inflicted by the person or by the person's employees or workers, and conditioned also that the person shall save and indemnify and keep harmless the city against all liabilities, judgments, damages, costs and expenses which may in any wise accrue against the city in consequence of the granting of the license or any permit hereunder. The licensee will comply with the conditions of any permit which may be issued. Upon execution of the bond and payment of the license fee provided for in s. 81-14 to the city treasurer, a license shall be issued.

2. PERMIT FROM PUBLIC WORKS.

a. Application. Whenever any licensed building mover shall desire to move any building into, along or across any street in the city, application for a permit to do so shall be made in writing to the commissioner of public works. Such application shall be signed by the owner of the building or by his authorized agent or attorney, and such application shall also be signed by the licensed mover who is to do the work. No person shall move or cause to be moved any building through any street without securing a permit therefor from the commissioner of public works. Any licensed building mover who shall remove or cause to be removed any building into, along or across any street in the city without first having secured a permit therefor, or who after securing a permit shall keep a building on any street longer than the permit calls for, or who shall use any water hydrant or concrete electric pole in any manner in the moving of buildings shall upon proof thereof be deprived of his license; and such license shall not be reissued to such person for a period of 6 months, and such penalty may be imposed for each separate offense.

b. Permit fees. See s. 81-15 for the required permit fees.

3. APPROVAL BY COMMISSIONER.

The commissioner of public works shall grant all permits for the moving of buildings across or along any street, and he shall have authority to refuse any permit where in his opinion the interruption to traffic or the damage which might be done to trees or other public property would not warrant the granting of such permit.

4. PENALTY. Any person violating this section shall forfeit to the city a penalty of not less than \$10 nor more than \$100 for each such offense, and in default of payment thereof shall be imprisoned in the house of correction or county jail of Milwaukee for a period not to exceed 60 days, or until such penalty and costs shall be paid.

116-27. Carpets and Rugs, etc. 1. NOT TO BE BEATEN IN PUBLIC PLACES. No carpets, rugs, mats or similar articles shall be beaten, shaken or swept in any public thoroughfare or in any court or areaway within 15 feet of any building or buildings occupied by more than 2 families.

2. NOT TO BE SHAKEN NEAR BUILDINGS. No old garments, bedding, mattresses, coverings, rugs, carpets or similar articles shall be beaten, shaken or swept upon or within 15 feet of any inhabited building, unless precaution is taken to prevent dust particles from

being blown, scattered or otherwise passing from the place where such beating or cleaning is carried on.

3. CONTENTS OF VACUUM CLEANERS. Any inhabitant of said city after using any carpet sweeper or vacuum cleaner in said city shall remove the contents of said sweeper or vacuum cleaner into some proper receptacle or wrapper and convey same to incinerator, furnace, fireplace or stove.

4. PENALTY. Any person violating this section shall upon conviction be fined not less than \$5 nor more than \$50 for each and every offense, or in default of the payment of the same be imprisoned in the house of correction of Milwaukee county for a period of not less than 10 nor more than 60 days, in the discretion of the court.

116-39. Storm Water Treatment or Storage.

1. TREATMENT. The portion of a street right-of-way commonly known as the tree border and located between the curb and the outside line of the sidewalk closest to the curb may be used for storm water treatment purposes.

2. STORAGE. The paved portion of a public street may be used for temporary storage of storm water when such storage is deemed appropriate by the commissioner of public works. The commissioner shall determine the method, location and duration of any storm water storage on public streets.

116-51. Planting Permit. No person, corporation or association shall plant, cut, prune or remove any living tree or shrub in a public highway in the city, or cut, disturb or interfere in any way with the roots of any tree in such public highway, or spray any such trees or shrubs with any chemicals or insecticides without written permit of the commissioner of public works.

116-52. Planting Trees on Public Highway. No shade or ornamental tree or shrub shall be planted in any of the public highways of the city until such tree or shrub and the place where it is to be planted shall have first been approved by the commissioner of public works and a permit granted by said commissioner therefor.

116-53. Hazardous Trees and Storage of Cut Elm Wood Prohibited. The planting, preserving and maintaining of trees which are injurious and detrimental to the community, and all such trees as may be liable to fall upon any sidewalk, street

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or building, or which are hazardous or may result in injury to person or property because of a defective or diseased condition, or contagiously diseased trees, or the storage of cut elm wood, unless debarked or treated with a proper insecticide, shall be deemed a public nuisance and are prohibited.

116-54. Planting of Flowers in the Public Right-of-Way.

1. PLANTING OF FLOWERS. The planting of flowers in the public right-of-way is permitted as long as it does not encroach in the path of pedestrians or block the vision of motorists. The planting of edible fruits and vegetables is prohibited without a special privilege permit. The diggers hotline must be contacted at least 3 business days prior to any excavation related to this subsection.

2. REQUIREMENTS. Flowers may be planted by, or with permission from, the property owner immediately adjacent to that section of the public right-of way. Plants may not grow so as to obstruct or encroach upon the curb or sidewalk, block sight lines to the street, be higher than 3 feet or potentially create a trip hazard on the sidewalk or roadway. The department of public works may issue additional planting guidelines.

3. LANDSCAPING EDGING. Decorative landscaping edging is permitted in the public right-of-way. It may not obstruct or encroach upon the curb or sidewalk, block sight lines to the street or potentially create a trip hazard on the sidewalk or roadway.

4. CITY LIABILITY. The city shall be held harmless from and against any damages to plantings permitted in this section occurring due to city operations or repairs including tree trimming, tree removal, stump removal, tree planting, utility repair and plowing or salting.

5. VIOLATIONS. If the department of public works determines that circumstances warrant, the property owner shall be notified and given 30 days to correct the violation. If the property owner does not remove the plant material within the 30 days, the department of public works will take corrective action and bill the owner following the procedures set forth in s. 11.28, city charter.

116-55. Overhanging Branches.

1. INTERFERENCE WITH TRAFFIC OR STREET LIGHTS. Branches of trees, shrubs, flowers or other vegetation shall not be permitted

to overhang streets, sidewalks and alleys at such a height as to interfere with vehicle or pedestrian traffic, or with the proper radiation of light from the Milwaukee municipal street lighting system. It shall be the duty of property owners to trim trees, shrubs, flowers or other vegetation to conform with this section upon due notice from the commissioner of public works.

2. INTERFERENCE WITH TRAFFIC CONTROL DEVICES. Branches of trees, shrubs, flowers or other vegetation shall not be permitted to overhang streets, sidewalks and alleys at such a height or in such a manner as to interfere with the visibility of official traffic control devices. Whenever trees or shrubs or the branches of trees or shrubs or other obstructions are found to block or interfere with the visibility of an official traffic control device, the provisions of s. 116-56 shall not apply. The commissioner of public works may take immediate action after he has received notification of such interference, to remove, trim or cause to have removed or trimmed the branches of such tree or shrub, flowers or other vegetation or to remove or to cause to have removed other obstructions irrespective of the ownership of the tree, shrub, flowers, other vegetation or other obstruction.

116-56. Special Assessment for Trimming. In the event of the failure of the owner of any property or premises in front of or on which trees, shrubs, flowers or other vegetation grow with branches hanging over the sidewalk, streets or alleys, and with a level less than that provided under s. 116-55 to trim his or her trees, shrubs, flowers or other vegetation in conformity thereto for a period of not less than 15 days after being notified, then the commissioner of public works may cause the branches of such trees, shrubs, flowers or other vegetation to be trimmed, as provided for in s. 116-55 and charge the cost of such work against the lots, parts of lots or parcels of land on or in front of which such trees, shrubs, flowers or other vegetation may grow, in the manner and following the procedures set forth in s. 11.28, city charter.

116-60. Fastening Horses to Shade Trees, Lamp Posts, etc. No person shall fasten any horse or any other animal to any ornamental or shade tree or lamp post in any street or other public place within the limits of said city, nor to any box or case around such tree, nor shall he cause or permit a horse or other animal to stand so that said horse or other animal can injure a tree in any such street or other public place,

under a penalty of not less than \$5 nor exceeding \$25 for each and every offense.

116-63. Electric Devices Near Trees. No person, corporation or association shall attach any electric insulators, or any device for the holding of electric wires, to any tree growing or planted upon any public highway of the city. Every person, corporation or association having any wire or wires charged with electricity running through a public highway shall securely fasten such wire or wires to a post or other structure so that they shall not come in contact with any tree thereon. Every such person, corporation or association shall, when and if the commissioner of public works determines it to be necessary in order to prune or cut down any trees growing in a public highway in the city, temporarily remove any such wire or wires, or cut off the electricity within 24 hours after service upon the owner of said wire or wires, or his or its agents, of a written notice signed by the commissioner of public works to remove said wire or wires, or cut off said electricity.

116-66. Examination of Trees. The commissioner of public works shall have the right to examine all trees, alive or dead, standing or fallen, and logwood piles for the purpose of determining whether same are contagiously diseased. Such examinations shall include the right to take samples from such trees and logwood piles for laboratory testing purposes. It is made the duty of the commissioner of public works to give notice to the owner or owners, or the agent of such owner or owners of land, in the city whereon there are situated any infested or diseased trees, or hazardous conditions existing, or cut elm wood, unless debarked or treated with a proper insecticide, declared by said commissioner to be a public nuisance under s. 116-53, and which are not maintained by the city as provided by law, to remove, prune or treat or cause same to be removed, pruned or treated within 30 days, excepting when said notice applies to the pruning or treating of elm trees, or other diseased or infested trees which shall be done within 10 days.

116-67. Removal, Pruning or Treatment of Trees. The commissioner of public works shall have the power and is authorized and instructed, after proper notification as referred to in s. 116-66, and noncompliance therewith, to cause

such trees, or cut elm wood, unless debarked and treated with a proper insecticide, which are deemed to be a nuisance under s. 116-53, to be removed, pruned or treated at the expense of the owner of the land whereon the same stand, and if such owner or his agent cannot be found in the city the commissioner of public works may cause such trees to be removed, pruned or treated at the expense of the owner of such land without notice.

116-68. Cost of Removal. 1. REPORT TO CITY COMPTROLLER. Except for the costs imposed for tree removal under ss.116-53 and 116-66, the commissioner of public works shall keep an account of all costs expended upon the work in front of each lot, part of lot or parcel of land, and make an annual report to the city comptroller, stating and certifying the description of the lots, parts of lots or parcels of land in front or rear of or upon which the work shall have been done, and the city comptroller shall, at the time of making his or her annual report to the common council of the lots or parcels of land subject to special tax or assessment, include therein the lots or parcels so reported to him or her by the commissioner of public works, with the aggregate amount chargeable thereto, according to the report, and the amounts shall be levied on the lots or parcels of land respectively to which they are so chargeable, in like manner as other special taxes are levied in the city.

2. REPORT TO CITY TREASURER. The commissioner of public works shall keep an account of all costs of tree removal, provided for under ss.116-53 and 116-66, that are expended upon the work in front of each lot, part of lot or parcel of land, and make an annual report to the city treasurer of the trees removed under ss.116-53 and 116-66 that includes the amounts that shall be levied as special assessments on the lots or parcels of land respectively to which they are so chargeable.

3. PAYMENT TERMS. The special assessment amounts for the cost of removal of trees, under ss.116-53 and 116-66, levied on the lots or parcels of land, respectively, to which they are so charged shall be paid under the following terms and conditions:

a. Except as provided for in par. b, the total amount for the cost imposed for the removal of trees shall be paid to the city treasurer within the time allowed for the payment of general property taxes.

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b. Property owners affected by the special assessment for the removal of trees, who waive in writing a public hearing notice as provided for by s. 66.703(7)(b), Wis. Stats. and have a total amount of the unpaid principal of the special assessment remaining over a sum of \$125, shall have the special assessment spread equally over the first and next succeeding 9 property tax rolls.

b-1. If the total amount of the bill remaining unpaid is less than \$125, the amount shall be placed on the first available tax roll.

b-2. In addition to the principal remaining, interest shall be added commencing the January 31 after the issuance of the property tax bill. The interest rate charged shall be set annually as of the last business day in June as an approximation of the prime rate plus 1%. For the purpose of this subdivision, the prime rate shall be defined as the Wall Street Journal prime rate which is published in the Wall Street Journal. The monthly rate of interest shall be computed by dividing the average prime rate plus 1% by 12 rounded to the nearest 100th percent. The city comptroller shall review the interest rate annually and shall notify the department of public works of the interest rate. The interest rate shall become effective as of the public hearing date in September at which annual assessment rate changes are submitted to the appropriate committee of the common council as provided in s. 115-43. The interest rate in effect at the time the charge is levied shall be fixed for the 10-year duration of the installment payments.

b-3. After being placed on the tax roll in annual installments or otherwise, the amounts of special assessments shall be paid within the time allowed for the payment of general property taxes. If the taxpayer fails to pay a special assessment within the time allowed for payment, it shall become delinquent and shall be treated in the same manner and subject to the same laws as a delinquent general property tax.

116-69. Interference with Work of Department. No person, corporation or association shall prevent, delay or interfere with employees of the department of public works in the planting, pruning, spraying or removing of a tree or trees or shrubs, living or dead, in that part of any street lying between the lot line and the curb or in the center or side plots of boulevards in the city, or from removing stone, cement, lumber or other substance placed about a tree or shrub in a highway in the city contrary to ss. 116-51, 116-52, 116-63 and 116-69.

116-70. Penalty. Any person violating any of the provisions of ss. 116-51, 116-52, 116-54, 116-63 and 116-69 shall, upon conviction, pay a penalty to the city of not less than \$10 nor more than \$25 for each and every offense. Each day in which any of the provisions of these sections are violated shall constitute a separate offense.

LEGISLATIVE HISTORY
CHAPTER 116

Abbreviations:

am = amended

cr = created

ra = renumbered and amended

rc = repealed and recreated

rn = renumbered

rp = repealed

<u>Section</u>	<u>Action</u>	<u>File</u>	<u>Passed</u>	<u>Effective</u>
Ch. 116	rn from ch. 6	881465	11/18/88	12/9/88
116-4	cr	130634	10/15/2013	11/1/2013
116-4-7	am	181756	5/7/2019	5/24/2019
116-5	cr	131140	12/17/2013	1/9/2014
116-6	rp	091371	5/25/2010	6/12/2010
116-6-2-d-4	cr	882456	4/25/89	5/13/89
116-8-1	rc	961536	2/11/97	2/28/97
116-8-1	am	081141	1/16/2009	2/5/2009
116-8-4	rc	882341	5/16/89	6/3/89
116-8-4	rc	010233	6/19/2001	6/30/2001
116-8-4	rc	081369	3/3/2009	3/20/2009
116-8-4-0	rc	121147	12/16/2014	1/20/2015
116-8-4-a	rc	121147	12/16/2014	1/20/2015
116-8-4-b	am	881930	3/7/89	3/25/89
116-8-4-b	am	121147	12/16/2014	1/20/2015
116-12-1	am	160858	11/22/2016	12/13/2016
116-12-2-0	am	912458	5/26/92	6/12/92
116-12-2	rn to 116-12-2-a	081116	11/26/2008	1/1/2009
116-12-2	rc	171057	11/28/2017	12/15/2017
116-12-2 and 3	am	890823	9/19/89	10/7/89
116-12-2-b	cr	081116	11/26/2008	1/1/2009
116-12-2-c	cr	081116	11/26/2008	1/1/2009
116-12-4	rp	160858	11/22/2016	12/13/2016
116-12-5	rp	160858	11/22/2016	12/13/2016
116-12-6	ra to 116-12-4	160858	11/22/2016	12/13/2016
116-19-1	am	890324	9/19/89	10/7/89
116-19-1	am	931079	11/9/93	11/30/93
116-19-1	am	980848	1/17/2007	2/3/2007
116-38	rp	031096	4/12/2005	4/29/2005
116-38-2	am	020234	6/4/2002	6/24/2002
116-38-2	am	020767	10/15/2002	11/1/2002
116-38-3-0	am	020234	6/4/2002	6/24/2002
116-38-3-0	am	020767	10/15/2002	11/1/2002
116-38-3-e	am	020234	6/4/2002	6/24/2002
116-38-3-g	am	020767	10/15/2002	11/1/2002
116-38-6	am	020767	10/15/2002	11/1/2002
116-38-7	am	020767	10/15/2002	11/1/2002
116-38-8	am	020767	10/15/2002	11/1/2002
116-39	cr	080195	7/30/2008	8/16/2008
116-54	rp	000615	9/22/2000	10/11/2000
116-54	cr	081117	3/3/2009	3/20/2009
116-54-1	am	090595	10/13/2009	10/30/2009
116-54-1	am	160535	12/13/2016	1/5/2017
116-54-2	am	090595	10/13/2009	10/30/2009
116-54-2	am	160535	12/13/2016	1/5/2017

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116-54-3	rn to	081573	5/5/2009	5/22/2009
	116-54-4			
116-54-3	cr	081573	5/5/2009	5/22/2009
116-54-3	am	090595	10/13/2009	10/30/2009
116-54-4	rn to	081573	5/5/2009	5/22/2009
	116-54-5			
116-55	am	090595	10/13/2009	10/30/2009
116-56	am	090595	10/13/2009	10/30/2009
116-56	am	171405	1/17/2018	2/3/2018
116-68	rc	120636	3/21/2013	4/10/2013
116-68-3-b-0	am	160996	12/13/2016	1/5/2017
116-68-3-b-2	am	160996	12/13/2016	1/5/2017
116-69	am	891613	12/19/89	1/13/90
116-69	am	951008	12/19/95	1/13/96

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**CHAPTER 118
MILWAUKEE HARBOR, RIVER AND BRIDGES**

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118-34	Harbor Master to Enforce State Statute Requirements		
118-35	Control of Vessel Traffic		
118-36	Use of Privately-Owned Docks		
118-38	Vessel Signals to Open Bridge, etc.		
118-39	Penalty, General		
118-40	Damage to Bridges		
118-41	Boats on Milwaukee River Above Dam		
118-47	Use of City Docking Facilities		
118-48	Opening of Bridges; Delays, Hours Closed		
118-49	Signaling Equipment on Bridges, etc.		
118-50	Bridgetender Signals to Vessels		
118-54	Bridgetender Signals; Day and Night		

118-1. Left Bank of the Milwaukee River. The dock and wharf line of the left bank of the Milwaukee River is hereby established as follows:

1. MILWAUKEE RIVER DAM TO N. MARSHALL STREET. Beginning at a point in the approximate center-line of the crest of the Milwaukee River dam, distant north 45 degrees, 40 minutes, 48 seconds west, 140.59 feet from a point on the west line of N. Warren Avenue extended northerly, said point being distant north 01 degree, 00 minutes, 22 seconds east 132.22 feet from the stone monument at the angle point in the west line of N. Warren Avenue, southerly of E. Boylston Street; running thence south 44 degrees, 37 minutes, 32 seconds west 139.27 feet to a point; running thence south 66 degrees, 14 minutes, 45 seconds west 104.03 feet to a point, being the northeasterly corner of the bulkhead protecting the outlet of the Milwaukee River flushing tunnel; running thence south 01 degree, 17 minutes, 10 seconds west 39.70 feet to a point distant north 72 degrees, 50 minutes, 28 seconds east 28.36 feet along the dock line from a point on the division line between lots 8 and 9 extended northerly, of block A. Partition of s.w. 1/4 of n.e. 1/4 section 21, township 7 north, range 22 east, said point being distant 340.00 feet northerly from the north line of E. Kane Place; running thence south 72 degrees, 50 minutes, 28 seconds west 283.74 feet to a point on the division line between lots 14 and 15, extended northerly, of said block A, said point being distant 263.00 feet northerly from the north

line of E. Kane Place; running thence south 86 degrees, 21 minutes, 50 seconds west 478.56 feet to a point on the division line between lots 26 and 27 of said block A, said point being distant 203.00 feet northerly from the northerly line of E. Kane Place; running thence south 83 degrees, 30 minutes, 21 seconds west 668.77 feet to a point on a line which is parallel to the division line between water lots 9 and 10, Hubbard and Pearson's addition, n.w. 1/4 section 21, township 7 north, range 22 east, said point being distant 150.00 feet from the southwest corner of said water lot 10; running thence south 64 degrees, 49 minutes, 30 seconds west 265.10 feet to a point on a line parallel to and distant 46.84 feet northeasterly from the northeasterly line of North Marshall Street, said point being distant 201.45 feet from the northwesterly line of N. Water Street; running thence south 49 degrees, 11 minutes, 12 seconds west 96.37 feet to a point on the southwesterly line of N. Marshall Street, distant 208.00 feet northwesterly from the northwesterly line of N. Water Street.

2. N. MARSHALL STREET TO E. OGDEN AVENUE. Beginning at a point on the southwesterly line of N. Marshall Street, distant 208.00 feet northwesterly from the northwesterly line of N. Water Street; running thence south 50 degrees, 29 minutes, 12 seconds west 260.02 feet to a point; running thence south 49 degrees, 03 minutes, 56 seconds west 354.76 feet to a point on the division line between water lots 33 and 34 of said Hubbard and Pearson's addition, said point being distant 256.06 feet northwesterly from the northwesterly line of N. Water Street; running thence 44 degrees, 02 minutes, 12 seconds west 388.67 feet to a point on a line which is parallel to and distant 88.59 feet southwesterly from the division line between water lots 39 and 40 of said Hubbard and Pearson's addition, said point being distant 248.18 feet northwesterly from the northwesterly line of N. Water Street; running thence south 45 degrees, 42 minutes, 51 seconds west 604.78 feet to a point on the north line of East Brady Street, said point being distant 357.00 feet from the northwesterly corner of N. Water Street and E. Brady Street; running thence south 45 degrees, 13 minutes, 06 seconds west 308.03 feet to a point on the division line between lots

10 and 11, block F, Hathaway's subdivision of w. 1/4 section 21, township 7 north, range 22 east, said point being distant 200.00 feet northwesterly from the northwesterly line of N. Water Street; running thence south 30 degrees, 43 minutes, 15 seconds west 602.45 feet to a point; running thence south 32 degrees, 13 minutes, 54 seconds west 227.56 feet to a point; running thence south 30 degrees, 43 minutes, 15 seconds west 200.00 feet to a point; running thence south 28 degrees, 21 minutes, 05 seconds west 145.12 feet to a point on the former northeasterly line of East Lyon Street, distant 160.00 feet northwesterly from the northwesterly line of N. Water Street; running thence south 53 degrees, 41 minutes, 07 seconds west 799.28 feet to a point on the northeasterly line of E. Ogden Avenue, distant 112.00 feet northwesterly from the northwesterly line of N. Water Street, extended southwesterly.

3. E. OGDEN AVENUE TO E. JUNEAU AVENUE. Beginning at a point on the northeasterly line of E. Ogden Avenue distant 112.00 feet northwesterly from the northwesterly line of N. Water Street, extended southwesterly; running thence south 55 degrees, 12 minutes, 45 seconds west 80.08 feet to a point on the southwesterly line of E. Ogden Avenue, distant 91.28 feet northwesterly from the westerly corner of N. Edison Street and East Ogden Avenue, running thence south 51 degrees, 55 minutes, 58 seconds west 58.00 feet to a point on a line which is parallel to and distant 15.08 feet northeasterly from the division line between lots 1 and 2, block 147, southeast fraction of section 20, township 7 north, range 22 east, said point being distant 100.74 feet northwesterly from the northwesterly line of N. Edison Street; running thence south 43 degrees, 39 minutes, 39 seconds west 117.75 feet to a point on a line parallel to and distant 18.13 feet northeasterly from the division line between lots 4 and 5 of said block 147, said point being distant 114.37 feet northwesterly from the northwesterly line of N. Edison Street; running thence south 37 degrees, 39 minutes, 44 seconds west 133.65 feet to a point on a line parallel to and distant 4.49 feet northeasterly from the division line between lots 7 and 8 of said block 147, said point being distant 115.89 feet northwesterly from the northwesterly line of N. Edison Street; running thence south 29 degrees, 39 minutes,

07 seconds west 247.19 feet to a point on the north line of E. Knapp Street, distant 105.00 feet from the northwest corner of N. Edison Street and E. Knapp Street; running thence south 19 degrees, 07 minutes, 52 seconds west 212.37 feet to a point on the division line between lots 3 and 4, block 154, southeast fraction of section 20, township 7 north, range 22 east, said point being distant 110.00 feet west of the west line of N. Edison Street; running thence south 00 degrees, 08 minutes, 28 seconds west 239.69 feet to a point on the north line of E. Juneau Avenue, distant 110.00 feet west of the west line of N. Edison Street.

4. E. JUNEAU AVENUE TO E. WELLS STREET. Beginning at a point on the north line of E. Juneau Avenue, distant 110.00 feet west of the west line of N. Edison Street; running thence south 05 degrees, 20 minutes, 30 seconds west 79.27 feet to a point on the former south line of E. Juneau Avenue, distant 100.00 feet west from the westerly line of N. Edison Street extended northerly; running thence south 02 degrees, 42 minutes, 34 seconds east 560.37 feet to a point on the south line of E. Highland Avenue, distant 115.86 feet westerly from the westerly line of Edison Street; running thence south 07 degrees, 08 minutes, 48 seconds east 282.37 feet to a point on the former north line of E. State Street, distant 117.50 feet westerly from the westerly line of N. Edison Street; running thence south 06 degrees, 18 minutes, 43 seconds east 141.62 feet to a point on the extended south line of State Street Bridge, distant 482.14 westerly from the former southwest corner of E. State and N. Water Street; running thence south 21 degrees, 09 minutes, 52 seconds east 628.11 feet to a point on a line parallel to and distant 24.46 feet northerly from the division line between lots 3 and 4, block 47, plat of Milwaukee, n.e. 1/4 section 29, township 7 north, range 22 east, said point being distant 139.35 feet westerly from the westerly line of N. Edison Street; running thence south 25 degrees, 57 minutes, 55 seconds east 264.58 feet to a point on the northerly line of E. Wells Street, distant 132.00 feet westerly from the westerly line of N. Edison Street.

5. E. WELLS STREET TO E. MICHIGAN STREET. Beginning at a point on the northerly line of E. Wells Street, distant 132.00

feet westerly from the westerly line of N. Edison Street; running thence south 52 degrees, 54 minutes, 52 seconds east 91.36 feet to a point on the south line of E. Wells Street, distant 246.00 feet westerly from the westerly line of N. Front Street, measured along the south line of E. Wells Street; running thence south 42 degrees, 39 minutes, 01 second east 32.00 feet to a point on the north line of E. Mason Street, distant 115.00 feet westerly from the northwest corner of N. Front Street and E. Mason Street; running thence south 19 degrees, 57 minutes, 18 seconds east 205.71 feet to a point on the division line between lots 2 and 3, block 2, plat of Milwaukee, n.e. 1/4 section 29, township 7 north, range 22 east, distant 189.91 feet westerly of the west line of N. Water Street; running thence south 19 degrees, 21 minutes, 36 seconds east 186.45 feet to a point on the division line between lots 5 and 6 of said block 2, distant 143.00 feet westerly from the west line of N. Water Street; running thence south 07 degrees, 39 minutes, 11 seconds east 60.15 feet to a point on the north line of E. Wisconsin Avenue, distant 140.00 feet westerly from the west line of N. Water Street; running thence south 13 degrees, 11 minutes, 20 seconds east 101.20 feet to a point on the south line of E. Wisconsin Avenue, distant 125.00 feet westerly from the west line of N. Water Street; running thence south 07 degrees, 44 minutes, 12 seconds east 60.09 feet to a point; running thence south 04 degrees, 51 minutes, 56 seconds east 299.00 feet to a point on the north line of E. Michigan Street, distant 122.00 feet westerly from the west line of N. Water Street.

6. E. MICHIGAN STREET TO N. WATER STREET. Beginning at a point on the north line of E. Michigan Street, distant 122.00 feet westerly from the west line of N. Water Street; running thence south 04 degrees, 08 minutes, 10 seconds east 80.00 feet to a point on the south line of E. Michigan Street, distant 123.00 feet westerly from the west line of N. Water Street; running thence south 04 degrees, 44 minutes, 25 seconds east 229.64 feet to a point; running thence south 01 degree, 26 minutes, 14 seconds west 129.85 feet to a point on the north line of E. Clybourn Street, distant 137.00 feet westerly from the west line of N. Water Street; running thence south 02 degrees, 26 minutes, 51 seconds west 522.91 feet to a

point on the former south line of E. St. Paul Avenue, distant 181.00 feet westerly from the former southwest corner of N. Water Street and E. St. Paul Avenue; running thence south 06 degrees, 19 minutes, 34 seconds west 411.94 feet to a point on the south line of E. Buffalo Street, distant 144.00 feet westerly from the west line of N. Water Street; running thence south 10 degrees, 40 minutes, 47 seconds west 457.21 feet to a point on the south line of E. Chicago Street, distant 144.00 feet westerly from the west line of N. Water Street; running thence south 08 degrees, 56 minutes, 57 seconds west 179.74 feet to a point on a line which is parallel to and distant 19.66 feet southerly from the northerly line of lot 5, block 33, plat of Milwaukee, s.e. 1/4, section 29, township 7 north, range 22 east, said point being distant 138.57 feet westerly from the west line on N. Water Street; running thence south 18 degrees, 23 minutes, 33 seconds east 157.71 feet to a point; running thence south 58 degrees, 30 minutes, 19 seconds east 107.16 feet to a point on the easterly line of N. Water Street, distant 126.50 feet southerly from the southerly line of E. Erie Street.

7. N. WATER STREET TO HARBOR ENTRANCE. Beginning at a point on the easterly line of N. Water Street, distant 126.50 feet southerly from the southerly line of E. Erie Street; running thence south 61 degrees, 11 minutes, 14 seconds east 631.04 feet to a point; running thence south 52 degrees, 15 minutes, 16 seconds east 297.68 feet to a point; running thence south 46 degrees, 20 minutes, 58 seconds east 780.18 feet to a point on the northwesterly line of N. Jefferson Street, distant 117.70 feet southwestly from the southwestly corner of N. Jefferson Street and E. Erie Street, running thence south 32 degrees, 39 minutes, 20 seconds east 1,022.65 feet to a point distant south 49 degrees, 51 minutes, 55 seconds west 184.09 feet from the former southeast corner of E. Erie Street and E. Pier Street; running thence south 31 degrees, 52 minutes, 47 seconds east 232.53 feet to a point distant south 87 degrees, 49 minutes, 41 seconds west 420.05 feet from United States monument 305; running thence south 65 degrees, 55 minutes, 30 seconds east 47.50 feet to a point distant south 84 degrees, 38 minutes, 31 seconds west 378.03 feet from United States monument 305; running thence

north 87 degrees, 14 minutes, 03 seconds east 111.33 feet to a point at the southwestly corner of the north pier of the harbor entrance distant south 83 degrees, 33 minutes, 38 seconds west 266.86 feet from the United States monument 305.

118-2. Milwaukee River (Right Bank of).

1. MILWAUKEE RIVER DAM TO E. WALNUT STREET. Beginning at a point on the westerly abutment in the approximate centerline of the crest of the Milwaukee River dam, distant south 45 degrees, 40 minutes, 48 seconds east 100.00 feet from the southeasterly line of N. Commerce street; running thence south 45 degrees, 02 minutes, 07 seconds west 149.72 feet to a point on the division line between canal lots 78 and 79 of plat of lots 2 and 3, northwest 1/4 section 21, township 7 north, range 22 east, said point being distant 115.00 feet southeasterly from the southeasterly line of N. Commerce street; running thence south 60 degrees, 34 minutes, 04 seconds west 222.90 feet to a point on the division line between canal lots 74 and 75 of said plat of lots 2 and 3, said point being distant 130.00 feet southeasterly from the southeasterly line of N. Commerce street; running thence south 79 degrees, 32 minutes, 23 seconds west 551.46 feet to a point on the division line between canal lots 64 and 65 of said plat of lots 2 and 3, said point being distant 191.00 feet southerly from the southerly line of N. Commerce street; running thence south 81 degrees, 22 minutes, 04 seconds west 273.03 feet to a point on the centerline of canal lot 59 of said plat of lots 2 and 3, said point being distant 187.00 feet southerly from the southeasterly line of N. Commerce street; running thence south 83 degrees, 36 minutes, 10 seconds west 212.93 feet to a point on a line parallel to and distant 4.95 feet easterly from the division line between canal lots 54 and 55 of said plat of lots 2 and 3, said distance being measured along the southeasterly line of N. Commerce street, said point being distant 151.23 feet southerly from the southeasterly line of N. Commerce street; running thence south 79 degrees, 55 minutes, 41 seconds west 86.23 feet to a point on a line parallel to and distant 22.79 feet westerly from the division line between canal lots 52 and 53 of said plat of lots 2 and 3, said point being distant

136.86 feet southeasterly from the southeasterly line of N. Commerce street, running thence south 73 degrees, 16 minutes, 05 seconds west 138.97 feet to a point on a line parallel to and distant 14.88 feet northeasterly from the division line between canal lots 48 and 49 of said plat of lots 2 and 3, said point being distant 128.03 feet southeasterly from the southeasterly line of N. Commerce street; running thence south 65 degrees, 15 minutes, 42 seconds west 101.99 feet to a point on a line parallel to and distant 12.91 feet northeasterly from the division line between lots 46 and 47 of said plat of lots 2 and 3, said point being distant 126.08 feet southeasterly from the southeasterly line of N. Commerce street; running thence south 61 degrees, 48 minutes, 43 seconds west 102.00 feet to a point on a line parallel to and distant 39.00 feet southwesterly from the division line between canal lots 45 and 46, said point being distant 130.26 feet southeasterly from the southeasterly line of N. Commerce street; running thence south 55 degrees, 04 minutes, 00 seconds west 79.01 feet to a point on a line which is parallel to and distant 33.76 feet southwesterly from the division line between canal lots 43 and 44 of said plat of lots 2 and 3, said point being distant 133.59 feet southeasterly from the southeasterly line of N. Commerce street; running thence south 51 degrees, 19 minutes, 07 seconds west 494.71 feet to a point on the division line between canal lots 32 and 33 of said plat of lots 2 and 3, distant 133.33 feet southeasterly from the southeasterly line of N. Commerce street; running thence south 44 degrees, 44 minutes, 04 seconds west 1002.46 feet to a point; running thence south 45 degrees, 55 minutes, 31 seconds west 297.15 feet to a point; running thence south 37 degrees, 21 minutes, 58 seconds west 257.40 feet to a point; running thence south 31 degrees, 47 minutes, 24 seconds west 472.53 feet to a point on the northeasterly line of E. Walnut street, distant 478.56 feet southeasterly from the easterly corner of N. Commerce street and E. Walnut street.

2. E. WALNUT STREET TO W. MCKINLEY AVENUE. Beginning at a point on the northeasterly line of E. Walnut street, distant

478.56 feet southeasterly from the easterly corner of N. Commerce street and E. Walnut street; running thence south 29 degrees, minutes, 10 seconds west 81.10 feet to a point on the southwesterly line of E. Walnut street, distant 120.00 feet southeasterly from the former southeasterly line of N. Cape street; running thence south 39 degrees, 32 minutes, 10 seconds west 864.64 feet to a point on the southerly line of lot 7, block 18; plat of the town of Milwaukee on the west side of the river, southeast 1/4, section 20, township 7 north, range 22 east, said point being distant 120.00 feet southeasterly from the former southeasterly line of N. Cape street; running thence south 58 degrees, 10 minutes, 27 seconds west 445.85 feet to a point; running thence north 66 degrees, 55 minutes, 38 seconds west 187.78 feet to a point; running thence south 23 degrees, 44 minutes, 48 seconds west 380.07 feet to a point; running thence south 23 degrees, 16 minutes, 48 seconds west 462.85 feet to a point on the northeasterly line of W. McKinley avenue distant 149.50 feet southeasterly from the southeasterly line of N. Commerce street.

3. W. MCKINLEY AVENUE TO W. HIGHLAND AVENUE. Beginning at a point on the northeasterly line of E. McKinley avenue distant 149.50 feet southeasterly from the southeasterly line of N. Commerce street; running thence south 24 degrees, 22 minutes, 27 seconds west 25.85 feet to a point on the south line of W. McKinley avenue, distant 161.00 feet easterly from the easterly line of N. Third street; running thence south 01 degree, 15 minutes, 43 seconds west 424.51 feet to a point on the north line of W. Juneau avenue distant 157.40 feet easterly from the east line of N. Third street; running thence south 01 degree, 44 minutes, 45 seconds east 80.09 feet to a point on the former south line of W. Juneau avenue, distant 161.00 feet easterly from the east line of N. Third street; running thence south 00 degrees, 54 minutes, 26 seconds west 421.94 feet to a point on the north line of W. Highland avenue distant 160.44 easterly from the east line of N. Third street; running thence south 03 degrees, 42 minutes, 56 seconds west 80.09 feet to a point on the south line of W. Highland avenue distant 156.41 feet easterly from the east line on N. Third street.

4. W. HIGHLAND AVENUE TO W. WELLS STREET. Beginning at a point on the south line of W. Highland avenue distant 156.41 feet easterly from the east line of N. Third street; running thence south 02 degrees, 06 minutes, 58 seconds west 200.14 feet to a point on the north line of the alley in block 48, plat of the town of Milwaukee on the west side of the river, northeast 1/4, section 29, township 7 north, range 22 east, said point being distant 152.00 feet easterly from the east line of N. Third street; running thence south 00 degrees, 59 minutes, 44 seconds west 286.40 feet to a point being 14.00 feet northerly from the south line of W. State street, distant 150.09 feet easterly from the east line of N. Third street; running thence south 24 degrees, 14 minutes, 27 seconds east 171.59 feet to a point; running thence south 26 degrees, 25 minutes, 21 seconds east 348.87 feet to a point; running thence south 32 degrees, 41 minutes, 38 seconds east 112.30 feet to a point on the north line of the north alley in block 57, plat of the town of Milwaukee on the west side of the river, and distant 119.00 feet northeasterly from the northeasterly line of N. Plankinton avenue; running thence south 35 degrees, 14 minutes, 55 seconds east, 140.73 feet to a point on the division line between lots 7 and 8 of said block 57, distant 126.58 feet northeasterly from the northeasterly line of N. Plankinton avenue; running thence south 34 degrees, 15 minutes, 10 seconds east 61.01 feet to a point on the south line of the south alley in said block 57 and distant 128.81 feet northeasterly from the northeasterly line of N. Plankinton avenue, running thence south 32 degrees, 41 minutes, 38 seconds east 240.90 feet to a point on the southeasterly line of W. Wells street, distant 131.00 feet northeasterly from the northeasterly line of N. Plankinton avenue.

5. W. WELLS STREET TO W. MICHIGAN STREET. Beginning at a point on the southeasterly line of W. Wells street, distant 131.00 feet northeasterly from the northeasterly line of N. Plankinton avenue; running thence south 32 degrees, 59 minutes, 44 seconds east 360.69 feet to a point on the southeasterly line of the southeasterly alley in block 58, plat of the town of Milwaukee on the west side of the river, northeast 1/4, section 29, township 7 north, range 22 east, and distant 136.00 feet northeasterly from the northeasterly line of N.

Plankinton avenue; running thence south 34 degrees, 40 minutes, 06 seconds east 255.02 feet to a point on the north line of W. Wisconsin avenue, distant 175.00 feet easterly from the northeast corner of N. Plankinton avenue and W. Wisconsin avenue; running thence south 18 degrees, 36 minutes, 46 seconds east 84.57 feet to a point on the south line of W. Wisconsin avenue, distant 168.00 feet easterly from the east line of N. Plankinton avenue; running thence south 00 degrees, 39 minutes, 59 seconds west 120.00 feet to a point; running thence south 02 degrees, 55 minutes, 46 seconds east 254.40 feet to a point; running thence south 04 degrees, 32 minutes, 20 seconds east 46.93 feet to a point on the north line of W. Michigan street, distant 189.53 feet easterly from the east line of N. Plankinton avenue.

6. W. MICHIGAN STREET TO MENOMONEE RIVER. Beginning at a point on the north line of W. Michigan street, distant 189.53 feet easterly from the east line of N. Plankinton avenue; running thence south 32 degrees, 36 minutes, 54 seconds east 95.34 feet to a point on the south line of W. Michigan street, distant 242.00 feet easterly from the east line of N. Plankinton avenue; running thence south 00 degrees, 46 minutes, 24 seconds west 420.88 feet to a point on the north line of W. Clybourn street, distant 242.00 feet easterly from the east line of N. Plankinton avenue; running thence south 28 degrees, 27 minutes, 23 seconds west 90.79 feet to a point on the south line of W. Clybourn street, distant 200.00 feet easterly from the east line of N. Plankinton avenue; running thence south 08 degrees, 43 minutes, 25 seconds west 506.69 feet to a point on the former south line of W. Fowler street, distant 128.00 feet easterly from the former southeast corner of N. Plankinton avenue and W. Fowler street; running thence south 15 degrees, 54 minutes, 43 seconds west 785.67 feet to a point being the intersection of the right bank of the Milwaukee River and the left bank of the Menomonee River, and distant 272.87 feet from a point on the easterly line of N. Plankinton avenue extended southwesterly, said point being 590.23 feet from the northeast corner of W. Buffalo street and N. Plankinton avenue; running thence south 05 degrees, 04 minutes, 51 seconds east 230.80 feet across the mouth of the Menomonee River to a point, said point

being the intersection of the right bank of the Milwaukee River and the right bank of the Menomonee River.

7. MENOMONEE RIVER TO E. PITTSBURGH AVENUE. Beginning at the intersection of the right bank of the Milwaukee River with the right bank of the Menomonee River, running thence south 00 degrees, 32 minutes, 11 seconds west 196.58 feet to a point; running thence south 24 degrees, 46 minutes, 09 seconds east 137.84 feet to a point; running thence north 89 degrees, 35 minutes, 04 seconds east 62.04 feet to a point; running thence south 01 degrees, 32 minutes, 04 seconds east 3.36 point to a point; running thence north 89 degrees, 35 minutes, 58 seconds east 124.44 feet to a point on the west line of S. Ferry street extended distant 145.58 feet northerly from the north line of E. Seeboth street; running thence north 82 degrees, 11 minutes, 19 seconds east 94.10 feet to a point; running thence south 58 degrees, 44 minutes, 27 seconds east 392.00 feet to a point; running thence south 55 degrees, 42 minutes, 09 seconds east 153.33 feet to a point; running thence south 55 degrees, 05 minutes, 47 seconds east 156.38 feet to a point on the northwesterly line of E. Pittsburgh avenue distant 113.74 feet northeasterly from the northeasterly line of S. Water street; running thence south 40 degrees, 46 minutes, 59 seconds east 80.01 feet to a point on the southeasterly line of E. Pittsburgh avenue, distant 113.04 feet northeasterly from the northeasterly line of S. Water street.

8. E. PITTSBURGH AVENUE TO E. BRUCE STREET. Beginning at a point on the southeasterly line of W. Pittsburgh avenue, distant 113.04 feet northeasterly from the northeasterly line of S. Water street, running thence south 39 degrees, 52 minutes, 17 seconds east 343.34 feet to a point on the northwesterly line of lot 1, block 64, subdivision of lots 3 and 5, northwest 1/4, section 33, township 7 north, range 22 east, and distant 141.68 feet northeasterly from the northeasterly line of S. Water street; running thence south 40 degrees, 11 minutes, 51 seconds east 348.31 feet to a point; running thence south 76 degrees, 00 minutes, 00 seconds east 11.97 feet to a point; running thence south 40 degrees, 11 minutes, 51 seconds east 96.25 feet to a point on the former southeasterly line of lot 9 in said block 64, and distant 210.97 feet northeasterly

from the northeasterly line of S. Water street; running thence south 35 degrees, 46 minutes, 04 seconds east 114.90 feet to a point; running thence south 30 degrees, 19 minutes, 42 seconds east 74.46 feet to a point on a line which is parallel to and distant 58.10 feet southeasterly from the southeasterly line of lot 2, block 65, subdivision of lots 3 and 5, northwest 1/4, section 33, township 7 north, range 22 east, said point being distant 215.33 feet northeasterly from the northeasterly line of S. Water street; running thence south 31 degrees, 13 minutes, 40 seconds east 653.81 feet to a point on a line parallel to and distant 5.68 feet northwesterly from the northwesterly line of lot 6, block 66, of said subdivision of lots 3 and 5, said point being distant 203.03 feet northeasterly from the northeasterly line of S. Water street; running thence south 12 degrees, 38 minutes, 40 seconds east 256.02 feet to a point on the northerly line of E. Bruce street, distant 121.30 feet from the northeast corner of S. Water street and E. Bruce street.

118-3. Kinnickinnic River (Left Bank of). 1.

The dock and wharf line of the left bank of the Kinnickinnic River in the vicinity of E. Greenfield avenue is established as follows: Beginning at a point in the dock and wharf line, being distant 1603.32 feet easterly along the township line from the northwest corner of section 4, township 6 north, range 22 east and 68.76 feet northerly at right angles to the township line; running thence north 8 degrees, 19 minutes, 55 seconds west 202.01 feet to a point; running thence north 35 degrees, 27 minutes, 20 seconds west 154.06 feet to a point, said point being station number 20 of the government survey of 1906.

2. Commencing at the northwest corner of the northwest 1/4 of section 4, township 6 north, range 22 east; running thence north 89 degrees, 56 minutes, 29 seconds east 405.45 feet along the north line of said 1/4 section to a point; running thence south 00 degrees, 46 minutes, 58 seconds west 16.00 feet to a point; running thence north 89 degrees, 56 minutes, 29 seconds east 1164.53 feet to the point of beginning of bulkhead line being described; running thence south 21 degrees, 32 minutes, 49 seconds west 825.49 feet along the bulkhead line to its terminus.

118-3.2. Kinnickinnic River (Westerly and Northwestern Dock Line of). Commencing at station A of the westerly dock line of the Kinnickinnic river, being station number 22 of the westerly dock line of the Milwaukee river, being also a point distant 1604.32 feet easterly along township line from the northwest corner of northwest 1/4, section 4, township 6 north, range 22 east, and 68.78 feet northerly at right angles to township line; running thence southwesterly 1296.16 feet to a point which is the intersection of the center line of the Chicago and Northwestern Railway Co. right of way with the former dock line between stations C and D as created by subdivision C of ordinance file number 8011, passed December 21, 1914; thence south 20 degrees, 52 minutes, 35 seconds west 1802.33 feet to station D; thence south 44 degrees, 54 minutes, 37 seconds west, 85.78 feet to station east; thence south 61 degrees, 05 minutes, 0 seconds west, 360.00 feet to station F, being a point on the easterly line of S. Kinnickinnic avenue; thence south 68 degrees, 28 minutes, 50 seconds west, 125.82 feet to station G, being a point on the east line of the right of way of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company; thence north 85 degrees, 18 minutes, 08 seconds west, 591.33 feet to station H, being a point on the east line of S. First street; thence north 88 degrees, 45 minutes, 21 seconds west, 76 feet to station I, being a point on the west line of S. First street; thence south 81 degrees, 29 minutes, 26 seconds west, 800 feet to station J; thence south 1 degree, 19 seconds west, 1114.02 feet to station K; thence south 31 degrees, 45 minutes, 18 seconds east, 1379.45 feet to station L; thence south 00 degrees, 49 minutes, 16 seconds west, 898.56 feet to station M, being a point 1208 feet south of the center line of W. Lincoln avenue or the south line of the southeast 1/4 of section 5, township 6 north, range 22 east.

118-4. Kinnickinnic River (Right Bank of). The dock and wharf line of the right bank of the Kinnickinnic River is established as follows:

1. W. BECHER STREET TO S. FIRST STREET. Beginning at a point on the right bank of the Kinnickinnic River in the former north line of W. Becher street south 89 degrees, 42 minutes, 19 seconds west, 665.70 feet from

the northeast corner of S. First and E. Becher streets; running thence north 00 degrees, 29 minutes, 47 seconds west, 448.54 feet to a point; running thence north 81 degrees, 20 minutes, 06 seconds east, 609.85 feet to a point on the west line of S. First street; running thence south 89 degrees, 00 minutes, 20 seconds east, 76.00 feet to a point on the east line of S. First street distant north 00 degrees, 59 minutes, 40 seconds east, 535.74 feet from the northeast corner of S. First and E. Becher streets.

2. S. FIRST STREET TO S. KINNICKINNIC AVENUE. Beginning at a point in the east line of S. First street distant north 00 degrees, 59 minutes, 40 seconds east, 535.74 feet from the northeast corner of S. First and E. Becher streets; running thence south 79 degrees, 31 minutes, 09 seconds east, 558.39 feet to a point on the west line of section 4, township 6 north, range 22 east; distant south 00 degrees, 53 minutes, 55 seconds west, 865.23 feet from the northwest corner of the southwest 1/4 of said section 4; continuing thence south 79 degrees, 31 minutes, 09 seconds east, 80.48 feet to a point; running thence north 50 degrees, 52 minutes, 58 seconds east, 132.37 feet to a point on the westerly line of S. Kinnickinnic avenue, distant north 21 degrees, 28 minutes, 30 seconds west, 227.54 feet from an angle point in the westerly line of S. Kinnickinnic avenue near E. Stewart street.

3. S. KINNICKINNIC AVENUE TO CHICAGO AND NORTHWESTERN RAILWAY. Beginning at a point on the westerly line of S. Kinnickinnic Avenue, distant north 21 degrees, 18 minutes, 30 seconds west 227.54 feet from an angle point in the westerly line of S. Kinnickinnic avenue near E. Stewart street; running north 45 degrees, 54 minutes, 44 seconds east 71.50 feet to a point in the easterly line of S. Kinnickinnic avenue; running thence north 56 degrees, 15 minutes, 03 seconds east 544.73 feet to a point; running thence north 28 degrees, 57 minutes, 26 seconds east 81.75 feet to a point; running thence north 26 degrees, 00 minutes, 40 seconds east 410.77 feet to a point on the south line of the northwest 1/4 section 4, township 6 north, range 22 east, distant south 89 degrees, 47 minutes, 45 seconds east 892.27 feet along the south line of the northwest 1/4 of said section 4 from the southwest corner of the

northwest 1/4 of said section 4; running thence north 17 degrees, 01 minute, 35 seconds east 86.71 feet to a point; running thence north 20 degrees, 45 minutes, 27 seconds east 1150.06 feet to a point on the center line of the Chicago and Northwestern Railway Company's northbound main, distant north 39 degrees, 07 minutes, 14 seconds west 2070.82 feet from the east line of the southwest 1/4 of section 4.

4. CHICAGO AND NORTHWESTERN RAILWAY TO TOWN LINE. Beginning at a point in the center line of the Chicago and Northwestern Railway Company's northbound main, distant north 39 degrees, 07 minutes, 14 seconds west 2070.82 feet from the east line of the southwest 1/4 of section 4, township 6 north, range 22 east; running thence north 39 degrees, 07 minutes, 14 seconds west 1.71 feet to a point in the Chicago and Northwestern Railway Company's right-of-way; running thence north 20 degrees, 44 minutes, 47 seconds east 611.41 feet to a point; running thence north 32 degrees, 34 minutes, 35 seconds east 795.30 feet to a point; running thence north 89 degrees, 56 minutes, 29 seconds east 232.00 feet to a point; running thence north 23 degrees, 57 minutes, 37 seconds west 105.01 feet to a point on the town line (section line) north line of section 4, distant north 89 degrees, 56 minutes, 29 seconds east 2124.27 feet from the northwest corner of section 4.

5. TOWN LINE TO HARBOR ENTRANCE. Beginning at a point on the town line distant north 89 degrees, 56 minutes, 29 seconds east 2124.27 feet from the northwest corner of section 4; running thence north 23 degrees, 57 minutes, 37 seconds west 1870.26 feet to a point; running thence to the right along a curve having a radius of 184.94 feet for an arc distance of 191.81 feet to a point; running thence north 35 degrees, 27 minutes, 51 seconds east 721.97 feet to a point; running thence to the right along a curve having a radius of 297.09 feet for an arc distance of 231.86 feet to a point in the harbor entrance.

118-5. Left Bank of the Menomonee River. The bulkhead line of the left bank of the Menomonee River is established as follows:

1. W. CANAL STREET TO N. 25TH STREET. Beginning at a point on the section line between sections 30 and 31, township 7 north,

range 22 east, said point being distant south 89 degrees, 53 minutes, 47 seconds east 75.44 feet from the southwest corner of said section 30; running thence north 16 degrees, 37 minutes, 28 seconds east 292.77 feet to a point; running thence north 64 degrees, 59 minutes, 36 seconds east 351.27 feet to a point distant north 00 degrees, 13 minutes, 05 seconds east 429.75 feet from a point on the south line of the aforementioned section 30, said point being distant south 89 degrees, 53 minutes, 47 seconds east 475.91 feet from the southwest corner of said section 30; running thence north 77 degrees, 14 minutes, 36 seconds east 230.25 feet to a point distant north 00 degrees, 13 minutes, 05 seconds east 481.00 feet from a point on the south line of the aforementioned section 30, said point being distant south 89 degrees, 53 minutes, 47 seconds east 700.28 feet from the southwest corner of said section 30.

2. N. 25TH STREET TO N. MUSKEGO AVENUE. Beginning at a point distant north 00 degrees, 13 minutes, 05 seconds east 481.00 feet from a point on the south line of section 30, township 7 north, range 22 east, said point being distant south 89 degrees, 53 minutes, 47 seconds east 700.28 feet from the southwest corner of said section 30; running thence north 83 degrees, 29 minutes, 59 seconds east 799.99 feet to a point distant north 00 degrees, 13 minutes, 05 seconds east 537.00 feet from a point on the south line of the aforementioned section 30, said point being distant north 89 degrees, 53 minutes, 47 seconds west 1,145.20 feet from the southeast corner of the southwest 1/4 of said section 30; running thence south 89 degrees, 53 minutes, 47 seconds east 1,145.20 feet to a point on the 1/4 line of said section 30; continuing thence south 89 degrees, 53 minutes, 47 seconds east 1,354.72 feet to a point distant north 00 degrees, 13 minutes, 56 seconds east 573.00 feet from a point on the south line of the aforementioned section 30, said point being distant north 89 degrees, 53 minutes, 47 seconds west 1,283.75 feet from the southeast corner of said Section 30; running thence south 89 degrees, 42 minutes, 10 seconds east 984.53 feet to a point; running thence south 44 degrees,

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42 minutes, 09 seconds east 38.18 feet to a point on the northwesterly line of N. Muskego avenue distant south 33 degrees, 01 minute, 56 seconds west 366.37 feet along the northwesterly line of said street from the angle point near W. Mt. Vernon avenue.

3. N. MUSKEGO AVENUE TO N. 6TH STREET. Beginning at a point on the northwesterly line of N. Muskego avenue distant south 33 degrees, 01 minute, 56 seconds west 366.37 feet along the northwesterly line of said street from the angle point near W. Mount Vernon avenue; running thence south 33 degrees, 01 minute, 56 seconds west 94.85 feet along the northwesterly line of N. Muskego Avenue to a point; running thence south 71 degrees, 23 minutes, 27 seconds east 365.03 feet to a point distant north 00 degrees, 13 minutes, 56 seconds east 347.21 feet from a point on the south line of section 29, township 7 north, range 22 east, said point being distant south 89 degrees, 38 minutes, 08 seconds east 22.77 feet from the southwest corner of said section 29; running thence south 89 degrees, 38 minutes, 08 seconds east 1,612.14 feet to a point distant north 00 degrees, 13 minutes, 56 seconds east 347.21 feet from a point on the south line of the aforementioned section 29, said point being distant north 89 degrees, 38 minutes, 08 seconds west 1,004.02 feet from the southeast corner of the southwest 1/4 of said section 29; running thence north 69 degrees, 28 minutes, 48 seconds east 347.33 feet to a point; running thence north 00 degrees, 13 minutes, 56 seconds east 308.00 feet to a point distant south 00 degrees, 10 minutes, 19 seconds west 183.01 feet from a point on the centerline of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company's right-of-way, said point being distant north 89 degrees, 43 minutes, 31 seconds west 678.40 feet along said centerline of right-of-way from a point on the 1/4 line of the aforementioned section 29 and distant north 00 degrees, 10 minutes, 19 seconds east 963.10 feet from the southeast corner of the southwest 1/4 of said section 29; running thence south 87 degrees, 04 minutes, 45 seconds east 86.50 feet to a point; running thence north 79 degrees, 23 minutes, 08 seconds east 52.94 feet to a point; running thence south 86 degrees, 34 minutes, 24 seconds east 540.87 feet to a point on the 1/4 line of the aforementioned section 29, said point being distant north 00 degrees, 10 minutes, 19 seconds east 756.36 feet from the southwest corner of the southeast 1/4 of said section 29.

4. N. 6TH STREET TO THE MILWAUKEE RIVER. Beginning at a point on the 1/4 line of section 29, township 7 north, range 22 east distant north 00 degrees, 10 minutes, 19 seconds east 756.36 feet from the southwest corner of the southeast 1/4 said section 29; running thence south 87 degrees, 02 minutes, 42 seconds east 840.99 feet to a point; running thence south 89 degrees, 02 minutes, 02 seconds east 288.83 feet to a point; running thence south 66 degrees, 31 minutes, 29 seconds east 405.68 feet to a point on the northwesterly line of N. Plankinton avenue distant south 23 degrees, 29 minutes, 28 seconds west 254.92 feet from the angle point on the northwesterly line of said street, said angle point being south 27 degrees, 34 minutes, 37 seconds west 441.00 feet from the southwest corner of W. St. Paul avenue and N. Plankinton avenue; running thence south 62 degrees, 25 minutes, 33 seconds east 316.92 feet to a point; running thence north 62 degrees, 39 minutes, 25 seconds east 30.95 feet to a point being the intersection of the right bank of the Milwaukee River and the left bank of the Menomonee River distant south 62 degrees, 25 minutes, 23 seconds east 272.87 feet from a point on the southeasterly line of N. Plankinton avenue extended, said point being distant south 27 degrees, 34 minutes, 37 seconds west 590.23 feet from the northeast corner of W. Buffalo street and N. Plankinton avenue.

118-5.1 Left Bank of the South Menomonee Canal. The bulkhead line of the left bank of the South Menomonee Canal is established as follows:

1. EASTERLY TO S. 6TH STREET. Beginning at the northwest corner of the South Menomonee Canal distant north 89 degrees, 53 minutes, 47 seconds west 167.22 feet from a point on the section line between section 31 and 32, township 7 north, range 22 east, said point being distant south 00 degrees, 11 minutes, 01 second west 1,057.00 feet from the northeast corner of said section 31; running thence south 89 degrees, 53 minutes, 47 seconds east 167.22 feet to a point on the east line of the aforementioned section 31; running thence south 89 degrees, 38 minutes, 08 seconds east 562.25 feet to a point; running thence south 00 degrees, 11 minutes, 01 second west 3.00 feet to a point; running thence south 89 degrees, 38 minutes, 08 seconds east 579.69 feet to a point; running thence north 00 degrees, 11 minutes, 01 second

east 3.00 feet to a point; running thence south 89 degrees, 38 minutes, 08 seconds east 50.00 feet to a point distant south 89 degrees, 38 minutes, 08 seconds east 1,191.94 feet from a point on the west line of the aforementioned section 32, said point being distant south 00 degrees, 11 minutes, 01 second west 1,057.00 feet from the northwest corner of said section 32; running thence north 83 degrees, 26 minutes, 32 seconds east 679.84 feet to a point; running thence north 82 degrees, 32 minutes, 23 seconds east 203.64 feet to a point distant south 00 degrees, 13 minutes, 42 seconds west 947.34 feet from a point on the north line of the aforementioned section 32, said point being distant north 89 degrees, 38 minutes, 08 seconds west 569.29 feet from the northeast corner of the northwest 1/4 of section 32; running thence north 56 degrees, 01 minute, 42 seconds east 292.75 feet to a point distant south 00 degrees, 13 minutes, 43 seconds west 782.22 feet from a point on the north line of the aforementioned section 32, said point being distant north 89 degrees, 38 minutes, 08 seconds west 327.16 feet from the northeast corner of the northwest 1/4 of said section 32; running thence north 55 degrees, 08 minutes, 43 seconds east 280.24 feet to a point; running thence north 74 degrees, 03 minutes, 24 seconds east 101.87 feet to a point on the east line of the northwest 1/4 of the aforementioned section 32 distant south 00 degrees, 13 minutes, 42 seconds west 592.00 feet from the northeast corner of the northwest 1/4 of said section 32.

2. EASTERLY FROM S. 6TH STREET. Beginning at a point on the left bank of the South Menomonee Canal and on the east line of the northwest 1/4 of section 32, township 7 north, range 22 east, said point being distant south 00 degrees, 13 minutes, 42 seconds west 592.00 feet from the northeast corner of the northwest 1/4 of said section 32; running thence north 74 degrees, 03 minutes, 24 seconds east 37.48 feet to a point on the east line of S. 6th Street distant south 89 degrees, 46 minutes, 18 seconds east 36.00 feet from a point on the west line of the northeast 1/4 of the aforementioned section 32, said point being distant south 00 degrees, 13 minutes, 42 seconds west 581.56 feet from the northwest corner of the northeast 1/4 of said section 32; running thence north 00 degrees, 13 minutes, 42 seconds east 31.22 feet along the east line of S. 6th Street to a point; running thence north 74 degrees, 01 minute, 00

seconds east 548.26 feet to a point; running thence north 35 degrees, 26 minutes, 15 seconds east 238.89 feet to a point; running thence north 00 degrees, 10 minutes, 19 seconds east 201.70 feet to a point on the north line of the aforementioned section 32, distant south 89 degrees, 44 minutes, 25 seconds east 700.00 feet from the northwest corner of the northeast 1/4 of said section 32; continuing thence north 00 degrees, 10 minutes, 19 seconds east 580.00 feet to a point being the intersection of the left bank of the South Menomonee Canal and the right bank of the Menomonee River.

118-5.2. Left Bank of the Burnham Canal. The bulkhead line of the left bank of the Burnham Canal is established as follows: Beginning at the northwest corner of the Burnham Canal distant north 89 degrees, 29 minutes, 41 seconds west 788.81 feet from a point on the section line between section 31 and 32, township 7 north, range 22 east, said point being distant south 00 degrees, 11 minutes, 01 second west 1,745.50 feet from the northeast corner of said section 31; running thence south 89 degrees, 29 minutes, 41 seconds east 788.81 feet to a point on the section line between the aforementioned sections 31 and 32; continuing thence south 89 degrees, 29 minutes, 41 seconds east 1,423.85 feet to a point; running thence north 34 degrees, 24 minutes, 34 seconds east 698.61 feet to a point distant south 00 degrees, 16 minutes, 16 seconds west 1,170.13 feet to a point on the north line of the aforementioned section 32, said point being distant north 89 degrees, 38 minutes, 08 seconds west 820.38 feet from the northeast corner of the northwest 1/4 of said section 32; running thence north 00 degrees, 16 minutes, 16 seconds east 48.00 feet to a point being the intersection of the left bank of the Burnham Canal and the right bank of the South Menomonee Canal.

118-6. Right Bank of the Menomonee River. The bulkhead line of the right bank of the Menomonee River is established as follows:

1. W. CANAL STREET TO N. 25TH STREET. Beginning at a point on the section line between sections 30 and 31, township 7 north, range 22 east, said point being distant south 89 degrees, 53 minutes, 47 seconds east 221.47 feet from the southwest corner of said section 30; running thence north 16 degrees, 37

minutes, 28 seconds east 188.37 feet to a point; running thence north 64 degrees, 59 minutes, 36 seconds east 273.37 feet to a point distant north 00 degrees, 13 minutes, 05 seconds east 296.61 feet from a point on the south line of the aforementioned section 30, said point being distant south 89 degrees, 53 minutes, 47 seconds east 521.98 feet from the southwest corner of said section 30; running thence north 77 degrees, 14 minutes, 36 seconds east 226.44 feet to a point distant north 00 degrees, 13 minutes, 05 seconds east 347.01 feet from a point on the south line of the aforementioned section 30, said point being distant south 89 degrees, 53 minutes, 47 seconds east 742.64 feet from the southwest corner of said section 30.

2. N. 25TH STREET TO N. 13TH STREET. Beginning at a point distant north 00 degrees, 13 minutes, 05 seconds east 347.01 feet from a point on the south line of section 30, township 7 north, range 22 east, said point being distant south 89 degrees, 53 minutes, 47 seconds east 742.64 feet from the southwest corner of said section 30; running thence north 83 degrees, 29 minutes, 46 seconds east 747.38 feet to a point distant north 00 degrees, 13 minutes, 05 seconds east 433.00 feet from a point on the south line of the aforementioned section 30, said point being distant north 89 degrees, 53 minutes, 47 seconds west 1,155.10 feet from the southeast corner of the southwest 1/4 of said section 30; running thence south 89 degrees, 53 minutes, 47 seconds east 1,155.10 feet to a point on the 1/4 line of said section 30; continuing thence south 89 degrees, 53 minutes, 47 seconds east 1,375.59 feet to a point distant north 00 degrees, 13 minutes, 05 seconds east 433.00 feet from a point on the south line of the aforementioned section 30, said point being distant 89 degrees, 53 minutes, 47 seconds east 1,375.59 feet from the southwest corner of the southeast 1/4 of said section 30; running thence south 87 degrees, 09 minutes, 01 second east 686.82 feet to a point distant north 00 degrees, 13 minutes, 56 seconds east 400.09 feet from a point on the south line of the aforementioned section 30, said point being distant north 89 degrees, 53 minutes, 47 seconds west 576.74 feet from the southeast corner of said section 30; running thence south 71 degrees, 23 minutes, 27 seconds east 607.73 feet to a point

on the east line of the aforementioned section 30, distant north 00 degrees, 13 minutes, 56 seconds east 207.20 feet from the southeast corner of said section 30.

3. N. 13TH STREET TO N. 6TH STREET. Beginning at a point on the west line of section 29, township 7 north, range 22 east distant north 00 degrees, 13 minutes, 56 seconds east 207.20 feet from the southwest corner of said section 29; running thence south 89 degrees, 38 minutes, 08 seconds east 1,660.41 feet to a point distant north 00 degrees, 13 minutes, 56 seconds east 207.20 feet from a point on the south line of the aforementioned section 29, said point being distant north 89 degrees, 38 minutes, 08 seconds west 978.53 feet from the southeast corner of the southwest 1/4 of said section 29; running thence north 69 degrees, 28 minutes, 51 seconds east 696.04 feet to a point; running thence north 69 degrees, 28 minutes, 42 seconds east 106.90 feet to a point distant north 00 degrees, 10 minutes, 19 seconds east 493.43 feet from the south line of the aforementioned section 29, said point being distant north 89 degrees, 38 minutes, 08 seconds west 227.16 from the southeast corner of the southwest 1/4 of said section 29; running thence north 69 degrees, 28 minutes, 43 seconds east 242.82 feet to a point on the 1/4 line of the aforementioned section 29, said point being distant north 00 degrees, 10 minutes, 19 seconds east 580.00 feet from the southwest corner of the southeast 1/4 of said section 29.

4. N. 6TH STREET TO THE MILWAUKEE RIVER. Beginning at a point on the 3 line of section 29, township 7 north, range 22 east distant north 00 degrees, 10 minutes, 19 seconds east 580.00 feet from the southwest corner of the southeast 3 of said section 29; running thence south 89 degrees, 44 minutes, 25 seconds east 700.00 feet to a point being the intersection of the right bank of the Menomonee River and the left bank of the South Menomonee Canal; running thence south 68 degrees, 24 minutes, 50 seconds east 320.62 feet across the mouth of the South Menomonee Canal to a point being the intersection of the right bank of the Menomonee River and the right bank of the South Menomonee Canal; running thence south 80 degrees, 27 minutes, 01 seconds east 470.57 feet to a point on the west line of South 2nd Street distant north 00 degrees, 17 minutes, 00

seconds east 387.43 feet from a point on the south line of the aforementioned section 29, said point being distant south 89 degrees, 44 minutes, 25 seconds east 1462.01 feet from the southwest corner of the southeast 3 of the said section 29; running thence south 61 degrees, 52 minutes, 45 seconds east 294.99 feet to a point; running thence north 76 degrees, 06 minutes, 29 seconds east 8.66 feet to a point, running thence south 61 degrees, 52 minutes, 51 seconds east 100.25 feet to a point; running thence south 33 degrees, 02 minutes, 22 seconds east 31.02 feet to a point being the intersection of the right bank of the Menomonee River and the right bank of the Milwaukee River.

118-6.1 Right Bank of the South Menomonee Canal. The bulkhead line of the right bank of the South Menomonee Canal is established as follows:

1. EASTERLY TO S. 6TH STREET. Beginning at the southwest corner of the South Menomonee Canal distant north 89 degrees, 53 minutes, 47 seconds west 167.22 feet from a point on the section line between sections 31 and 32, township 7 north, range 22 east, said point being distant south 00 degrees, 11 minutes, 01 second west 1,197.00 feet from the northeast corner of said section 31; running thence south 89 degrees, 53 minutes, 47 seconds east 167.22 feet to a point on the east line of the aforementioned section 31; running thence south 89 degrees, 38 minutes, 08 seconds east 1,199.92 feet to a point; running thence north 83 degrees, 26 minutes, 32 seconds east 621.22 feet to a point being the intersection of the right bank of the South Menomonee Canal and the left bank of the Burnham Canal distant south 00 degrees, 16 minutes, 16 seconds west 1,122.13 feet from a point on the north line of the aforementioned section 32, said point being distant north 89 degrees, 38 minutes, 08 seconds west 820.38 feet from the northeast corner of the northwest 1/4 of said section 32; running thence south 64 degrees, 31 minutes, 34 seconds east 169.06 feet across the mouth of the Burnham Canal to a point being the intersection of the right bank of the South Menomonee Canal and the right bank of the Burnham Canal; running thence north 49 degrees, 35 minutes, 03 seconds east 82.83 feet to a point distant south 00 degrees, 13 minutes, 42 seconds west 1,139.77 feet from a point on the north line of the aforementioned section 32, said point being distant north 89 degrees, 38

minutes, 08 seconds west 605.45 feet from the northeast corner of the northwest 1/4 of said section 32; running thence north 56 degrees, 11 minutes, 34 seconds east 432.94 feet to a point distant south 00 degrees, 13 minutes, 42 seconds west 896.60 feet from a point on the north line of the aforementioned section 32, said point being distant north 89 degrees, 38 minutes, 08 seconds west 246.68 feet from the northeast corner of the northwest 1/4 of said section 32; running thence north 55 degrees, 10 minutes, 35 seconds east 257.36 feet to a point on the west line of S. 6th Street; running thence north 74 degrees, 03 minutes, 24 seconds east 37.48 feet to a point on the east line of the northwest 1/4 of the aforementioned section 32 distant south 00 degrees, 13 minutes, 42 seconds west 737.77 feet from the northeast corner of the northwest 1/4 of said section 32.

2. EASTERLY FROM S. 6TH STREET. Beginning at a point on the right bank of the South Menomonee Canal and on the east line of the northwest 1/4 of section 32, township 7 north, range 22 east, said point being distant south 00 degrees, 13 minutes, 42 seconds west 737.77 feet from the northeast corner of the northwest 1/4 of said section 32; running thence north 74 degrees, 03 minutes, 24 seconds east 37.48 feet to a point on the east line of S. 6th Street distant south 89 degrees, 46 minutes, 18 seconds east 36.00 feet from a point on the west line of the northeast 1/4 of the aforementioned section 32, said point being distant south 00 degrees, 13 minutes, 42 seconds west 727.33 feet from the northwest corner of the northeast 1/4 of said section 32; running thence south 00 degrees, 13 minutes, 42 seconds west 26.03 feet along the east line of S. 6th Street to a point; running thence south 74 degrees, 01 minute, 00 seconds east 837.83 feet to a point; running thence north 00 degrees, 10 minutes, 19 seconds east 518.99 feet to a point on the northline of the aforementioned section 32, distant south 89 degrees, 44 minutes, 25 seconds east 840.00 feet from the northwest corner of the northeast 1/4 of said section 32; continuing thence north 00 degrees, 10 minutes, 19 seconds east 317.18 feet to a point; running thence north 30 degrees, 11 minutes, 15 seconds east 91.01 feet to a point; running thence north 59 degrees, 26 minutes, 00 seconds east 131.42 feet to a point being the intersection of the right bank of the South Menomonee Canal and the right bank of the Menomonee River.

118-6.2. Right Bank of the Burnham Canal.

The bulkhead line of the right bank of the Burnham Canal is established as follows: Beginning at the southwest corner of the Burnham Canal distant north 89 degrees, 29 minutes, 41 seconds west 825.69 feet from a point on the section line between sections 31 and 32, township 7 north, range 22 east, said point being distant south 00 degrees, 11 minutes, 01 second west 1,875.50 feet from the northeast corner of said section 31; running thence south 89 degrees, 29 minutes, 41 seconds east 825.69 feet to a point on the section line between the aforementioned section 31 and 32; continuing thence south 89 degrees, 29 minutes, 41 seconds east 1,468.05 feet to a point; running thence north 63 degrees, 33 minutes, 42 seconds east 62.17 feet to a point; running thence north 34 degrees, 24 minutes, 30 seconds east 793.14 feet to a point being the intersection of the right bank of the Burnham Canal and the right bank of the South Menomonee Canal distant south 49 degrees, 15 minutes, 03 seconds west 82.83 feet from a point, said point being distant south 00 degrees, 13 minutes, 42 seconds west 1,139.77 feet from a point on the north line of the aforementioned section 32 and distant north 89 degrees 38 minutes, 08 seconds west 605.45 feet from the northeast corner of the northwest 1/4 of said section 32.

118-7. Dock Construction. 1. PLANS TO BE FILED WITH BOARD OF HARBOR COMMISSIONERS. Every person, firm or corporation before proceeding with the construction, erection, rebuilding, alteration or repair of any dock along the banks of any navigable river, public canal or water slip within the corporate limits of the city shall, subject to the approval of the board of harbor commissioners, file with said board drawings, plans and specifications sufficient to enable the board to obtain full and complete information as to the extent and character of the work to be done, which said drawings, plans and specifications shall conform with the standard plans and specifications on file in the office of the board governing the construction, erection, rebuilding, alteration or repair of any dock along the banks of any navigable river, public canal or water slip in the city.

2. BOARD TO APPROVE PLANS. If the drawings, plans and specifications indicate to said board of harbor commissioners that the work to be done is not in all respects in accordance with the standard plans and specifications on file in the office of the board of harbor commissioners governing the construction, erection, rebuilding, alteration or repair of any dock along the banks of any river, public canal or water slip in said city, the said board shall refuse to approve the same until such drawings, plans and specifications shall have been made to conform in every respect to said plans and specifications on file in the office of said board of harbor commissioners. Thereafter such work shall be done and performed under the supervision and direction of said board of harbor commissioners.

118-8. Docks to Conform to Standard Plans.

1. TYPES OF DOCKS. a. The substructure of all docks hereafter built or constructed along the navigable portion of any rivers, canals, slips or basins connected with or a part of the Milwaukee harbor shall conform to either plan no. 1 or plan no. 2, bearing date April 1, 1925, and approved by and on file with the board of harbor commissioners. The superstructure of all docks hereafter built or constructed according to plan No. 1 shall be of concrete.

b. The superstructure of all docks hereafter constructed according to plan no. 2 shall be of wood.

c. For steel sheet piling dock walls, the top elevation of wall shall be at least 2 feet 10 inches above city datum, and the steel shall penetrate the subsoil in accordance with the design which shall bear the stamp or seal of a registered professional engineer as defined in s. 443.01, Wis. Stats. Ladders of one inch diameter steel rungs, or larger, shall be placed at intervals of not more than 100 feet. Docks between 50 and 100 feet in length shall be provided with at least one ladder.

2. REPAIR OF EXISTING DOCKS. The superstructures of docks existing on April 1, 1925, may be repaired with like materials, but any rebuilding thereof shall be in accordance with sub. 1; provided, however, that no existing superstructure shall be rebuilt or replaced unless the piling and sheeting of the substructure shall be found, upon examination by the board of harbor commissioners, to be of such

construction and dimensions as to protect the adjoining river bank from caving in by squeezing under the lower edge of the sheeting or by forcing the substructure beyond the established dock line, and no repairs shall be made to the superstructure of any dock unless the substructure shall be deemed by the board of harbor commissioners suitable and of such strength as shall warrant such repairs being made.

3. PERMITS. a. Permits for the building and repair of docks shall comply with s. 118-7 and this section.

b. Whenever the board of harbor commissioners shall require any applicant for a permit to pull sheeting or piling so that the examination contemplated in sub. 2 may be made, it shall be the duty of the applicant to pull specimen piles and sheet piles at locations indicated by the board of harbor commissioners.

c. See ss. 81-42, 81-43 and 81-43.5 for the required permit fees or the required engineering survey fee.

d. The fees for each such permit or survey shall be paid before such permit is issued or such engineering survey is commenced.

4. PENALTY. Any person, firm or corporation who shall fail to obtain a permit for the construction, erection, rebuilding, alteration or repair of any dock when required to do so by s. 118-7 and this section, or who shall fail to comply with the inspection requirement of sub. 3, shall upon conviction thereof forfeit to the city a penalty of not less than \$50 nor more than \$500, and in default of payment thereof shall be imprisoned in the county jail or house of correction of Milwaukee county not less than 10 days nor more than 90 days.

118-9. Dock Construction Variances, etc.

1. BOARD OF APPEALS. The board of harbor commissioners is vested with the powers of a board of appeals whenever a petition shall be presented to it, as hereinafter set forth, seeking a variance with respect to the requirements of s. 118-1 to 118-9 as amended and in existence on May 1, 1962, which relate to dock lines, dock repairs or alterations.

2. TO FILE PETITION. Whenever it shall appear that literal compliance with said sections of the code will result in unnecessary hardship or will be impractical, a person affected by such circumstances may file a petition with

the board of harbor commissioners seeking a variance with respect to the enforcement of the provisions of said sections. The board shall thereupon schedule a hearing on such petition, and it shall determine whether or not literal enforcement of the provisions of the sections of the code complained of will result in difficulty or unnecessary hardship, and that strict compliance would be impractical. The petition shall recite such facts as may be appropriate in order for the board to make a thorough investigation, and the board may call upon the petitioner for an explanation or for the submission of such facts or documents as the board shall deem appropriate so as to complete its investigation.

3. APPROVAL REQUIRED. If the board shall determine that a variance from the provisions complained of will not adversely affect the public interest, and that compliance with such provisions would result in practical difficulty or unnecessary hardship, and if the board shall also so determine that the spirit of the section of the code applicable thereto will be observed and that the safety and welfare of the public will be maintained and that substantial justice will be achieved, then the board shall recommend to the common council that a variance shall be granted, subject to such conditions as the board may deem applicable; and the common council shall thereupon determine whether such variances shall be granted, and if the common council grants such variance it shall instruct the board to prepare and issue the same.

4. PROCEDURE. The board is authorized to determine the procedure with respect to holding hearings on a petition seeking a variance and may establish reasonable rules and regulations providing for such procedure.

118-14. Removal of Sand, etc., Prohibited. No person shall take, remove or carry away any stone, sand or earth from the beach or from the water within 300 feet of high water mark, along or near the shore of Lake Michigan between the extreme northern limit and extreme southern limit of the city, under a penalty of not less than \$25 nor more than \$100.

118-15. No Dumping in Lake or Rivers.

1. PERMIT REQUIRED. It shall be unlawful for any person, firm or corporation, in person or by its agent, employee or servant, to conduct, place, cast, throw, deposit or cause to be conducted, thrown or deposited in or upon

any of the waters or ice surfaces of Lake Michigan, or in any river, canal or public water within the jurisdiction of the city, any kind of earth, sand or other heavy substance or substances, filth, manure, dirt, rubbish, ashes, sewage, garbage, waste articles or trade wastes, or refuse or offal of any kind whether liquid or solid, or diesel oil, fuel oil, black oil, lubricating oil or gasoline; provided, that this section shall not apply to substances or articles deposited or conducted into the city sewage through lawful drains in accordance with the ordinances of the city; and provided further that nothing in this section shall prohibit the dumping of stone, brick, earth, sand, ashes, cinders or other inorganic sinkable substance within the prescribed boundaries as set forth by the federal engineers of the Chicago district, and that a permit first be obtained from the commissioner of public works.

2. PENALTY. Any person, firm or corporation who shall violate sub. 1 shall on conviction of such violation be fined not less than \$5 nor more than \$200, and in default of payment thereof shall be imprisoned in the house of correction of Milwaukee county for not less than 10 days nor more than 90 days. Such person, firm or corporation shall be deemed guilty of a separate and distinct offense for every day during which such violation shall continue.

118-16. Restriction Along Water's Edge. 1. NO DUMPING OF LOOSE MATERIAL. No person or persons and no corporation, agent, servant or employe of any person or corporation shall place, pile, throw or maintain, or suffer, allow or permit to be placed, piled, thrown or maintained any crushed stone, coal, gravel, sand, ashes, dirt or other loose material within 3 feet of the water's edge of any navigable waters within the city.

2. NO LUMBER TO PROJECT. No person and no corporation, agent, servant or employe of any person or corporation shall place, pile or maintain or suffer, allow or permit to be placed, piled or maintained any lumber or other material in such manner as to project over the dock line of any navigable waters within the city.

3. PENALTY. Any person or persons or any corporation, agent, servant or employe of any person or corporation who shall violate any of the provisions of this section shall upon conviction thereof be fined by a fine of not less

than \$10 nor more than \$50 for each offense, together with the costs of the action, and on failure to pay such fine shall be imprisoned in the house of correction of Milwaukee county for not less than 10 nor more than 30 days.

118-19. No Building to Encroach. 1. UPON BANKS OF MILWAUKEE RIVER. It shall be unlawful for any person, firm or corporation, in person or by his or its agent, employe or servant, to place any obstruction, or to erect or cause to be erected any building or permanent structure of any kind encroaching upon the waters, banks or shores of the Milwaukee river above the dam.

2. PENALTY. Any person, firm or corporation who shall violate this section shall on conviction of such violation be fined not less than \$5 nor more than \$50 with the costs of prosecution, or shall be imprisoned in the house of correction of Milwaukee county for not less than 15 nor more than 90 days for each and every offense.

118-21. Rules for Vessels Lying in Harbor.

1. PERSONS IN CHARGE. No vessel, craft or float shall be left in the harbor without having on board or being in charge of some competent person to control, manage and secure the same, without first obtaining permission from the harbor master.

2. LIGHT AT NIGHT. Every vessel, craft or float shall have kept on board during the night time a light in a conspicuous place; and all fires which may be kept on board of such vessel, craft or float shall at dark be extinguished, or so guarded as to insure safety from fire.

3. VESSEL TO BE FASTENED. No vessel, craft or float shall be suffered to lie in the harbor adrift or insecurely fastened.

4. NOT TO OBSTRUCT. No vessel, craft or float shall obstruct the channel or be moored or anchored so as to prevent the passage of any other vessel, craft or float; nor shall it be so moored or anchored as to range against, injure, interfere with or hinder the opening or closing of any bridge.

5. WHILE ENGINE OPERATING. No vessel, craft or float, while moored or anchored, shall work its engines; provided that the master or other person in charge of a vessel, craft or float, may work its engines for the purpose of testing them. If he shall keep some person so stationed that he can observe approaching

vessels and at the same time signal the engineer to stop the engine, such person shall signal to keep the engine at rest, and it shall be kept at rest, while any approaching vessel, craft or float is within a distance of 200 feet.

6. BRIDGE PIERS. No vessel, craft or float shall be fastened to the protection piers of bridges, bridge approaches or piles driven for the protection of bridge piers or approaches.

7. PROTECTION OF PIERS. It shall be unlawful to fasten any craft or vessel of any description to protection piers of bridges, bridge approaches or piles driven for the protection of bridge piers or approaches in the city.

118-23. Underwater Cables. 1. VESSELS NOT TO ANCHOR OVER ELECTRIC CABLES. No dredge or vessel shall within the city anchor over any electric cable belonging to the city, or remove any such cable or part thereof, without the consent of the superintendent of the police and fire alarm systems of the city having first been given to the owners thereof.

2. VESSEL OWNERS TO PAY COST OF REPAIR. Any person or corporation who shall injure, remove or damage any such cable without consent shall pay to the city the cost of repairing.

3. INCLUDED IN CONTRACT. On all contracts with the city of Milwaukee, the provisions of this section above shall be considered part thereof and shall be considered as assented to by any and all contractors.

118-26. Authority to Move Vessels. 1. TO PREVENT BLOCKADE, ETC. The harbor master shall have the power to move any vessel, craft or float while moored in the harbor, whether receiving or discharging cargo or otherwise, when he deems it necessary to do so to facilitate the movement of other vessels, craft or float. He shall also have the power to stop at any time or place such vessels, craft or floats as may be proceeding up or down the harbor, so as to prevent a jam or blockade; and to fasten, raise or move any vessel, craft or float insecurely fastened, adrift or sunken.

2. ORDERING VESSEL TO MOVE. Whenever it shall be necessary to move, fasten or raise any vessel, craft or float in order to carry out the provisions of sub. 1, the harbor master shall notify the owner, master or other person who may be in charge thereof to move, fasten or raise such vessel, craft or float without delay. If the harbor master shall be unable to find the

master, owner, or person in charge of such vessel, craft or float, or any person answering such description, after a reasonable search he shall not be required to give said notice, but shall forthwith move, fasten or raise such vessel, craft or float.

3. OWNER TO PAY EXPENSE. All costs and expenses of moving, fastening or raising any vessel, craft or float shall be a lien upon the said vessel, craft or float, and the proper city officers are authorized and empowered to enforce the payment of such lien in the manner provided by law. The owner or owners of any vessel, craft or float shall also be personally liable for all such costs and expenses to be recovered by the city in suit as in personal action.

118-29. Harbor Master Powers. 1. AUTHORITY OVER OUTER HARBOR. So far as it does not conflict with the authority exercised by the government of the United States, the harbor master shall have the same jurisdiction and authority and the same power in or over the outer harbor and all vessels, craft or floats moored or navigating therein as are herein given him in or over the inner harbor and the vessels, crafts or floats moored and navigating therein.

2. POWER TO COMPEL ASSISTANCE. The harbor master is authorized and empowered to call to his aid any tug, boat or crew, or other vessels and men, to assist him in the removal of vessels or the performance of any of his duties, and he is authorized and empowered to take any tug, vessel, craft or float that may be necessary for this purpose, and compel the assistance of any crew that he may deem necessary to carry into effect his orders.

3. POWER TO MAKE RULES. The harbor master shall have the power to make such further rules and regulations as he may deem necessary to carry into effect the provisions of this section and to properly perform the duties thereby devolved upon him.

4. PENALTY. Any person who shall resist the harbor master or any person acting for him in the execution of his duties hereunder, and any person who shall fail, neglect or refuse to comply with the lawful orders of the harbor master shall upon conviction thereof be subject to a fine of not less than \$10 nor more than \$100, or by imprisonment in the house of correction of Milwaukee county for not to exceed 90 days.

118-30. Duties of the Harbor Master; Power of Arrest. 1. It shall be the duty of the harbor master to carry into effect the provisions of ch. 118 and, in general, to give such orders and directions relative to the location, change of place or station, manner of moving in or using the harbor, of all vessels, craft or float lying, moving or laid up in the harbor, whether in use or not in use, as may be necessary to promote good order in the harbor and the safety and convenience of all vessels, crafts and floats therein, or to expedite the conduct of business dependent thereon, and especially at all times to keep the channels free and clear for the passage of the tugs of the fire department.

2. The harbor master shall have power to make arrests and to call to his aid the police department for the purpose of enforcing his orders.

118-33. Control of City Docks. 1. USE OF CITY DOCKS, ETC. The municipal port director, or the chief of police at the request of the port director, is authorized and directed to give such orders or directions, including the posting of appropriate signage prohibiting unauthorized use, as he or she shall deem proper and necessary to prevent the use of any street-end or alley-end wharves and docks which are owned or controlled by the city of Milwaukee by any boat, vessel or other craft belonging to any person, firm or corporation, excepting the use thereof by any person, firm or corporation to whom a lease or license for such wharves or docks may be granted by the proper city authorities under s. 118-47 or the use of any wharf or dock which is designated by resolution of the common council for transient use between the hours of 6 a.m. and 12 p.m. and subject to such further restrictions as may be imposed by the common council. The municipal port director or chief of police may order the removal at any time from said wharves and docks of any boat, vessel or other craft.

1.5. LONG-TERM USE OF CITY DOCKS OR DOCKWALLS. a. Unauthorized Use Prohibited. No person having in his or her charge or control any boat, vessel or other watercraft shall secure, or permit to be secured, in one place the boat, vessel or watercraft to any dock or dockwall in the navigable waters of the city which is owned or controlled by the city for more than 24 hours.

b. Exception. This subsection shall not apply to any dock or dockwall under the jurisdiction and control of the board of harbor commissioners.

c. Adverse Weather Conditions. Whenever a small craft warning is issued for Lake Michigan, the time during which the warning is in effect shall not be included when determining whether any boat, vessel or other watercraft is in violation of par. a.

d. Enforcement by Police. The chief of police is authorized to enforce the prohibition of par. a and may issue a citation to the master, owner or other person, or any officer, manager, or agent of any corporation, having in his or her charge or control any boat, vessel or other watercraft found to be in violation of par. a.

e. Penalty. Any master, owner or other person, or any officer, manager or agent of any corporation, having in his or her charge or control any boat, vessel or other watercraft found to be in violation par. a of shall, for each offense or conviction thereof, be liable for a penalty of not less than \$100 nor more than \$500 together with the costs of prosecution, and in default of payment shall be imprisoned as provided by law. Every 24-hour day of violation of par. a shall constitute a separate offense.

2. PENALTY. Any master or owner or other person or any officer, manager or agent of any corporation having in charge or in his or her control any boat, vessel or other craft, excepting the person, firm or corporation expressly excepted in sub. 1, who shall neglect or refuse to comply with any order or directions of the municipal port director or chief of police authorized by this section, shall for each offense on conviction thereof be liable for a penalty of not less than \$100 nor more than \$500, or in default of payment thereof not less than 4 nor more than 20 days imprisonment in the house of correction of Milwaukee county; and each and every day of 24 hours for which such neglect or refusal shall continue shall be deemed as a separate offense.

118-34. Harbor Master to Enforce State Statute Requirements. It shall be the duty of the harbor master to establish a water safety patrol for the purpose of enforcing ss. 30.50 to 30.80, Wis. Stats. Officers patrolling the waters as part of a water safety patrol unit may stop and board any boat for the purpose of enforcing ss. 30.50 to 30.80, Wis. Stats., or any rules or ordinances enacted pursuant thereto, if there is a reasonable cause to believe there is a violation of such sections, rules or ordinances.

118-35. Control of Vessel Traffic. 1. VESSELS TO REMAIN IN OUTER HARBOR. During the season of navigation and when the inner harbor is crowded so that the channels are in danger of being obstructed, arriving vessels shall remain in the outer harbor until their docks are ready to receive them.

2. N. MENOMONEE CANAL TRAFFIC. No vessel, craft or float shall be laid up in any part of the N. Menomonee canal during the season of navigation; and no vessel, craft or float consigned to a dock in said canal shall go west of the ship yard at the so-called 6th Street bridge until her dock is ready to receive her, and as soon as unloaded, if it be during the season of navigation, she shall immediately move out of the said canal.

3. CONTROL OF HOISTS, ETC. Dock foremen must swing their hoists out of the way promptly whenever vessels leave their docks, or when not in use; and all persons in charge of any vessel, craft or float shall cause all fenders and all other things projecting over the side of such vessel, craft or float to be pulled up and kept out of the way when not actually is use.

118-36. Use of Privately-Owned Docks. 1. UNAUTHORIZED USE PROHIBITED. No person having in his or her charge or control any boat, vessel or other watercraft, shall secure, or permit to be secured, the boat, vessel or watercraft to any privately-owned dock or dockwall located in any of the navigable waters of the city without the permission of the owner of the dock or dockwall if there is, in plain view at such dock or dockwall, a sign indicating that securing of a boat without the dock or dockwall owner's permission is prohibited. All signs installed shall comply with applicable provisions of the code.

2. ENFORCEMENT BY POLICE. The chief of police is authorized to enforce the prohibition of sub. 1 and may issue a citation to the master, owner or other person, or any officer, manager or agent of any corporation, having in his or her charge or control any boat, vessel or other watercraft found to be in violation of sub. 1.

3. PENALTY. Any master, owner or other person, or any officer, manager or agent of any corporation, having in his or her charge or control any boat, vessel or other watercraft found to be in violation of sub. 1 shall, for each offense or conviction thereof, be liable for a penalty of not less than \$100 nor more than \$500 together with the costs of prosecution, and in default of payment shall be imprisoned as provided by law.

Every 24-hour day of violation of sub. 1 shall constitute a separate offense.

118-38. Vessel Signals to Open Bridge, etc. All vessels, crafts or floats, while navigating, lying or being within that part of Milwaukee which is within the limits of the city, or while navigating, lying or being within any of the rivers of navigable waters within the limits of the city, are prohibited from blowing any steam whistle, for any purpose whatever, except:

1. THREE BLASTS. That when it shall be necessary for them to pass through any bridge within the limits of the city - other than the bridge across the Menomonee river, at the foot of N. Plankinton avenue, and the railroad bridge located about one half block east of the last mentioned bridge, the railroad bridge of the Chicago and Northwestern railroad across the Kinnickinnic river, between Kinnickinnic avenue and S. First street, the Cherry street bridge and the Kinnickinnic avenue bridge - they may give 3 short blasts of the whistle, each blast not to exceed 2 seconds in length, as a signal for such bridge to open.

2. FOUR BLASTS. And as a signal for opening the bridge across the Menomonee river, and the 2 railroad bridges, and the Kinnickinnic avenue bridge, they may give 4 short blasts of the whistle, each blast not to exceed 2 seconds in length.

3. TWO BLASTS. And as a signal for opening Cherry street bridge they may give 2 short blasts of the whistle, each blast not to exceed 2 seconds in length.

4. AS SIGNAL ONLY. Provided, however, that no tug, propeller or steamboat shall sound her whistle while occupying the draw of any bridge in this city, or within 100 feet thereof, unless the same shall be blown by a steamer, propeller or tug lying at a dock as the signal for the opening of the next nearest bridge.

5. FIVE LONG BLASTS, FIRE. Provided, however, that in the event of a fire occurring on board any vessel, except vessels under way, or on the dock to which such vessel is moored, such vessel may sound 5 prolonged blasts of from 4 to 6 seconds duration each on the whistle or siren as an alarm indicating such fire. Such signal may be repeated at intervals to attract attention. It shall be illegal to use such signal for any other purpose. Such signal shall not be used as a substitute for, but may be used in addition to, other means of reporting a fire. Nothing contained herein shall be construed to prohibit the blowing of whistles by any vessel,

craft or float in compliance with applicable federal or state law or rules.

118-39. Penalty, General. The owner or other person in charge of any vessel, craft or float, or any other person violating any of the provisions of ss. 118-21, 118-35, 118-38 and 118-47, unless otherwise provided, shall upon conviction thereof be fined not less than \$10 nor more than \$100 for each offense; and the obstruction of any channel in violation of the terms of this chapter for each period of 24 hours or part thereof shall be considered a separate offense. Every vessel, craft or float, whose owner, master or other person in charge shall become liable as herein provided, shall also be chargeable with the payment of said penalty, and the same shall be and constitute a lien upon such vessel, craft or float, to be enforced as provided by law.

118-40. Damage to Bridges. 1. BY VESSEL. Whenever any person having charge of any vessel, craft or float shall wish to move the same through the drawbridge of any bridge, reasonable time shall be allowed for the opening of the same; and any person who shall move any vessel, craft or float against any bridge or the center or protection piers thereof, before the same shall be opened, to the injury thereof, and any person who shall otherwise, through willfulness or negligence, run any vessel, craft or float into any of the piers, cribs or docks of the harbor at the straight-cut, or into any bridge abutment thereof, or allow such vessel, craft or float to be driven or run into such piers, cribs, docks, bridge or abutment, or who shall take any stones from the crib for ballast or any other purpose, shall be subject to a penalty of \$500 for each offense, and shall in addition be liable for all damages thus caused.

2. PENALTY. Any vessel, craft or float, whose owner, master or other person in charge shall become liable as aforesaid, shall also be chargeable with the payment of the said penalty and the said damages, and said amounts shall be and constitute a lien on said vessel, craft or float, to be enforced as provided by law.

118-41. Boats on Milwaukee River Above Dam. 1. BOATS PROPELLED BY HAND. All canoes, rowboats and other craft propelled by hand, while navigating the Milwaukee river from

the dam to the northern limits of the city, shall follow a right-hand course, in the channels between the respective shores and lines midway between the shore and the center line of the river, except when making or leaving a landing

2. BOATS PROPELLED OTHERWISE. All boats propelled otherwise than by hand, while navigating the Milwaukee river from the dam to the northern limits of the city, shall, when going up or down said river, keep in the center of the river, in a course or channel extending in width from the center line of the river to the lines midway between the center line and the respective shores of the river, except when making or leaving a landing.

3. MOTOR VEHICLES NOT TO BE DRIVEN ON ICE. No person or persons shall use or operate any automobile or other motor vehicle upon the ice of the Milwaukee river from the dam to the northern limits of the city, nor upon the ice surfaces of any public skating rink in the city, except where the use and operation of such automobile or motor vehicle is necessary and actually and lawfully being used by those engaged in the business of harvesting ice.

4. SPEED AND LIGHT REGULATIONS ON BOATS. a. No boat, launch or other craft propelled by steam, gasoline, petroleum, electricity or other motive power shall pass up or down the Milwaukee river above the dam and within the limits of the city at a greater rate or speed than 6 miles per hour.

b. Each such boat, launch or power craft shall have and display at all times between the hours of sunset and sunrise red and green signal lights, fitted with inboard screens so as to prevent them from being seen across the bow, and of such character as to be visible on a dark night with a clear atmosphere at a distance of at least one mile, and so constructed as to show uniformly a permanent light over an arc of the horizon of 10 points of the compass, and so fixed as to throw the light from right ahead to 2 points abaft the beam on either side. The minimum size of glass globe shall not be less than 6 inches in diameter and 5 inches in the clear.

5. PENALTY. Any captain, owner, mate or other person in charge or control of any boat, launch, craft or motor vehicle described in this section who shall violate the provisions herein shall be punished for each offense by a fine of not less than \$5 nor more than \$25, or by imprisonment in the house of correction of Milwaukee county for a period not to exceed 20 days.

118-47. Use of City Docking Facilities.

1. GENERAL PROHIBITION. Except as provided herein, it shall be unlawful for any person to tie up or moor any vessel, craft or float at any street or alley end in the city, except that stone, wood, lumber and other materials and articles which are or may be purchased by the city for its use may be delivered to such locations if agreed upon at the time of the making of the contract therefor.

2. NON-CITY USE. Notwithstanding the provisions of sub. 1, if the city owns or controls docking facilities at street or alley ends, the common council may, acting in accordance with s. 30.30(8), Wis. Stats., do any of the following:

a. Lease those facilities on an exclusive basis to owners of vessels, crafts or floats. The municipal port director, with the assistance of the commissioners of public works and city development, shall negotiate the terms of such leases, including the fair market rent, and submit the leases to the board of harbor commissioners for review and approval. Leases for one year or more shall be subject to review and approval by the common council.

b. License those facilities on a nonexclusive basis for use by owners of vessels or crafts. The board of harbor commissioners may issue such licenses in accordance with general terms and conditions established by the common council.

c. Establish short-term (less than 24 hours) rates for transient use of such facilities.

118-48. Opening of Bridges; Delays, Hours Closed.

1. DAYTIME REGULATIONS. Whenever between the hours of 6 a.m. and 8 p.m. persons, teams or vehicles have been delayed at said bridges 5 minutes by reason of said bridges being open for vessels to pass, it shall be the duty of the bridgetenders or other persons in charge of the bridge or bridges to raise the signal ball and immediately close the same and keep the same closed for fully 5 minutes for such persons, teams or vehicles to pass over, if so much time shall be required, when the same shall be opened again and be kept open, if necessary for vessels to pass, for the like period.

2. RUSH HOURS. Provided, however, that bridgetenders shall not open or swing any city swing, draw or bascule bridge across the Menomonee or Kinnickinnic rivers or S. Menomonee canal or Burnham canal or the Milwaukee river south of and excluding the Buffalo Street bridge between 7:30 and 8:30

a.m. and 4:30 and 5:30 p.m. Bridges across the Milwaukee river north and including the Buffalo Street bridge are hereinafter provided for.

3. EXCEPTIONS. a. For Certain Vessels. Provided further, that the exceptions as to hours stated in subs. 1 and 2 shall not apply to vessels having a license to carry 50 or more passengers when proceeding to or from their regular landing places on their regular trips, nor to vessels carrying United States mail, nor to fireboats of the city, nor to vessels belonging to the United States.

b. On Holidays. Provided further, that the exceptions as to hours stated in subs. 1 and 2 shall not apply on Sundays and the following legal holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, and Christmas Day, or on the Monday following any such holiday when it occurs on a Sunday.

c. Advance Notice Required. Provided further, that for all bridges owned and operated by the city across the Milwaukee river north of and including the Buffalo Street bridge, the bridgetender shall immediately open the above mentioned bridges for the passage of foreign vessels and vessels of the United States as defined by s. 4311 of the revised statutes of the United States at all times during the day or night except between the hours of 7:30 a.m. and 8:30 a.m. and 4:30 p.m. and 5:30 p.m., only upon advance notice given by telephone or otherwise to the director of the operations division at least 2 hours in advance of time the vessel desires to pass through a draw upon signals to be given by 3 short blasts of a horn, steam whistle or other approved signaling device.

d. Fireboats. And provided further, that the exception to hours and advance notice stated in par. c shall not apply to fireboats of the city, nor to vessels belonging to the United States.

4. TIME DEFINED. The hours and time referred to in this section shall be central standard time; provided, however, when central daylight saving time is in effect, the hours and time referred to shall be central daylight saving time.

118-49. Signaling Equipment on Bridges, etc.

1. The commissioner of public works is required to provide, construct and arrange in the best and most practicable manner at each of the several bascule and swing draw bridges over the Milwaukee, Menomonee and Kinnickinnic

ivers, and all other navigable waters of the city the following signaling apparatus.

2. On every swing draw bridge, a red light on each end of the draw piers, a red light placed as low as practicable on each free end of each protection pier, and a red light on each side of the pivot pier. The red lights on the sides of the pivot piers shall be placed where the pier is crossed by the axis of the bridge and below the floor level of the same. There shall also be placed on each of said swing draw bridges 3 square lanterns on top of the draw span, which shall be raised 15 feet above the top of the draw, and each shall show green along the axis of the draw and red at right angles to the axis. The said lanterns shall be so placed that when the draw is shut, there will be shown up and down stream 3 high red lights above the permanent low lights; when open, green lights will be seen in line up and down the stream where the permanent red lights showing the width of the openings.

3. On every bascule bridge, a red light on each end of the roller piers placed as low as practicable, and on each lift near the point where they touch and on the upstream and downstream sides a square lantern suspended free to swing behind a frame containing a circular panel of red and green colored glass, the frame to be attached to the end of each lift. Said last mentioned lights shall be so constructed, placed and arranged that when the bridge is closed there will be shown on the upstream and downstream sides 2 red lights close together in the center of the bridge and above the permanent low red lights; when completely open, 2 green lights will be seen at an elevation on each side of the opening and above the red lights, the latter showing the width of the opening. All of these lights shall be permanent.

4. On each abutment of all the several bascule bridges, a red ball and a bell; and on each swing draw bridge, at or near the center thereof, a red ball and a bell. Each such ball shall be attached to a staff in such manner that the ball may be raised and lowered; such staff to be erected in the case of bascule bridges on the bridge houses thereof, and in the case of swing draw bridges on the superstructure thereof. Such ball shall be of such size and so placed that when elevated, it can be readily seen from the river both above and below the bridge. Each such bell shall be of such size and so placed as to be heard a distance of 600 feet both above and below the bridge.

118-50. Bridgetender Signals to Vessels.

1. BELL TO ACKNOWLEDGE VESSEL. Whenever any vessel approaching any of said bridges shall give the signal for the opening thereof, and such vessel shall be within 600 feet from such bridge, the bridgetenders on each side of such bridge if it be a bascule bridge, or the bridgetender in the center thereof if it be a swinging drawbridge, shall ring the bell or bells thereon. In case any such vessel when giving the signal for the opening of such bridge shall be more than 600 feet from such bridge, the bridgetender on each side of such bridge if it be a bascule bridge, or the bridgetender on the center thereof if it be a swing drawbridge, shall ring the bell or bells thereon before such vessel reaches a point 600 feet from such bridge. In case the bridgetender on any bridge shall know that for any reason such bridge cannot be opened, he shall not ring the bell thereon.

2. SIGNAL BEFORE OPENING BRIDGE. The ringing of the bell at the center of any swing drawbridge, or the ringing of the bells on both abutments of any bascule bridge, in answer to the signal from any vessel for the opening thereof shall be a signal to such vessel that the bridgetenders thereon are at their proper posts of duty and have heard the signal on such vessel, but shall not be construed to be a signal that such bridge will be opened for the passage of such vessel.

3. SIGNAL UPON OPENING. Whenever any vessel shall have signaled for the opening of any such bridge, and the bridgetenders thereon shall have rung the bells thereon as provided in sub. 1, the bridgetender or bridgetenders shall start to open such bridge before the distance between such vessel and such bridge shall have become shorter than the distance within which vessel can be stopped, provided that such bridgetender or bridgetenders shall not start to open such bridge until the same shall have been cleared of all persons using such bridge as a highway.

4. PENALTY. Every bridgetender or other persons in charge of any such bridge who shall fail or neglect to promptly raise or lower such bridge signal ball as provided in sub. 1, or who shall knowingly or intentionally fail or neglect to open any such bridge as provided in sub. 3, shall upon conviction thereof be punished by a fine of not less than \$5 nor more than \$10, or by imprisonment in the house of correction of Milwaukee county for not to exceed 30 days.

118-54. Bridgetender Signals; Day and Night.

1. DURING DAYTIME. a. To Open and Close Bridge. Whenever any such bridge shall be opened in the daytime for the passage of any vessel, the bridgetender or bridgetenders thereon shall lower the signal ball or balls thereon immediately after such bridge shall start to open. Before starting to close such bridge the bridgetender or tenders thereon shall raise such ball or balls. Such balls shall be raised at all times except as above provided in this section.

b. To Proceed. The lowering of such ball shall be the signal to such vessel that such bridge will be opened and that such vessel may proceed toward such bridge; but no act on the part of any bridgetender or any other person in the daytime other than the lowering of such ball or balls shall be construed to be an invitation to any vessel to proceed to and through such bridge or as an indication that such bridge will be opened.

2. BRIDGE SIGNALS AT NIGHT.

a. Whenever any vessel shall approach any swing drawbridge in the nighttime, the appearance of 3 green lights in a line up and down stream above the draw of such bridge shall be a signal to proceed to and through such bridge.

b. Whenever any vessel shall approach any bascule bridge in the nighttime, the appearance of the green lights at the top on each side of the opening and above the low red lights shall be the signal to proceed to and through said bridge.

c. No act upon the part of any bridgetender or any other person in the nighttime, other than the appearance of said green lights as provided in this section, shall be construed as an invitation to any vessel to proceed to and through such bridge, or as an indication that such bridge will be opened.

118-57. Vessel Officer to Control Ship.

1. APPROACH TO BRIDGE. It shall be unlawful for the owner or owners, officer or officers, or other person or persons in charge of any vessel or vessels navigating the navigable waters of the city to approach any nearer to any of the bridges over the said rivers than to a point at a distance from such bridge within which such vessel can be stopped without colliding with such bridge while said signal balls are up or elevated in the daytime, or while said green lights are not displayed in the nighttime.

2. PENALTY. Any person or persons who shall violate any of the provisions of this section shall be chargeable with whatever

damage may result to the city by reason of any such violation, and shall also be subject to a penalty of \$100 for each and every violation; and in case the same person or persons shall violate such provisions or any of them a second or more times, the court before which the trial is had may in addition to the penalty or fine authorized as aforesaid, also imprison such offender or offenders not exceeding 3 months.

118-59. Bridge Traffic to be Cleared.

1. PEDESTRIANS WARNED, ETC. Bridgetenders or persons in charge of bridges shall not close the same against vessels seeking to pass through until passengers, teams or vehicles have been delayed 5 minutes by the bridge being open.

2. BELLS TO BE RUNG BEFORE OPENING. It shall be the duty of the several bridgetenders of the city before opening the bridges, or either of them for any purpose whatsoever, to ring the bell or bells thereon.

3. AS WARNING SIGNAL. The ringing of the bell or bells on any of the bridges referred to in s. 118-49 shall be a warning and signal to all persons approaching such bridge on the highways leading thereto that said bridge is about to be opened, or is open, and that it is dangerous to proceed toward said bridge.

118-62. Pedestrian and Traffic Regulations Upon Bridge.

1. DRIVING ON DRAWBRIDGE PROHIBITED AFTER SIGNAL. Any person or persons who shall walk or attempt to walk on the draw of the aforesaid bridges, or propel any automobile, bicycle or other similar vehicle on the draw of the aforesaid bridges after the operator of such bridge has commenced to give the signal for swinging or opening the bridge, shall be deemed guilty of an offense and shall be liable to a fine of not more than \$100 nor less than \$25 for each and every such offense, or to imprisonment in the house of correction of Milwaukee county for not more than 30 days, in the discretion of the court.

2. LOITERING ON BRIDGE PROHIBITED. Any person or persons who shall stand or sit or loiter on any of the aforesaid bridges or the abutments or railing appertaining to the same, provided that the bridge is in passable condition, shall be deemed guilty of an offense and shall be liable to a fine of not more than \$100 nor less than \$25 for each and every violation of this section, or to imprisonment in the house of correction of Milwaukee county for not more than 30 days, in the discretion of the court.

118-66. Maintenance and Repair of Bridges.

1. BRIDGETENDER TO REPORT DEFECTS. The bridgetender shall immediately report all defective and dangerous places upon their respective bridges and the approaches thereto which shall come to their notice, and in the performance of their duties they shall particularly examine such bridges and the approaches thereto, and make such report as aforesaid. Such report shall be made to the director of the operations division, who shall forthwith transmit said report to the office of the commissioner of public works.

2. DIRECTOR OF OPERATIONS DIVISION TO REPAIR. It shall be the duty of the director of the operations division, under the direction of the commissioner of public works, to repair and keep in repair all bridges belonging to said city, and to do and perform such other and further work as may be deemed necessary by the commissioner of public works, and to employ such men in the prosecution of said work, under the direction of the commissioner of public works, as may be necessary.

118-70. Harbor Island, Jones Island.

1. DEFINITIONS. In this section:
 - a. "Harbor Island" means those lands enclosed by the following boundaries: beginning at the intersection of the north shoreline extended and the east shoreline extended of the land containing the structure named the Marcus Amphitheater which is part of Henry W. Maier Festival Park and then around the shoreline of the island and its connecting causeway lying to the northeast.
 - b. "Jones Island" means those lands enclosed by the following boundaries:
 - b-1. On the east, - southerly along the irregular shoreline east of the Daniel Webster Hoan Memorial Bridge and/or South Lincoln Memorial Drive from the south side of the Harbor entrance and its intersection with the Milwaukee Metropolitan Sewerage District's right-of-way to the easterly extension of the north line of East Russell Avenue.
 - b-2. On the south, - westerly along the easterly extension of the north line of East Russell Avenue, the north line of East Russell Avenue, the east line of South Superior Street, the north line of East Conway Street, the north line of East Conway Street extended to its intersection with the east line of the Chicago & North Western Transportation Co. right-of-way.
 - b-3. On the west, - northerly along the east line of the Chicago & North Western Transportation Co. right-of-way to its intersection

with the shoreline of the Municipal Mooring Basin, then along the irregular west, south and east shoreline of the Kinnickinnic River and/or the Municipal Mooring Basin to the intersection with the Milwaukee Metropolitan Sewerage District right-of-way.

b-4. On the north, - easterly along the Milwaukee Metropolitan Sewerage District irregular south and east right-of-way, to its intersection with the south side of the Harbor entrance and the east boundary.

c. "Event" means any planned extraordinary occurrence or activity requiring reservation of a particular area of Harbor Island and includes, but is not limited to, festivals, parties, reunions, picnics, parades, processions, bicycle or foot races. It does not include use of playing fields on Harbor Island by athletic teams.

2. PERMIT REQUIRED. No person or group may use Harbor Island for an event without first having obtained a permit from the board of harbor commissioners.

3. APPLICATIONS. Applications for use of Harbor Island shall be obtained from and filed with the board of harbor commissioners.

4. FEE. See s. 81-59 for the required fee for a Harbor Island permit.

5. REGULATIONS. a. No person may consume, sell or offer for sale any intoxicating liquors or fermented malt beverages on Harbor Island or Jones Island.

b. Harbor Island shall be closed to the public between the hours of sunset and 4:00 a.m. During Summerfest and ethnic festivals, Harbor Island shall be closed to the public between the hours of 8:00 p.m. and 4:00 a.m. Hours of closure are as designated, or as directed by the board of harbor commissioners.

c. Jones Island shall be closed to the public between the hours of 8:00 p.m. and 3:00 a.m.

d. No person may sell or offer for sale any merchandise on Harbor Island at any time.

e. No motorized vehicles may be allowed on Harbor Island, with the exception of emergency and maintenance vehicles.

118-80. Boat Regulations, Milwaukee Harbor.

1. STATE REGULATIONS. The city of Milwaukee adopts ch. 30, Wis. Stats., and all subsequent amendments thereto, and ch. NR 5, Wis. Adm. Code, as amended, as part of this code defining and describing regulations with respect to boating regulations upon the waters of the city and for which the penalty for violations thereof is a forfeiture only, including penalties to be imposed.

2. DEFINITIONS. In this section:

a. "Inner harbor" includes the Milwaukee River from Lake Michigan to the dam, and that portion across the dam to the city limits, and all those portions of the Kinnickinnic River and the Menomonee River, including the canals, water channels and slips as laid out and established by authority of the city charter and amendments thereto.

b. "Municipal Mooring Basin" includes those waters of the Kinnickinnic River lying south of the Harbor entrance and downstream from the Chicago & North Western Transportation Co. swing bridge.

c. "Outer harbor" includes all waters of Lake Michigan within the government breakwater, known as the "harbor of refuge" and all waters of Lake Michigan between the rubble mound shore protection south of the government breakwater and the lake shoreline of the city of Milwaukee.

d. "Waters of the city" means any navigable waters within the limits of this city. For the purposes of this section, the easterly boundary of the city of Milwaukee and its harbor is the center line of Lake Michigan coincident with the easterly boundary of the state of Wisconsin and said city limits are bounded on the north by East Edgewood Avenue extending to the center line of Lake Michigan and bounded on the south by an imaginary line 500 feet south and parallel to the center line of East Oklahoma Avenue extended to the center line of Lake Michigan.

3. SPEED RESTRICTIONS. No person shall operate a motorboat at a speed in excess of the posted notice established by regulatory markers as follows:

a. Five miles per hour, slow no wake, in the inner harbor.

b. Five miles per hour, slow no wake, in the McKinley mooring areas.

c. Five miles per hour, slow no wake, in the south shore mooring areas.

d. Five miles per hour, slow no wake, in the gaps of the government breakwater and in the breakwater rubble mound of the outer harbor.

e. Exceptions. Rowing teams shall be allowed to operate a motor chase boat at speeds up to 15 miles per hour in the following portions of the Milwaukee River system, provided that the chase boat does not operate within 100 feet of any vessel or floating pier within the river systems, except other rowing team vessels, within 150 feet of any vessel or floating pier

within the Municipal Mooring Basin, or within the canal system:

e-1. On the Milwaukee River from the North Avenue Dam to the Pleasant Street Bridge.

e-2. On the Menomonee River from approximately North 25th Street east to the CP/Soo Line swing bridge at the confluence of the Milwaukee and Menomonee Rivers.

e-3. In the Municipal Mooring Basin.

f. Exemption. City-sponsored civic celebrations or temporary special events involving boating activities, such as jet skiing and water skiing, held on the Milwaukee River from the North Avenue Dam to the mouth of the Milwaukee River near the Lake Freeway, shall be exempt from the speed restrictions provided in this subsection.

g. Outer Harbor; Special Events.

g-1. Declaration. The harbor master may declare and enforce a temporary speed limit of 5 miles per hour, slow no wake, in the outer harbor or any portion thereof before, during and after a lakefront fireworks display or other special event for which the harbor master determines the expected volume of watercraft traffic is such that operation above the speed of 5 miles per hour, slow no wake, will be unsafe. In determining whether a temporary speed limit should be declared, the harbor master may consult with the United States Coast Guard, the police department or the Wisconsin department of natural resources.

g-2. Public Notice. Any speed limit declared under this paragraph shall be announced to the boating public on the marine broadcast radio. Public notice of this speed restriction shall be provided by the harbor master or harbor master=s designee on a periodic basis beginning 2 hours before the start of the special event and ending 2 hours after the conclusion of the event, and as crowd control requires.

g-3. Assistance from Yacht Club. The harbor master or the harbor master=s designee shall request the assistance of the South Shore Yacht Club in preparing printed notices of each year's special events for which temporary speed restrictions will be declared under subd. 1.

4. SPEAR GUNS. No person shall fire or discharge or permit to be fired or discharged any spear gun within the limits of the city.

5. LITTERING WATERS PROHIBITED. No person shall deposit, place or throw from any boat, raft, pier, platform or similar structure any cans, paper, bottles, debris,

refuse, garbage, solid or liquid waste or any other foreign matter in the waters of the city.

6. SKIN DIVING AND WATER SKIING. No skin diving or water skiing will be permitted in the inner harbor or outer harbor without a permit.

7. SWIMMING. No person shall swim within the inner harbor or outer harbor of Lake Michigan within the city. This subsection does not prohibit wading. "Wading" shall mean walking through water and keeping one's feet on the bed of the lake.

8. PERMITS FOR ACTIVITIES WITHIN CITY LIMITS. a. Daily permits for motorboat regattas, motorboat races, water skiing or skin diving in the inner harbor or the outer harbor, exhibition speedboat trials, water ski or aquaplane exhibitions or aquatic events, shall be issued through the board of harbor commissioners, following notification of the Milwaukee police department harbor patrol by the municipal port director upon application made in writing provided that:

a-1. In the municipal port director's opinion such particular use of the harbor can be carried out in an orderly fashion without danger to all other vessels, craft or floats and other harbor uses and operations without undue inconvenience or jeopardy to the public.

a-2. The permittee or grantee shall agree to hold the city of Milwaukee harmless from any and all claims and causes of action arising out of damages to persons or property by reason of granting of such permit.

a-3. The permittee or grantee shall file with the board of harbor commissioners a certificate of insurance indicating the permittee or grantee holds a public liability policy in such amount, in the discretion of the municipal port director, as will adequately cover bodily injury and property damage but shall not be in excess of \$500,000 covering bodily injury to more than one person, \$100,000 covering bodily injury to more than one person during the event, \$100,000 covering property damage to any one owner and \$200,000 covering property damage to all owners in any one event.

b. In the event the municipal port director denies an application for a permit, the application shall, upon written demand of the applicant to the municipal port director, be referred to the board of harbor commissioners for final determination.

c. Sailing craft, sailing races and sailing regattas are specifically exempted from these provisions; however, yacht clubs or any other organizations conducting events of this

nature shall file, in triplicate with the harbor master, a schedule of sailing craft events not less than 48 hours in advance of the event.

d. Boats and participants in such permitted event shall have the right of way on the permitted area and no other person shall obstruct such area during the event or interfere therewith.

e. A permit fee shall be paid in full for each permit issued. See s. 81-12.5.

9. MOORING REGULATIONS. a. Definitions. In this subsection:

a-1. "Anchorage" means the weight that holds the buoy or winter pole in place at the bottom of the harbor.

a-2. "Board" means the board of harbor commissioners.

a-3. "Buoy" means a floating object secured to the bottom of the harbor to mark a boat's mooring location.

a-4. "Mooring" means an arrangement for securing a boat to a buoy in water to maintain its location.

a-5. "Top of the scope" means a line that tethers a boat to a buoy.

a-6. "Winter pole" means a floating object secured to the bottom of the harbor to make a mooring during the winter months.

b. Authority to Regulate Mooring Areas. As provided in s. 30.773, Wis. Stats., the board may establish designated mooring areas in navigable waters.

c. Permit Required. No person shall moor a boat in the inner or outer areas of the Milwaukee Harbor, as defined in sub. 2-a and c, without first having obtained a mooring permit from the board.

d. Permit Applications. Applications for mooring permits shall be obtained from and filed with the board.

e. Permit Card. Each mooring shall have affixed to the buoy or winter pole, plainly visible above the water line, a non-removable, plastic permit card, with the permit number clearly visible. In addition, identical permit cards shall be attached to the anchorage and the top of the scope. The cards shall be a size and composition to be determined by the board and shall be furnished to the permittee by the board when the appropriate fee is paid.

f. Fee. See s. 81-75 for the required fee for a mooring permit.

g. Violations. Any mooring violating the provisions of this subsection shall be removed at the owner's expense. Any boat moored to an unregistered buoy shall be

removed at the owner's expense and impounded by the board.

h. Penalty. Any person found guilty of violating the provisions of this subsection shall be subject to a forfeiture of not more than \$50 for the first violation nor less than \$100 for a second or subsequent violation in any permit year, from July 1 through June 30.

10. SAFETY REQUIREMENTS.

a. Personal Flotation Devices for Children. In accordance with 33 CFR 175.15(c), any child under 13 years of age shall wear a U.S. coast guard-approved personal flotation device on any recreational vessel while underway in the navigable waters of the city unless the child is below deck or in an enclosed cabin.

b. Sound-Signaling Appliances. All vessels operating in the navigable waters of the city shall be equipped with sound-signaling appliances as follows:

b-1. Vessel less than 39.4 feet in length: Some means of making an efficient sound signal. Examples of means of making an efficient sound signal include, but are not limited to, a handheld air horn, and athletic whistle and a manufacturer-installed horn. A human voice or sound is not an acceptable means of making an efficient sound signal.

b-2. Vessel 39.4 feet or greater in length: A sound-signaling appliance capable of producing an efficient sound signal, audible for one-half mile with a duration of 4 to 6 seconds. In addition, the vessel shall carry on board a bell with a clapper. The bell shall measure not less than 7.9 inches in diameter at the mouth.

c. Visual Distress Signals. Every vessel 16 feet or more in length, every vessel operating as an uninspected passenger vessel, regardless of size, and every vessel less than 16 feet in length operating between sunset

and sunrise shall have on board, when operating in the navigable waters of the city, one or more of the following numbers and combinations of visual distress signals:

c-1. One distress flag and one electric distress light.

c-2. Three orange smoke and one electric distress light.

c-3. Three red flare distress signals, whether hand-held, parachute or aerial.

d. Exceptions. The requirements of par. c shall not apply to any of the following, unless operating between sunset and sunrise:

d-1. A vessel competing in an organized marine event, such as a race, regatta or parade.

d-2. A manually-propelled vessel.

d-3. A sailboat of open construction that is not equipped with propulsion machinery and is under 26 feet in length.

118-90. Commissioner of Public Works to Enforce. It shall also be the duty of the commissioner of public works, so far as in his or her power, to see that the provisions of this chapter are fairly and faithfully observed; and when necessary the commissioner shall call upon the chief of police for aid to enable the commissioner to do so.

118-98. Duties of Secretary to Harbor Commissioner. It shall be the duty of the secretary to the harbor commission to make a survey of the present and future needs of the city for harbor facilities, to secure the cooperation of any other agencies engaged in the promotion of this purpose, and to formulate plans and policies for the future development of the harbor resources of the city.

**LEGISLATIVE HISTORY
CHAPTER 118**

Abbreviations:

am = amended
cr = created

ra = renumbered and amended
rc = repealed and recreated

rn = renumbered
rp = repealed

<u>Section</u>	<u>Action</u>	<u>File</u>	<u>Passed</u>	<u>Effective</u>
Ch. 118	rn from ch. 8	881465	11/18/88	12/9/88
118-2-7	rc	070723	5/27/2009	6/13/2009
118-6-4	rc	070723	5/27/2009	6/13/2009
118-30	rn from 2-99	881930	3/7/89	3/25/89
118-33	am	990242	7/13/99	7/30/99
118-33-1.5	cr	111125	12/20/2011	1/12/2012
118-36	cr	111125	12/20/2011	1/12/2012
118-47	am	892081	3/20/90	4/7/90
118-47	rc	990242	7/13/99	7/30/99
118-48-3-c	am	891613	12/19/89	1/13/90
118-68	am	891785	1/16/90	2/3/90
118-68	rn to 118-90	920422	3/2/93	3/19/93
118-70	cr	920422	3/2/93	3/19/93
118-80-1	am	160838	11/22/2016	12/13/2016
118-80-2-b	rn to 118-80-2-c	912270	4/15/92	5/5/92
118-80-2-b	cr	912270	4/15/92	5/5/92
118-80-2-c	rn to 118-80-2-d	912270	4/15/92	5/5/92
118-80-3-e	cr	912270	4/15/92	5/5/92
118-80-3-f	cr	922077	5/4/93	5/21/93
118-80-3-g	cr	070317	4/9/2008	5/1/2008
118-80-3-g	sunset repealed	100355	11/3/2010	11/20/2010
118-80-9	cr	910672	11/25/91	12/13/91
118-80-10	cr	140202	7/22/2014	8/8/2014
118-90	rn from 118-68	920422	3/2/93	3/19/93
118-98	rn from 2-98	881930	3/7/89	3/25/89

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**CHAPTER 119
SUBDIVISION REGULATIONS**

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119-1. Purpose of Chapter. 1. GENERAL. The purpose of this chapter is to comply with s. 236.01, Wis. Stats., and to:

- a. Promote the public health, safety and general welfare.
- b. Lessen congestion in the streets and highways.
- c. Further the orderly layout and use of land.
- d. Provide adequate light and air.
- e. Prevent the overcrowding of land.
- f. Facilitate adequate and economical provision for water, sewerage and other public requirements.
- g. Provide for proper ingress and egress.
- h. Promote proper monumenting of land subdivided.
- i. Encourage conveyance by accurate legal description,
- j. Prevent and control erosion, sedimentation and other pollution of the surface and subsurface waters.
- k. Further the maintenance of safe and healthful water conditions.

L. Prevent flood damage to persons and property and minimize expenditures for flood relief and flood-control projects.

m. Reduce nonpoint source water pollution by minimizing impervious cover on development sites.

2. BASIS FOR REQUIREMENTS. The approvals to be obtained by the subdivider as required in this chapter shall be based on requirements designed to accomplish the purposes specified in sub. 1.

3. CONDOMINIUM PLATS. Recording or filing of a condominium plat with the register of deeds under s. 703.11, Wis., Stats. does not exempt the declarant from compliance with this chapter concerning division of lands.

119-2. Definitions. 1. **STATUTORY DEFINITIONS.** All terms which are defined in ch. 236, Wis. Stats., as amended, shall have the same meaning as ascribed thereto in that chapter, unless otherwise defined in this chapter.

2. COMMISSION means the city plan commission as created under s. 320-15.

3. COUNCIL means the common council.

119-3. Methods. 1. **GENERAL.** Any division of land within the city shall be conducted in accordance with this chapter and be approved by the council in accordance with this chapter, except as provided in sub. 4.

2. DIVISION OF LAND BY CERTIFIED SURVEY MAP. A land division shall be surveyed and submitted for approval as a certified survey map in the following situations:

a. The land division creates 4 or fewer parcels.

b. The land division creates 8 parcels or less, none of which are zoned single-family residential (RS1-RS6), two-family residential (RT2-RT4), parks (PK), or institutional (TL), pursuant to ss. 236.34(1)(ar)1 and 236.45(2), Wis. Stats.

3. DIVISION OF LAND BY SUBDIVISION PLAT. Any land division that does not meet the criteria for division by certified survey map shall be surveyed and submitted for approval as a subdivision plat.

4. EXCEPTIONS. This section does not apply to:

a. A transfer of interest in land by will, or pursuant to court order pursuant to s. 236.45(2)(am)1, Wis. Stats.

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b. A lease for a term not to exceed 10 years, a mortgage or an easement pursuant to s. 236.45(2)(am)2., Wis. Stats.

c. Pursuant to s. 236.45(2)(am)3, Wis. Stats., the sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by ch. 236, Wis. Stats. or by ch. 295 of this code, or by other applicable laws.

119-4. Application. 1. FEES. No submittal of a preliminary subdivision plat, final subdivision plat or certified survey map, or of a correcting instrument under s. 119-16-2 or 3, except a submittal originated by a city or county agency, shall be recommended for approval until the filing fee required by s. 81-19, 81-96 or 81-97 has been paid by the subdivider.

2. SUBMISSION. The subdivider shall submit all subdivision plats, certified survey maps, and correction instruments to the department of city development for processing and coordination of technical reviews.

3. RECORDING. Upon return of council-approved documents by the city clerk, the department of city development shall record the subdivision plat, certified survey map, or correction instrument in the office of the register of deeds.

119-5. Procedures. 1. CERTIFIED SURVEY MAPS. a. The department of city development shall coordinate review of a certified survey map. After review by the commissioner of neighborhood services, the city engineer and the city treasurer, the department of city development's recommendation shall be forwarded to the council for consideration.

b. The council shall be responsible for the approval or rejection of all certified survey maps. When a certified survey map provides dedication of land to the city for public purpose, the commission shall be responsible for recommending to the council approval, conditional approval, or disapproval.

c. Within 90 days of the subdivider submitting a certified survey map to the department of city development for approval, the council shall take action to approve, approve conditionally, or reject the certified survey map and shall state in writing any conditions for approval or reasons for rejection, unless the time is extended by agreement with the subdivider. Failure of the council to act within the 90 days, or any extension

of that period, constitutes an approval of the certified survey map and, upon demand, a certificate to that effect shall be made on the face of the map by the city clerk, per s. 236.34(1m)(f), Wis. Stats.

2. PRELIMINARY SUBDIVISION PLATS. Upon completion of the review and processing of a preliminary plat by the departments of city development, neighborhood services and public works, the preliminary plat shall be scheduled for consideration by the commission, as the council's designated agent for approval of preliminary plats under s. 236.11(1)(a), Wis. Stats. The commission shall take action to approve, approve conditionally, or disapprove the preliminary plat within 90 days after the subdivider's submission of the plat under s. 119-4-2, unless the time is extended by agreement with the subdivider. The commission shall provide written notice to the subdivider of the commission's determination of approval, or conditions of approval, or of disapproval and reasons for disapproval, and state in writing any conditions of approval or reasons for disapproval. Any person aggrieved by an objection to the plat, or to a condition, or by a failure to approve the plat, may appeal as per s. 236.13 (5), Wis. Stats., within 30 days of the commission's written notice. Failure of the commission to act within the 90 days, or extension thereof, constitutes an approval of the preliminary plat per s. 236.11 (1)(a), Wis. Stats.

3. FINAL SUBDIVISION PLATS. a. A final plat shall be submitted to the department of city development by the subdivider within 36 months following the commission's notice about the preliminary plat; otherwise, the council may refuse to approve the final plat or may extend the time for submission of the final plat in accordance with s. 236.11(1)(b), Wis. Stats.

b. A final plat shall be considered in the same manner as a preliminary plat, except final approval shall be by the council after receiving the commission's recommendation.

c. A professional engineer, a planner, or another person charged with the responsibility to review plats shall provide the commission and council with his or her conclusions as to whether the final plat conforms substantially to the preliminary plat and with his or her recommendation regarding approval of the final plat. The commission shall prepare a report regarding its recommendation and forward its report to the council for consideration.

d. The council shall approve or reject the final plat within 60 days of the subdivider's submission of the final plat under s. 119-4-2, unless the time had been extended by agreement with the subdivider. If a plat is rejected, the reasons therefore shall be stated in the record and written notice of the reasons shall be provided to the subdivider. If the council fails to act within 60 days and the time has not been extended by agreement, and if no unsatisfied objections have been filed within that period, the plat shall be deemed approved and, upon demand, a certificate to that effect shall be made on the face of the plat by the city clerk in accordance with s. 236.11(2)(a), Wis. Stats.

119-6. Submission Requirements; Certified Survey Maps. Every certified survey map submission shall be prepared in compliance with the provisions of this chapter and ch. 236, Wis. Stats., and meet each of the following requirements:

1. One original certified survey map set shall be submitted with an application and associated fees. All sheets submitted shall be originals and have the surveyor's seal, surveyor's signature, and signature date.

2. The certified survey map shall be prepared with a permanent, nonfading black image on durable white opaque media that is 8-1/2 inches wide by 14 inches long, or on other media that is acceptable to the register of deeds, with a binding margin 1 and 1/2 inches wide and a 1/2-inch margin on all other sides. On the first page, there shall be an additional minimum 2-inch blank space along the bottom of the 8 and 1/2 inch width for notating municipal actions. Every map shall be drawn with a permanent, non-fading black image, except that any certificates may be typewritten in black. Documents shall be clear. The letters, numbers, symbols, diagrams, and other representations shall be sufficiently large and dense enough to be legible and reproduced by a copy machine and microfilm camera or optical scanner to the extent that the image captured is legible.

3. The identification title "CERTIFIED SURVEY MAP" shall be lettered or typed in capital letters on the top of the certified survey map under the required binding margin and shall include a provision for the certified survey map number. Successive sheets of the same certified survey

map shall have the identical title in the same position as the first sheet. Directly under the identification title shall be typed or lettered a caption giving its location by government lot, quarter-quarter, quarter section, township, range, city, county and state including sufficient description to clearly define the lands or lot and block and recorded subdivision or parcel number and certified survey map number of the property included in the map.

119-7. Technical Requirements; Certified Survey Maps and Final Subdivision Plats.

Every certified survey map or final subdivision plat shall meet the following requirements.

1. The city of Milwaukee tax key number or numbers and zoning designation shall be included on sheet one.

2. The map or plat shall contain a small vicinity drawing of the section or quarter section naming, if any, the peripheral streets of the area in which the land under consideration is situated. This drawing shall show a north point and scale and shall be orientated on the sheet in the same direction as the main drawing and shall be located on the first sheet when practical. An outline of the land surveyed shall be shaded in on the vicinity map in its proper location.

3. A bearing reference shall indicate the section line or quarter section line and the assumed bearing thereof to which the bearings shown on the mapped property are referenced. When using an approved Wisconsin coordinate system as designated in s. 236.18(2), Wis. Stats., the map or plat shall indicate the system used and the latest date of the datum used.

4. The exact length of the exterior boundaries, the boundary lines of all public grounds, streets and alleys, and all lot lines shall be to the nearest 1/100 of a foot and bearing in degrees, minutes and seconds, except that when the lines in any tier of lots are parallel, it shall be sufficient to mark the bearings of the outer lines on one tier.

5. The widths of all streets, bicycle ways, pedestrian ways, alleys, other public ways, and easements shall be included. Easements not parallel to a boundary or lot line shall be shown by center line distance, bearing, and width or by easement boundary bearings and distances. Where easement lines are parallel to boundary or lot lines, the boundary or lot line distances and bearings are controlling.

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6. All private easements, roads, streets, ways, alleys, off-street parking areas and other land reserved for private use which are not dedicated to public use shall be clearly marked thereon, such as, "Private Road", "Private Street", "Private Way", "Electric Power Line Easement", "Street Lighting Easement" or "Telephone Line Easement" for underground or overhead installation as required, and shall be clearly marked.

7. All parks, parkways, playgrounds, and other lands intended to be dedicated to public use by the certified survey map or plat shall be clearly marked thereof "Dedicated to the Public for Use" as a park, parkway or playground as the case may be. All public rights-of way such as streets, alleys, bicycle ways, and pedestrian ways to be dedicated to public use by the map or plat shall be clearly marked thereon "Dedicated to the City of Milwaukee" for public street, alley, bicycle way, pedestrian way purpose as the case may be.

8. All existing buildings and structures shall be shown, except those which are not relevant to the proposed division as determined by the department of city development. The map or plat shall show the perpendicular distances between the existing structure and any lot lines. Existing structures to be razed shall be labeled as such.

9. Where curve data contain a central angle with an odd number of seconds, the bearings for that curve data shall be expressed to the half second (0.5").

10. The name of each road or street shall be indicated in prominent letters and shall be in conformity with the street designation system of the city of Milwaukee. The names of all roads and streets shall be approved by the city engineer.

11. The names of adjoining streets, state highways, and recorded subdivision plats or certified survey maps shall be shown in waterproof nonfading black India ink underscored by dotted or dashed lines. Adjoining unplatted land shall be labeled as "Unplatted Lands" and underscored in the same manner.

12. The map or plat shall include flood plain district limits, including contour line of the floodway, the regional flood profile elevation (100-year flood) and the contour line 2 feet above the vertical distance of the regional flood profile elevation or, where such data are not available, 5 feet above the maximum flood of record.

13. Monumentation for a certified survey map or final subdivision plat shall be in compliance with the provisions of s. 236.15(1), Wis. Stats., with the following additions:

a. When an external boundary corner or point falls within a street, or proposed future street, the monument shall be placed in the side line of the street.

b. When strict compliance with this subsection would be unduly difficult or would not provide adequate monuments, the city engineer may waive such strict compliance.

14. The survey shall be performed by a professional land surveyor. If the error in the latitude and departure closure of the survey or any part thereof is greater than the ratio of one in 4,000, the certified survey map or final subdivision plat may be rejected.

119-8. Submission and Technical Requirements; Preliminary Subdivision Plats.

Every preliminary subdivision plat submission shall be prepared in compliance with the provisions of this chapter and ch. 236, Wis. Stats., and meet the following requirements:

1. 4 copies of a preliminary plat on not less than 20-pound bond paper measuring 22 inches wide by 30 inches long, 3 copies measuring 11 inches by 17 inches, a digital PDF, an application, and associated fees shall be submitted. The property shown on a preliminary plat may be drawn to any scale provided that the dimensions and other information shown thereon are legible.

2. The plat shall be clearly marked "preliminary plat" and contain or show the following:

a. The name of the proposed subdivision

b. The name and address of the owner.

c. A caption giving the plat's location by government lot, quarter section, quarter-quarter, township, range, city, county and state, including sufficient description to clearly define the lands such as including a lot and block and subdivision name or lot number of the certified survey map number of the property included in the plat.

d. North point, date and scale.

e. A vicinity map.

f. The name and address of the professional land surveyor preparing the plat. The land surveyor shall be responsible for the survey and shall sign, seal, and date each sheet of the preliminary plat.

g. The length and bearing of the exterior boundaries of the proposed subdivision plat.

h. The names of adjacent recorded subdivisions or certified survey maps.

i. The location, widths and names of all existing or platted streets, alleys, bicycle ways, pedestrian ways or other public ways and easements, railroad and utility rights-of-way, parks, cemeteries, drainage ditches, water courses, bridges and other permanent or temporary buildings or structures, and other public places.

j. The layout and width of all new streets and rights-of-way such as alleys, bicycle ways, pedestrian ways, highways, easements for sewers, water mains and other public utilities, such as underground electric power, street lighting, telephone, cable television installations and drainage ditches and water courses.

k. Dimensions of lots and other land areas.

L. Approximate radii and arc lengths of all curves and lengths of tangents.

m. Land intended to be dedicated for public use, or to be reserved by deed covenant or easement for use of all property owners in the subdivision with conditions, if any, of such dedication or reservations or easements. Private property held in common and not dedicated for public use shall be so indicated.

n. An overall grading plan of the tract showing features of the land adjacent to the tract within a reasonable distance therefrom which tend to affect the surface run-off of the subdivision.

o. Flood plain district limits, including the contour line of the floodway, the regional flood profile elevation (100-year flood) and the contour line 2 feet above the vertical distance of the regional flood profile elevation or, where such data are not available, 5 feet above the maximum flood of record.

119-9. Submission Requirements; Final Subdivision Plats. Every final subdivision plat shall be prepared in compliance with the provisions of this chapter and ch. 236, Wis. Stats., and meet the following requirements:

1. One original plat, 3 full-size copies, 3 copies measuring 11 inches by 17 inches, a digital PDF, an application, and associated fees shall be submitted.

2. The original plat shall be prepared with a permanent non-fading black image on one or more sheets 22 inches wide by 30 inches long, on good quality white tracing paper and submitted to the department of city development for processing and approval. When more than one sheet is used for any one plat, sheets shall be numbered consecutively and each sheet shall contain a notation showing the whole number of sheets in the plat and its relation to the other sheets. The plat shall have a binding margin of 1 and 1/2 inches on the left side of the 30-inch length and one-inch margin on all other sides, and there shall be provided a blank space not less than 4 inches by 4 inches located on the first sheet for notating municipal action. Documents shall be clear and legible, with a graphic scale of not more than 100 feet to one inch. The letters, numbers, symbols, diagrams, and other representations shall be sufficiently large and dense to be legible and reproduced by a copy machine and microfilm camera or optical scanner to the extent that the image captured is legible. A white, opaque double-matt polyester film, not less than 4 mil thickness of the same size specified above, of the subdivision plat tracing or tracings shall be made by the department when all the required municipal approvals and signatures have been obtained and the city clerk forwards the plat to the department for recording.

3. The caption giving the location of the subdivision shall be typed or lettered directly under the name given to the plat. Successive sheets of the same subdivision plat shall have the identical caption located below the subdivision name.

119-10. Required Certificates, Consents and Agreements; Certified Survey Maps and Final Subdivision Plats.

1. **REQUIRED ATTACHMENTS.** Every certified survey map or final subdivision plat shall have attached, in the following order, the following certificates, consents and agreements thereon:

a. A surveyor's certificate.
b. An individual or entity owner's certificate. The certificate shall be signed by each individual or entity holding an interest in the fee of record at the time that the certified survey map or final subdivision plat is submitted to the council for final consideration. Electronically-produced signatures shall not be accepted.

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c. A consent of individual or entity mortgagee.

d. A certificate of the city treasurer.

e. A certificate of the city clerk regarding common council approval.

2. CERTIFICATE OF COUNTY TREASURER. A final subdivision plat shall also have attached a certificate of the county treasurer as required by ss. 236.21(3) and 236.25(2)(c), Wis. Stats., which shall follow the certificate of the city treasurer and precede the certificate of the city clerk.

3. FORMS. The certificates and consents required under subs. 1 and 2 shall be in the following forms or department of city development-approved variations thereof. Notary seals shall be legible and shall not cover text or signatures on forms.

a. Form No. 1:

SURVEYOR'S CERTIFICATE

STATE OF _____

_____ COUNTY

I, _____ (type or print name), a professional land surveyor, certify:

That I have surveyed, divided and mapped:

- (for certified survey maps) a part of the _____ (caption) in the City of Milwaukee, Milwaukee County, Wisconsin, which is bounded and described as follows:
- (for final subdivision plats) (Subdivision Name), being a subdivision of part of the _____ (caption) in the City of Milwaukee, Milwaukee County, Wisconsin, which is bounded and described as follows:

(Here Insert: A clear and concise description of the land surveyed, divided, and mapped by government lot, recorded private claim, quarter-quarter section, section, township, range and county; and by metes and bounds commencing with a monument at a section or quarter section corner of the quarter section that is not the center of a section, or commencing with a monument at the end of a boundary line of a recorded private claim or federal reservation in which the land is located. If, however, the land is shown in a recorded subdivision plat, recorded addition to a recorded subdivision plat, or recorded certified survey map that has previously been tied to the monumented line of a quarter section, government lot, recorded private claim, or federal reservation in which the land is located, the land shall be described by the subdivision name or certified survey map number and the description of the lot and block thereof.)

(Dedications of land for public rights-of-way shall be included.)

That I have made the survey, land division, and ____ (map or plat) by the direction of _____ (owner's name).

That the ____ (map or plat) is a correct representation of all the exterior boundaries of the land surveyed and the land division thereof made.

That I have complied with Chapter 236 of the Wisconsin Statutes and Chapter 119 of the Milwaukee Code of Ordinances in surveying, dividing and mapping the same. Per Wis. Stat. 236.21 (1), this certificate has the same force and effect as an affidavit.

Date: _____

Signature: _____

Type or Print Name: _____

Title: Professional Land Surveyor, Number: _____

(Surveyor's Seal)

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b. Form No. 2:

INDIVIDUAL OWNER'S CERTIFICATE

As owner(s), I (we) certify that I (we) caused the land described on this ____ (certified survey map or final subdivision plat) to be surveyed, divided, mapped and dedicated as represented on this map or plat in accordance with the requirements of Chapter 236 of the Wisconsin Statutes and Chapter 119 of the Milwaukee Code of Ordinances.

In consideration of the approval of the ____ (map or plat) by the Milwaukee Common Council, the undersigned agrees:

That all utility lines to provide electric power and telephone service and cable television or communications systems lines or cables to all lots in the ____ (certified survey map or in the subdivision plat) (other than already existing lines and cables) shall be installed underground in easements provided therefore, where feasible.

Note: Additional agreements between the City and owner shall also be included where applicable, for example, the removal of buildings or structures in public right-of-ways, and restrictions prohibiting direct vehicular access to major streets. Such applicable agreements shall be in the following forms:

a. That the removal of buildings and structures and restoration of site within the dedicated public right-of-way in _____ (street name) will be performed by the owner at no expense to the City of Milwaukee.

b. That direct vehicular access from Lot _____, Parcel _____ Block _____, to _____ (street name) is prohibited as delineated on the attached map.

This agreement is binding on the undersigned and successors and assigns.

Date: _____

Signature: _____

Type or Print Name: _____

STATE OF _____

_____ COUNTY

Personally came before me this ____ day of _____, 20__, the above named _____, to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.

Notary Signature: _____

Print Notary Name: _____

Notary Public, State of _____. My commission expires: _____

(Notary Seal)

c. Form No. 3:

ENTITY OWNER'S CERTIFICATE

_____(Entity Name), a _____(identify type of entity) duly organized and existing under and by virtue of the laws of the State of _____, as owner, certifies that said entity caused the land described on this _____*(certified survey map or final subdivision plat) to be surveyed, divided, mapped and dedicated as represented on this _____ (map or plat) in accordance with the requirements of Chapter 236 of the Wisconsin Statutes and Chapter 119 of the Milwaukee Code of Ordinances.

In consideration of the approval of the _____ (map or plat) by the Milwaukee Common Council, the undersigned agrees:

That all utility lines to provide electric power and telephone service and cable television or communications systems lines or cables to all lots in the _____(certified survey map or in the subdivision plat) (other than already-existing lines and cables) shall be installed underground in easements provided therefore, where feasible.

Note: Additional agreements between the City and owner shall also be included, when applicable, for example, the removal of buildings or structures in public right-of-ways, and restrictions prohibiting direct vehicular access to major streets. Such applicable agreements shall be in the following forms:

- a. That the removal of buildings and structures and restoration of site within the dedicated public right-of-way in _____ (street name) will be performed by the owner at no expense to the City of Milwaukee.
- b. That direct vehicular from Lot _____, Parcel _____, Block _____, to _____ (street name) is prohibited as delineated in the attached map.

This agreement is binding on the undersigned and successors and assigns.

Date:_____

Entity Name:_____

Signature:_____

Type or Print Name:_____

Title:_____

STATE OF _____

_____ COUNTY

Personally came before me this _____ day of _____, 20____, _____ (name), the _____ (title) of the above named entity, to me known to be the person who executed the foregoing instrument, and acknowledged that he/she executed the foregoing instrument as such officer on behalf of the entity, by its authority.

Notary Signature:_____

Print Notary Name:_____

Notary Public, State of _____. My commission expires:_____

(Notary Seal)

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d. Form No. 4:

CONSENT OF INDIVIDUAL MORTGAGEE

I, _____ (type or print name of person who holds mortgage), mortgagee of the above described land, do hereby consent to the surveying, dividing, mapping, restricting and dedication of the land described on this _____ (certified survey map or final subdivision plat) and in the surveyor's certificate, and to the certificate of the owner(s) of said land.

Date: _____

Signature: _____

Type or Print Name: _____

STATE OF _____

_____ COUNTY

Personally came before me this _____ day of _____, 20____, the above named _____ to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Signature: _____

Print Notary Name: _____

Notary Public, State of _____. My commission expires: _____

(Notary Seal)

e. Form No. 5:

CONSENT OF ENTITY MORTGAGEE

_____ (corporate or entity name), a (identify type of entity) duly organized and existing under and by virtue of the laws of the State of _____, as mortgagee of the above described land, consents to the surveying, dividing, mapping, restricting and dedication of the land described on this ____ (map or plat) and in the surveyor's certificate, and to the certificate of the owner(s) of said land.

Date: _____

Entity Name: _____

Signature: _____

Type or Print Name: _____

Title: _____

STATE OF _____

_____ COUNTY

Personally came before me this _____ day of _____, 20 ____, _____ (name and title) of the above named entity, to me known to be the person who executed the foregoing instrument, and acknowledged that he/she executed the foregoing instrument as such officer on behalf of the entity, by its authority.

Notary Signature: _____

Print Notary Name: _____

Notary Public, State of _____. My commission expires: _____

(Notary Seal)

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f. Form No. 6:

CERTIFICATE OF CITY TREASURER

I, _____ (type or print name), being the duly elected and acting City Treasurer of the City of Milwaukee, certify that in accordance with the records in the office of the City Treasurer of the City of Milwaukee there are no unpaid taxes or unpaid special assessments on the land included in this ____ (certified survey map or final subdivision plat).

Per Wis. Stat. 75.06 and 74.87, the City of Milwaukee collects property taxes and enforces nonpayment of same on parcels in the City of Milwaukee. Per Wis. Stat. 74.83, the City of Milwaukee and Milwaukee County entered into an Intergovernmental Cooperation Agreement approved by Council Resolution 901408, whereby the city is the sole collector and enforcer of property taxes for parcels in the city.

Date: _____

Signature: _____

Type or Print Name: _____
(City Treasurer)

g. Form No. 7:

**CERTIFICATE OF CITY CLERK REGARDING COMMON COUNCIL
APPROVAL**

I certify that this _____ (certified survey map or final subdivision plat) was approved under Resolution File No. _____, adopted by the Common Council of the City of Milwaukee on _____.

(For final subdivision plats, only if applicable). Pursuant to Section 119-12 of the Milwaukee Code of Ordinances, the owners of the lands in the subdivision plat entered into an agreement relating to the installation of required improvements in certain public ways on _____ (date).

Date:_____

Signature:_____

Type or Print Name:_____
(City Clerk)

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h. Form No.8:

CERTIFICATE OF COUNTY TREASURER

I, _____(type or print name), being the duly elected and acting County Treasurer of Milwaukee County, certify that in accordance with the records in the office of the Milwaukee County Treasurer there are no unpaid taxes or unpaid special assessments on the land included in this ____ (certified survey map or final subdivision plat).

Per ss. 75.06 and 74.87, Wis. Stats., the City of Milwaukee collects property taxes and enforces nonpayment of same on parcels in the city of Milwaukee. Per s. 74.83, Wis. Stats., the City of Milwaukee and Milwaukee County entered into an Intergovernmental Cooperation Agreement approved by Common Council Resolution File No. 901408, whereby the City is the sole collector and enforcer of property taxes for parcels in the city.

Date:_____

Signature:_____

Type or Print Name:_____
(Milwaukee County Treasurer)

119-11. Principles of Design. The following principles of design apply to preliminary subdivision plats, final subdivision plats, and certified survey maps:

1. **GENERAL.** a. No land shall be subdivided which is unsuitable for such use by reason of flooding or bad drainage, adverse earth or rock formations or topography, or any other feature likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

b. The subdivision layout shall conform to the official map.

c. The subdivider of a subdivision shall also submit an overall grading plan of the tract showing features of the land adjacent to the tract within a reasonable distance therefrom which tend to affect the surface run-off of the subdivision. The grading plan shall show how positive run-off of the surface waters from individual lots will be achieved and the means by which ultimate disposal of the subdivision's surface waters will be accomplished without creating adverse conditions on adjoining properties. The grading plan shall include interim erosion control measures to provide protection to adjoining lots within the subdivision, to private properties adjoining the subdivision, and to existing and proposed public improvements. The grading plan shall show the existing and proposed grade contours at one-foot intervals and a typical location and tentative grade for proposed buildings on each lot. The requirement for a grading plan may be waived by the commission in instances where the subdivision or lots contain existing buildings.

d. The subdivision shall be designed to preserve, to the maximum extent possible, grasses, forbs, trees, shrubs, wildflowers and aquatic plants that are native to Wisconsin, as well as any ecological succession of native and non-native plants.

2. STREET AND BLOCK LAYOUT.

a. The street layout shall be in conformity with a plan of development of adjoining areas and the entire neighborhood, and shall meet the following standards:

a-1. All proposed streets shall be continuous and in alignment with existing planned or platted streets with which they are to connect.

a-2. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless such extension is not necessary or desirable for coordination with the

surrounding street pattern. Dead-end streets of reasonable lengths shall be approved where necessitated by topography, or where they are appropriate for the type of development contemplated.

a-3. Streets shall follow the contour of the land.

a-4. Streets shall intersect each other as nearly at right angles as topography, ownership lines, natural barriers and related conditions permit.

a-5. Not more than 2 streets shall converge at one intersection.

a-6. The commission may require that alleys be provided in blocks platted along major streets where no backing of lots is indicated.

a-7. Whenever a part of a dedicated or platted and recorded street, alley or other public way exists adjacent to the tract to be subdivided, the balance of such street, alley or other public way shall be platted, and the width shall conform to the official map.

b. Blocks shall have sufficient width to provide for 2 tiers of lots and meet the following standards:

b-1. The length of each block shall be appropriate for the locality and type of development contemplated.

b-2. In any block, the commission may require that a crosswalk or pedestrian way not less than 20 feet in width be platted near the center of the block where deemed essential to provide safe and convenient pedestrian access to schools, parks, playgrounds, public transportation and other community facilities.

b-3. Blocks shall be laid out so that the number of intersecting streets along major thoroughfares is held to a minimum wherever practicable.

c. Accessways and private entrances opening on major streets or parkways shall be kept to a minimum. The commission may require that vehicular access to residential lots adjoining or adjacent to a major street or a parkway be provided by one of the following means:

c-1. A parallel street, cul-de-sac, U-shaped street or short loop supplying frontage for lots backing onto the major street or parkway, in which case an agreement shall be included on the face of the plat prohibiting direct vehicular access to the lots from the major street and requiring the use of the parallel or alternative street for vehicular ingress and egress.

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c-2. An alley at the rear of lots abutting and facing the major street or parkway, in which case an agreement shall be included on the face of the plat prohibiting direct vehicular access to the lots from the major street or parkway and requiring the use of the alley for vehicular ingress and egress.

3. MINIMUM RIGHT-OF-WAY WIDTHS. a. The widths of all primary, collector, secondary and residential streets shall be as indicated on the official map.

b. Street right-of-way shall not be less than 60 feet in width.

c. A dead-end street shall terminate in a turnaround having a right-of-way sufficient in size to inscribe a circle of at least 100 feet in diameter.

d. A new alley shall not be less than 20 feet in width.

e. A pedestrian way shall be no less than 20 feet in width.

4. STREET DESIGN. a. The pavement width for a local street, as defined in s. 295-201-643, shall be not less than 22 feet and not more than 36 feet unless otherwise approved by the common council.

b. The minimum radius for the paved portion of a cul de sac shall be 35 feet.

c. A landscaped island shall be created in any cul de sac having a paved area radius greater than 35 feet. This requirement may be waived by the common council.

d. Alternatives to cul de sac turnaround design, including but not limited to hammerheads and loop roads, shall be permitted for residential streets.

e. Vegetated open channels shall be permitted along a residential street with openings in the curb face or other conveyance methods that maintain curb and gutter.

f. Flush curbs or curb cuts that direct runoff into landscaped islands shall be permitted.

g. A local street, as defined in s. 295-201-643, shall have a tree border not less than 6 feet in width. This requirement may be waived by the common council.

h. The portion of the street right of way commonly known as the tree border and located between the curb and the outside line of the sidewalk closest to the curb may be designated and used for storm water treatment purposes, consistent with the terms and conditions of the approved stormwater management plan.

5. STREET GRADES. Street grades shall be as determined by the city engineer.

6. INTERSECTIONS. At any alley intersection, a 10-foot cutoff having a hypotenuse approximately 14 feet in length shall be provided at each corner.

7. LOTS. a. The size, shape and orientation of lots shall conform to the requirements of the zoning code and shall be appropriate for the location of the proposed subdivision and for the type of development contemplated.

b. Except as provided in par. c, every lot or parcel in a subdivision plat or certified survey map shall front or abut onto a public street other than an alley.

c. Indirect access to a public street from one lot, parcel or outlot may be permitted through a private easement.

d. A land division creating 2 or more lots, parcels or outlots with access from a private street or road shall only be recommended for approval after the following reports have been submitted:

d-1. A report by the commissioner of public works indicating the adequacy of sewer and water facilities needed to serve the proposed lots and the ability to provide refuse collection in a safe and efficient manner. If the commissioner finds the proposed lots will not be adequately served by sewer and water facilities, the subdivider shall be required to enter into an out-of-program agreement pursuant to s. 119-12.

d-2. Reports from the chiefs of fire and police indicating the ability of proposed private roads or streets to provide adequate access for emergency vehicles.

e. A private street, drive, road, or easement shall not be designated as a separate lot, parcel or outlot and shall be included as part of one or more of the lots or parcels or outlots adjoining thereto.

f. Each residential lot shall have the width and area required by ch. 295. Lesser lot width or area may be recommended for approval if a variance has been granted by the board of zoning appeals.

g. Through lots shall be avoided except as described in sub. 2-c.

h. Side lot lines shall be approximately at right angles to the street line on which the lot faces.

i. For a proposed lot or parcel containing an existing residential structure that is to remain in use, the setback, side yard and rear yard required by ch. 295 shall be provided between the existing structure and any proposed new lot lines.

j. Lot lines shall follow municipal boundary lines whenever practicable.

8. PRIVATE SEWERAGE DISPOSAL. Lots within the city which are to be served by private sewerage systems (septic tanks) shall comply with the applicable provisions of ss. 225-15 to 225-19, as well as the provisions of sub. 10. A permit of the type specified in s. 225-15 issued by the commissioner of health shall constitute proof of compliance.

9. UNDERGROUND ELECTRIC POWER, STREET LIGHTING, TELEPHONE AND CABLE TELEVISION SERVICE. Where feasible, all electric power, street lighting, telephone and cable television or communication systems lines or cables shall be installed underground in easements provided therefore. It shall be the responsibility of the developer or property owner in cases of new construction or property development to give reasonable notice of such construction or property development to utility and cable communications systems companies.

10. FLOOD PLAIN LIMITATION. No lot served by the public sanitary sewerage system shall have less than 50% of its required lot area below an elevation that is at least 2 feet above the regional flood profile elevation or, where such data are not available, at least 5 feet above the maximum flood of record. Each lot served by a private sewerage system (septic tank) shall be more than one acre in size and shall contain not less than 40,000 square feet of land that is at least 2 feet above the regional flood profile elevation or, where such data are not available, at least 5 feet above the maximum flood of record.

11. SEWER AND WATER. Whenever a proposed land division is not adequately served by sewer and water facilities, the subdivider shall enter into an out-of-program agreement pursuant to s. 119-12.

12. MODIFICATIONS AND EXCEPTIONS. Where the subdivider or any public agency or department can show that, by reason of exceptional topographic or other physical conditions, or upon the recommendation of the city engineer and commissioner of public works, strict compliance with any requirement of this chapter would cause practical difficulty or exceptional and

undue hardship, the commission may waive strict compliance so as to relieve the difficulty or hardship, provided that relief may be granted without detriment to the public good and without impairing the intent and purposes of this chapter, or the desirable general development of the neighborhood and the community in accordance with the city's master plan. Any waiver granted shall be entered in the minutes of the commission setting forth the reasons which, in the opinion of the commission, justified the waiver.

119-12. Required Improvements.

1. AGREEMENT WITH CITY. The subdivider of a subdivision plat shall enter into an agreement with the city, in recordable form, referred to on the face of the plat, to guarantee the installation at the subdivider's own expense, subject to refund as provided in sub. 4, of the following facilities required by the common council and the commissioner of public works. The requirement for an agreement may be waived by the commissioner in instances where all public improvements to serve the subdivision are available, the proposed public improvements to serve the subdivision are being undertaken as city-sponsored projects under the current paving program, or where subdivision is proposed by a municipal agency and alternate sources of funding are provided. The required public improvements are:

a. Water mains and sanitary and storm water drainage facilities and laterals to the lot line, where connections to existing municipal systems can be practically provided, in accordance with city specifications; provided, however, that in an area where a subdivision cannot be practically served by existing municipal systems, the subdivider or an agent shall provide sewer, water and drainage facilities in accordance with the standards and specifications of the commissioner of health and commissioner of public works.

b. Surfacing for streets, alleys and pedestrian ways shown on the plat with the type of pavement approved by the commissioner of public works and in accordance with approved city plans and specifications. The commissioner may approve the use of permeable paving, as defined in s. 200-08-68.5, for parking lanes, alleys and pedestrian ways.

c. Concrete sidewalks or sidewalks constructed of permeable paving, as defined in s. 200-08-68.5, along both sides of every street in a residentially-zoned area, and along at least one

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side of every street in an area zoned other than residential, in accordance with applicable standard specifications of the department of public works; provided, however, that the common council may waive or defer any or all of these requirements.

d. Street lighting facilities in all streets, alleys and pedestrian ways shown on the plat with the type of lighting standard approved by the commissioner of public works and in accordance with approved city plans and specifications; provided, however, that the city shall participate in 50% of the full cost of installation of the street lighting facilities.

2. CITY CONSTRUCTION.

Subsection 1 shall not be deemed an elimination of the city program of construction. The charge for the work done by the subdivider shall be deemed to be special assessments, duly authorized, made and levied. The payment, however, or such special assessments shall be made as provided in this section.

3. APPROVAL. The adequacy of the public facilities required by sub. 1 shall be subject to the approval of the commissioner of public works and the common council.

4. REFUNDS. After January 1 of the year following the completion of the required improvements, the city shall refund to the developer the following:

a. The excess cost of water mains, storm sewers and sanitary sewers where anticipated service beyond the limits of the developer's ownership has required such water mains, storm sewers and sanitary sewers to be installed in sizes larger than those required to serve the particular subdivision under present consideration and where, in the opinion of the commissioner of public works, other unusual requirements such as stream crossings or railroad crossings have abnormally increased the cost of water supply mains, outlet storm sewers and outlet sanitary sewers outside the subdivision, at a rate per lineal foot to be determined by the commissioner and approved by the common council.

b. The excess cost of street construction where a roadway width in excess of 36 feet or a half width in excess of 18 feet is required.

c. The amount of all special assessments levied against property outside the subdivision because of water mains, storm sewers, sanitary sewers and street, alley, bicycle way, or pedestrian way paving required to be installed outside the subdivision or in boundary streets.

d. On a boundary street, the non-assessable portion of the cost of storm sewers, sanitary sewers, water mains and street paving not provided for under pars. a and b and pertinent to the side of the street opposite the subdivision, provided the refund is limited to an amount which, when combined with the special assessment, if any, as provided for under par. c, would not exceed the amount of the product of the length of boundary street involved and the normal rate of assessment in effect at the time the work is placed under contract. No refund shall be made under this subsection if the property on the side of a boundary street opposite the subdivision lies outside the corporate jurisdiction of the city or if a dual system of services is prescribed by the commissioner of public works.

e. On a street adjacent to land dedicated to the city at no cost to the city for a public purpose, that portion of the cost of sanitary sewers, storm sewers, water mains, and street paving not provided for under pars. a or b and pertinent to the side of the street adjacent to the land so dedicated, provided the refund shall not exceed the amount of the product of the length of street adjacent to said land and the normal rate of assessment in effect at the time the work is placed under contract.

5. PERMITS. a. The commissioner of neighborhood services shall not issue a building permit for any dwelling unit, other than a model home, on a lot until all proposed improvements abutting the lot have been placed under contract, except when:

a-1. Two-stage pavement construction is specified, a permit may be issued subsequent to the award of a contract for the first stage, provided payment for the second stage has been guaranteed by a cashier's check deposited with the commissioner of public works or by certification from the developer's bank that the bank is holding the required funds and will, upon simple request, release same to the city as required for second stage pavement construction; or

a-2. A lot with public right-of-way frontage on 2 or more sides has available the necessary public improvements to serve the lot on at least one of its frontages, but the developer is precluded by governmental action from installing required improvements on the remaining lot frontages, the council may by resolution specify the conditions under which a building permit may be issued for the lot.

b. The commissioner of neighborhood services shall not issue a certificate of occupancy for any use requiring a certificate of occupancy on a lot until the proposed improvements abutting the lot have been completed, except when:

b-1. Two-stage pavement construction has been specified, a permit may be issued subsequent to completion of the first stage, provided payment for the second stage has been guaranteed by a cashier's check deposited with the commissioner of public works or by certification from the developer's bank that the bank is holding the required funds and will upon simple request release same to the city as required for second stage pavement construction; or

b-2. The developer is precluded by governmental action from installing the required improvements on all right-of-way frontages, but the necessary public improvements are available to serve at least one of the 2 or more frontages, the permit may be issued prior to installation of all the improvements if the council has adopted a resolution specifying the conditions under which a building permit may be issued.

119-13. Required Dedications or Reservations.

1. The owner of lands in a final subdivision plat or certified survey map shall indicate, on the face of the plat or map, reservations or dedications to the city for public streets, alleys or other public ways as shown on the official map. The final plat or certified survey map shall not be considered or approved until these reservations or dedications are so indicated.

2. Procedures for vacations of city right-of-way are under s. 308-28.

119-14. Enforcement. 1. GENERAL. No department, bureau, board, commission or employee of the city shall issue any permit or license or shall plan for the installation of sewer or water connections to any lot, plot, parcel or building site which is part of a certified survey map or a subdivision which has not been approved in

accordance with this chapter, if this chapter requires such certified survey map or subdivision to be so approved.

2. COMMISSIONER TO ENFORCE. The commissioner of neighborhood services is authorized to enforce this chapter and to initiate actions to impose the penalties provided in s. 119-5.

119-15. Penalties. Any person who, or entity that, violates or fails to comply with this chapter shall be subject to the forfeitures and provisions of s. 236.335, Wis. Stat. Compliance with this chapter may also be enforced by injunction at the suit of the city. It shall not be necessary to prosecute for fine or forfeiture before resorting to injunction proceedings.

119-16. Correcting Instruments. 1. An instrument correcting a recorded certified survey map or a recorded final subdivision plat shall be in accordance with s. 236.295, Wis. Stats., and shall be recorded with the register of deeds. Upon recording, a copy of the instrument shall be provided to the commissioner of public works.

2. An instrument correcting surveying data or details, and any correcting instrument under sub. 3, shall be signed by a professional land surveyor and shall be recorded with the register of deeds by the department of city development. Applicable fees shall be paid under s. 81-97. Upon recording, and a copy of the instrument shall be provided to the commissioner of public works.

3. Any instrument correcting data that changes areas dedicated to the public or restrictions for the public benefit shall meet the requirements of sub. 1, shall be submitted to the city engineer, and shall be approved by the common council prior to recording with the register of deeds by the department of city development as provided in sub. 2 and in s. 119-4-3.

4. Any correcting instrument under subs. 2 or 3 shall have attached thereto an affidavit in the form specified by sub. 6.

5. No corrective instrument may be used to reconfigure lots or outlots.

6. The affidavit form for a correcting instrument shall be as follows:

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Form No. 9: Correcting Instrument

**AFFIDAVIT OF CORRECTION
FOR**

(CERTIFIED SURVEY NO. _____ OR _____ SUBDIVISION PLAT)

I, _____ (surveyor name), professional land surveyor, being first duly sworn, on oath, state that this document is made per Wis. Stat. 236.295 and Milwaukee Code of Ordinances 119-16 to make the following corrections:

- to sheet(s) ___ of the certified survey map recorded on _____, as Register of Deeds Document No. _____
- to sheet(s) of the subdivision plat recorded on _____, as Register of Deeds Document No. _____

(State Corrections)

Date: _____

Signature: _____

_____ (Type or print name), Professional Wisconsin Land Surveyor, Number _____

(Surveyor's Seal)

STATE OF _____

_____ COUNTY

Personally came before me this ____ day of _____, 20__, the above named ____ (surveyors name), to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Signature: _____

Print Notary Name: _____

Notary Public, State of _____. My commission expires: _____

(Notary Seal)

COMMON COUNCIL CERTIFICATE OF APPROVAL (if required by s. 119-16-3)

I certify that this Affidavit of Correction was approved under Resolution File No. _____, adopted by the Common Council of the City of Milwaukee on _____.

Date: _____

Signature: _____

Type or Print Name: _____
(City Clerk)

For legislative history of chapter 119, contact
the Municipal Research Library.

Pages 833-840 are blank.

CHAPTER 120 STORM WATER MANAGEMENT REGULATIONS

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120-1. Purpose of Chapter. 1. The purpose of this chapter is to: a. Promote the public health, safety and general welfare.

b. Establish procedures to control the adverse impacts associated with storm water runoff.

c. Assist in the attainment and maintenance of water quality standards.

d. Reduce the effects of development and redevelopment on land and stream channel erosion.

e. Minimize damage to public and private property.

f. Reduce nonpoint source water pollution by minimizing impervious cover on development sites.

g. Promote the co-benefits of visible green infrastructure, including reduction of urban heat island effects, benefits to human health, city beautification and protection of coastal areas.

h. Help the city adapt to climate change and become more resilient to climate threats.

2. The approvals to be obtained by the person as required in this chapter shall be based on ch. 119 and vol. 2, building and zoning code, and the requirements designed to accomplish the purposes listed in sub. 1.

120-3. Definitions. Unless otherwise defined in this chapter, all terms defined in chs. 119, 200, 225, 290 and 295 have the same meaning as ascribed thereto.

1. **ADVERSE IMPACT** means any modification, alteration or effect on a feature or a characteristic of a wetland, water of the United States or municipal separated storm sewer system; including quality, quantity, hydrodynamics, surface area or species composition as defined by the Wisconsin department of natural resources; or human or natural use which is or may potentially be harmful or injurious to property, human health, welfare, or safety, or to biological productivity, diversity or stability.

2. **BEST MANAGEMENT PRACTICE (BMP)** means any acceptable method, structural or otherwise, for controlling the quantity and quality of storm water runoff.

3. **DETENTION** means the collection and temporary storage of surface water runoff for subsequent gradual discharge.

4. **DETENTION STRUCTURE** means a permanent storm water management structure whose primary purpose is to temporarily store storm water runoff and release the stored runoff at controlled rates.

5. **DEVELOPMENT** means to change the runoff characteristics of a parcel of land in conjunction with residential, commercial, industrial, or institutional construction or alteration. This includes the construction of buildings, roads, parking lots and paved or unpaved storage areas.

6. **DRAINAGE AREA** means that area contributing runoff to a single point.

7. **DRAINAGE FACILITY** means any component of the drainage system that has been constructed or altered by humans. It includes channels, ditches, swales, conduits and street and alley pavements.

8. **DRAINAGE SYSTEM** means the collection and conveyance of storm water runoff, snow melt runoff, surface water runoff or other drainage from the land. It includes all drainage facilities, watercourses, water bodies and wetlands.

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9. EROSION means the wearing away of land surface by the action of wind, water, gravity, ice or any combination of those forces.

9.5. GREEN INFRASTRUCTURE means any combination of landscaping, facilities or equipment that captures rain, at or near the site where it falls, by infiltration into the soil, evapotranspiration by plants, or storage for beneficial reuse. Green infrastructure includes, but is not limited to, rain gardens, wetlands, green roofs, bioswales, including dry ponds or other detention facilities designed to increase infiltration, permeable surfacing, landscaping with deeply rooted plants, cisterns with operational pumps that allow reuse of stored water for irrigation and other reuses permitted under the state plumbing code, rain barrels, trees, soil amendments and the removal of structures or pavement that allows revegetation or infiltration.

10. HYDRAULIC CONDITIONS means the physical characteristics of the drainage system including size, velocity, slope, material and capacity.

11. HYDROLOGIC CONDITIONS means the characteristics of surface water runoff including the direction of flow, flow rate and volume of water.

12. ILLEGAL CONNECTION means any unpermitted connection to the drainage system.

13. ILLICIT DISCHARGE means any discharge to the drainage system which is not composed entirely of storm water unless a permit has been obtained from the appropriate regulatory agency. This includes, but is not limited to, activities related to spills, dumping and disposal of any substance or material.

14. IMPERVIOUS SURFACE means a surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes semi-impervious surfaces such as compacted clay, as well as most conventional street and alley surfaces, roofs, sidewalks, parking lots and similar improvements.

14.5. IN-FILL means an undeveloped area of land located within an existing urban sewer service area surrounded by development, or development and natural or human-made features where development cannot occur.

15. LAND DISTURBING ACTIVITY means any human-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing activity includes but is not limited to clearing and grubbing, demolishing, excavating, pit trench dewatering, filling and grading activities.

16. MANUAL OF STORM WATER MANAGEMENT PRACTICES means the document on guidance, specifications and techniques available for sale to the public for the activities described in s. 120-13.

16.5. MAXIMUM EXTENT PRACTICABLE means the highest level of performance that is achievable but is not equivalent to a performance standard identified in this chapter, as determined in accordance with s. 120-4.

17. NATURAL SYSTEMS means systems which predominantly consist of or use plants, animal, bacteria and other flora and fauna which are indigenous to the land, soil or water.

17.5. NRCS MSE3 or MSE4 PRECIPITATION DISTRIBUTION means a specific precipitation distribution developed by the U.S. department of agriculture, natural resources conservation service, using precipitation data from the U.S. department of commerce, national oceanic and atmospheric administration (NOAA) Atlas 14.

18. PERSON means any individual, association, organization, partnership, firm, corporation or other entity engaging in the development or redevelopment of a property, as the owner of the property. Separate corporate or individual ownership shall not be used to circumvent the intention of this chapter.

19. POST DEVELOPMENT means the conditions which exist following the completion of the land disturbing activity in terms of topography, vegetation, land use and rate, volume or direction storm water runoff.

20. PRE-DEVELOPMENT means the conditions as of January 1, 2002 that existed prior to the initiation of the land disturbing activity in terms of topography, vegetation, land use and rate, volume or direction of storm water runoff.

21. RECEIVING BODY OF WATER means any water body, watercourse or wetland into which surface waters flow either naturally or from human made conveyances.

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22. REDEVELOPMENT means any construction, alteration or improvement of land disturbance activity performed on sites where the entire existing site is predominantly developed to with residential, commercial, industrial or institutional uses.

23. REGULATORY AGENCY means any agency given authority to regulate or control the discharge content or rate.

24. RETENTION means the prevention of the discharge of a given volume of storm water runoff to the receiving body of water or drainage facility.

25. SEDIMENT means the fine particulate mineral or organic material that is in suspension or has settled in a body of water.

26. SEDIMENTATION FACILITY means any structure or area which is designed to hold runoff water until suspended sediments have settled.

27. STORM SEWER means a system of conveyances for storm water runoff, snow melt runoff and surface runoff and drainage. It includes roadway drainage systems, streets, catch basins and storm water inlets, curbs, gutters, ditches, swales, dug channels and storm drains.

28. STORM WATER MANAGEMENT means either of the following:

a. For quantitative control, a system of vegetative or structural measures, or both, that controls the increased volume and rate of storm water runoff caused by manmade changes in land.

b. For qualitative control, a system of vegetative, structural, or other measures that reduces or eliminates pollutants that might otherwise be carried by storm water runoff.

29. STORM WATER MANAGEMENT PLAN means the detailed analysis required by s. 120-9. A storm water management plan shall address storm water runoff control for quality, quantity or both as defined in subs. 35 and 36.

30. STORM WATER RUNOFF or RUNOFF means direct response of a watershed to precipitation and includes the surface and subsurface runoff that enters a ditch, stream, storm sewer or other concentrated flow during and following precipitation.

31. SUBDIVIDE means to divide a parcel of land, whether improved or unimproved, into 2 or more contiguous lots or parcels of land in accordance with the provisions of ch. 119.

32. SWALE means a structural measure with a lining of grass, riprap or other materials which can function as a detention structure and convey storm water runoff without causing erosion.

33. VEGETATION means all flora, especially trees, shrubs, vines, ferns, mosses and grasses.

34. WATERCOURSE means any natural or human-made stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway gully, ravine, street, roadway, swale or wash in which water flows in a definite direction, either continuously or intermittently and which has a definite channel, bed or bank.

35. WATER QUALITY means those characteristics of storm water runoff from a land disturbing activity that relate to the physical, chemical or biological integrity of water.

36. WATER QUANTITY means those characteristics of storm water runoff that relate to the rate and volume of the storm water runoff to downstream areas resulting from land disturbing activities.

37. WATERS OF THE STATE means those portions of Lake Michigan within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

38. WATERSHED means a drainage area or drainage basin contributing to the flow of water into a receiving body of water.

120-4. Applicability of Maximum Extent Practicable. Maximum extent practicable shall apply when a person who is subject to a performance standard identified in this chapter demonstrates that satisfaction of the performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the person shall take into account the best available technology, cost effectiveness, geographic features and other competing interests such as

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protection of public safety and welfare, protection of endangered and threatened resources and preservation of historic properties.

120-5. Illicit Discharges and Illegal Connections. 1. DISCHARGES PROHIBITED.

No person may discharge, spill or dump substances or materials which are not entirely composed of storm water into receiving bodies of water, storm sewers or drainage facilities, or onto driveways, sidewalks, parking lots or other areas that drain into the drainage system.

2. EXEMPTIONS. The following activities are exempt from the provisions of this section unless found to have an adverse impact on the storm water:

a. Discharges authorized by a permit issued by the Wisconsin department of natural resources.

b. Discharges resulting from fire fighting activities, excluding training activities.

c. Discharges in compliance with ch. 290.

d. Discharges from uncontaminated ground water, potable water source, foundation drain and sump pump, air conditioning condensation, springs, lawn watering, individual residential car washing, water main and hydrant flushing, landscape irrigation, diverted stream flows, irrigation water, flows from riparian habitats and wetlands, street wash water and swimming pools if the water has been dechlorinated.

3. CONNECTIONS PROHIBITED. It shall be a violation of this chapter to connect a waste water building sewer or drain to the drainage system.

4. PENALTY. Violations shall be subject to enforcement procedures and penalties set forth in the building and zoning code.

120-7. Control of Storm Water Discharge.

1. APPLICABILITY. No person shall proceed with any residential, commercial, industrial or institutional improvement or subdivision of property without having provided for appropriate storm water measures that control or manage runoff from such development or redevelopment or future development of the subdivided property. A storm water management plan addressing storm water runoff quality control, quantity control or both must be submitted and approved pursuant to sub. 2 or waived pursuant to sub 4. A plan is required:

a. Before an existing drainage system is altered, rerouted, deepened, widened, enlarged, filled or obstructed in preparation for improvement.

b. Before or concurrent with the submittal and approval of an erosion and sediment control plan as specified in ch. 290.

c. Before the development or redevelopment is permitted for commencement of construction.

1.5 MILWAUKEE RIVER GREENWAY SITE PLAN REVIEW OVERLAY ZONE. This section shall not apply to any property located within the Milwaukee River greenway site plan review overlay zone, as shown on the city zoning map and established by common council file number 081568. Properties in the overlay zone shall be subject to the storm water management regulations of s. 120-14.

2. DEVELOPMENT CRITERIA. A storm water management plan is required if any of the following criteria are met:

a. The development or redevelopment causes a land disturbing activity of one acre or more.

b. The development or redevelopment causes the cumulative area of all land disturbing activities at a property to be one acre or more over a 3-year period.

c. The development or redevelopment occurring causes an increase of 0.5 acres or more of impervious area.

d. The construction or reconstruction of a public road will increase impervious surface by one-half acre or more.

3. EXEMPTIONS. The following activities are exempt from the storm water management plan requirements:

a. Agricultural activities not associated with development.

b. Maintenance, alteration, use or improvement to an existing structure or construction activity which does not significantly change or affect the water quality and hydrologic conditions of the surface water discharge which has a previously approved storm water management plan.

c. Maintenance activities undertaken by any municipal, state or federal governmental agency.

d. Storm water management measures to be undertaken by the city on an outfall in a specified watershed, when the city engineer has determined that the person need not prepare a storm water management plan.

e. Reconstruction of public roads when the area of impervious surface is not changing.

f. Pavement maintenance activities, such as sealing, milling and overlaying, or pulverizing.

4. WAIVERS. a. Requests to waive the storm water management plan requirements shall be submitted to the city engineer for approval.

b. The person shall also submit a narrative description and drawings of the proposed development or improvement. The city engineer may request other information that is reasonably necessary to evaluate the waiver.

c. The city engineer shall coordinate a review by city agencies and may grant a waiver if the development is primarily a storm water reduction or green infrastructure project and will not:

c-1. Increase the rate or volume of storm water runoff.

c-2. Have an adverse impact on a wetland, watercourse or receiving body of water.

c-3. Contribute to the degradation of water quality.

c-4. Otherwise impair attainment of the objectives of this chapter.

4.5. PEAK RUNOFF RELEASE RATE CALCULATIONS.

a. Peak runoff release rates shall be calculated using NOAA Atlas 14 precipitation depths and NRCS MSE3 precipitation distribution.

b. Refer to s. NR 151.123(1), Wis. Adm. Code, for maximum predevelopment runoff curve numbers for developments that include but are not limited to areas like new subdivisions and undeveloped urban areas.

5. RUNOFF RELEASE RATE.

a. If the development or redevelopment occurring causes an increase of 0.5 acres or more of impervious area, the release rate and requirements shall be governed by Milwaukee metropolitan sewerage district chapter 13 - surface water and storm water rules.

b. If the development or redevelopment occurring is subject to the requirements of sub. 2 and does not cause an increase of 0.5 acres or more of impervious area, the peak runoff flow rates under post-development conditions shall be at least 10% less than the peak runoff rates under pre-development conditions during 2-year and 100-year, 24-hour storm events.

c. If demolition or construction during redevelopment will disturb an area between 3.5 and 5 acres, then the runoff release rate shall be reduced by 15%.

d. If demolition or construction during redevelopment will disturb an area exceeding 5 acres, then the runoff release rate shall be reduced by 20%.

6. RUNOFF DISCHARGE QUALITY CONTROL. a. Runoff quality shall meet or exceed the following criteria:

a-1. For new development, by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirements of this paragraph.

a-2. For redevelopment, by design, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this paragraph.

a-3. For in-fill development under 5 acres that occurs within 10 years after October 1, 2002, by design, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this paragraph.

a-4. For in-fill development under 5 acres that occurs 10 or more years after October 1, 2002, by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirements of this paragraph.

a-5. Any other regulatory agency requirements specific to the discharge produced by the development.

b. Applicability. This subsection applies to whenever a storm water management plan is required in the separate storm sewer system or if storm water runoff from the development or redevelopment is subject to the requirements of sub. 2 and storm water runoff from that development or redevelopment discharges into waters of the state.

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6.5. GREEN INFRASTRUCTURE REQUIRED. a. If a stormwater management plan is required under sub. 2 and is not waived under sub. 4, then the development or redevelopment shall include green infrastructure with a detention volume equal to at least one-half inch multiplied by the total area of new or redeveloped impervious surface. A green infrastructure plan required under this paragraph shall be submitted and approved as part of the stormwater management plan.

b. A green infrastructure plan required under par. a shall include:

b-1. A description of the project and the dimensions of the new impervious surface.

b-2. A description of the proposed green infrastructure and the dimensions of the green infrastructure.

b-3. One or more drawings showing the new impervious surface and the green infrastructure.

b-4. Calculations showing the detention volume needed and the detention volume provided by the proposed green infrastructure.

b-5. If applicable, a description of any conditions that support a reduction in green infrastructure implementation to a maximum extent practicable according to s. 120-4, and a description of any suggested alternate green infrastructure arrangement. Any reduction in or alternate green infrastructure arrangement must be approved by the city engineer.

b-6. An annual maintenance plan for the proposed green infrastructure.

c. A green infrastructure plan shall determine the detention volume provided by the proposed green infrastructure through project-specific modeling, a calculating tool identified by the department or a schedule of green infrastructure detention volume estimates according to type made available by the department.

7. MAINTENANCE OF EFFORT. For a redevelopment site where the redevelopment will be replacing an older development that was subject to s. 120-7, the responsible party shall meet the total suspended solids reduction and peak flow control standards applicable to the older development or meet the redevelopment standards of this chapter, whichever is more stringent.

8. MAXIMUM EXTENT PRACTICABLE. If a design cannot meet the total suspended solids reduction performance standard of sub. 6, the storm water management plan shall include a written, site-specific explanation of why the total suspended solids reduction performance standard cannot be met and why the total suspended solids load will be reduced only to the maximum extent practicable.

9. INTENT TO PROCEED. The department of public works shall be notified 3 working days before any work is commenced on the site. The contact phone number shall be listed in the storm water management plan.

120-9. Storm Water Management Plan. The person shall be responsible for the preparation and implementation of the storm water management plan. Sufficient information shall be furnished to the city engineer for evaluating the environmental characteristics of the affected areas. Such information shall include the potential and predicted impacts on watercourses, the effectiveness and acceptability of the proposed measures for reducing adverse impacts and a maintenance program.

1. GENERAL INFORMATION. The storm water management plan shall be prepared by a registered professional engineer. It shall contain the person's name, address and telephone number. The plan shall also contain but is not limited to narrative descriptions and explanations, maps, charts and graphs, tables, photographs, calculations and supporting reference information to books, publications, manuals and other documents used. The department of public works reserves the authority to determine the appropriateness of the methodology used.

2. EXISTING SITE CONDITIONS. The description of the existing site conditions shall include:

- a. The hydrologic parameters.
- b. The location of areas where storm water collects or percolates into the ground.
- c. Groundwater levels.
- d. Vegetation, including grasses, forbs, trees, shrubs, wildflowers and aquatic plants that are native to Wisconsin, as well as any oldfield successions of native and non-native plants.
- e. Topography.

- f. Soils.
- g. Location and description of impervious areas.
- h. Locations of all structures and buildings.
- i. Locations of floodplains.
- j. Locations of all receiving bodies of water on or adjacent to the site or into which storm water flows. Information regarding current water quality and classification, if any, shall be provided.
- k. Existing storm water runoff conditions from adjacent tributary areas.
- l. Location and hydraulic conditions of the storm sewer systems.

3. SITE ALTERATIONS. The description of the proposed site alterations shall include:

- a. Areas where vegetation is disturbed or planted, including areas of grasses, forbs, trees, shrubs, wildflowers and aquatic plants that are native to Wisconsin, as well as any oldfield successions of native and non-native plants.
- b. Changes in topography.
- c. The size and location of any building or structure.
- d. Site use and any Standard Industrial Classification (SIC) code number.
- e. Changes of impervious surface areas and a description of the surfacing material.

4. PREDICTED IMPACTS. The description of the predicted impacts on water quality and quantity from the proposed development shall include:

- a. Drainage facilities.
- b. Receiving bodies of water.
- c. Floodplains.
- d. Ground water levels.

5. BEST MANAGEMENT PRACTICES. The description of the proposed best management practices to be used for the protection of water quality and the reduction of water quantity shall include:

- a. Detention, retention and sedimentation facilities, including plans for discharges from the facilities, maintenance plans and predictions of water quality.
- b. Areas of the site to be used or reserved for percolation including a prediction of the impact on groundwater quality.
- c. Green infrastructure.
- d. Any other relevant volume controls or measures not described in pars. a or b.

e. Infiltration practices shall be permitted according to s. NR 151.124, Wis. Adm. Code, provided the person presents evidence of sufficient soil infiltration rates using scientifically credible field test methods to show that the infiltration rates are 0.6 inches per hour or above and the soil profile is not clay.

f. Swale treatment for transportation purposes may be used according to s. NR 151.249, Wis. Adm. Code, provided the transportation facility development does not conflict with the criteria specified in s. 120-7-2. In case of a conflict, the more restrictive criteria of s. 120-7-2 shall be used.

g. A plan for the control of erosion and sedimentation in accordance with ch. 290.

h. Any other relevant source control practices not described in par. d.

i. Any other information which the person or the city believes is reasonably necessary for an evaluation of the development.

6. GUARANTEE. a. The plan shall also be accompanied by an irrevocable letter of credit, certified check or surety bond to guarantee implementation and completion of storm water management plans. By submitting the guarantee, the person consents to allowing the city to inspect the best management practices constructed to meet requirements of the storm water management plan. After construction of the storm water management facilities has been completed, the person shall submit to the city engineer a written certification prepared and stamped by a registered professional engineer that the facilities have been constructed in accordance with the storm water management plan. After the city engineer receives the certification, that portion of the guarantee not utilized under s. 120-17 shall be released or returned.

b. The plan shall also be accompanied an irrevocable letter of credit, certified check, surety bond, or letter of financial guarantee from the person to ensure the facilities are maintained. The guarantee shall be in effect until the facilities are recertified as required by s. 120-15.

120-11. Off-Site Drainage Facilities. The city engineer may approve storm water discharges of unacceptable quality into off-site drainage facilities, or in volumes or rates in excess of those allowed by this chapter. The following conditions must be met:

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1. It is not feasible to manage the total runoff within the site.

2. Adverse impact from the site will be minimized.

3. The design, construction, operation and maintenance of the off-site drainage facilities and the facilities leading to them are in accordance with the requirements of this chapter.

4. The person will be responsible for the costs of design, construction, maintenance and operation of the off-site drainage facilities and facilities leading to them. The person may enter into a private agreement with the owner of the property on which such off-site drainage facilities exist, to share in any of the cost responsibilities.

5. For each operation or maintenance shared responsibility agreement, the city engineer shall be provided with a deed restriction which contains the requirements of the agreements.

6. The city engineer is provided with an easement for access to the drainage facilities.

120-13. Manual of Storm Water Management Practices.

1. The city engineer with the assistance of the commissioners of the departments of neighborhood services and city development shall compile a manual of storm water management practices. The manual shall be made available for sale to the public and updated periodically. The manual will be used for the preparation of a storm water management plan.

2. The manual shall incorporate current best management practices (BMPs) for controlling the quality and quantity of storm water runoff. The manual shall contain:

a. Guidance and specifications for the preparation of a storm water management plan, including techniques for calculating and presenting the information required in the plan.

b. Detailed design specifications for BMPs used to improve the water quality.

c. Minimum specifications for the construction of BMP facilities which use current sound engineering practices.

d. Techniques and BMPs which emphasize the use of natural systems.

e. Techniques and BMPs for source control measures to manage water quality.

f. Techniques and BMPs which control volume in an effort to improve water quality.

g. Minimum requirements for the maintenance plan.

3. The manual is available for purchase from the department of public works.

120-14. Control of Storm Water Discharge for the Milwaukee River Greenway Site Plan Review Overlay Zone.

1. PURPOSE. The common council finds that the Milwaukee River corridor between the former North Avenue dam and the city limits at Silver Spring Drive contains native vegetation, wildlife habitat, natural bluffs, stream banks and waterways, and other valuable natural resources in need of protection. The regulations of this section are established to provide this protection by reducing the quantity of polluted storm water runoff, encouraging the planting of native vegetation, stabilizing stream banks and bluffs, mitigating flooding of the Milwaukee River and its tributaries, and reducing flows to the city's combined sewer system.

2. APPLICABILITY. This section applies only to all properties within the Milwaukee River greenway site plan review overlay zone, as shown on the city zoning map and established by common council file number 081568.

3. CONFLICTING REQUIREMENTS. The provisions of this section are intended to supplement, not replace, other provisions of this chapter. If any provision of this section conflicts with any other provision of this chapter, any other section of this code, or any applicable state or federal law, the more restrictive provision shall apply.

4. DEVELOPMENT CRITERIA. A storm water management plan is required if any of the following criteria are met:

a. The development or redevelopment causes a land disturbing activity of one-half acre or more.

b. The development or redevelopment causes the cumulative area of all land disturbing activities at a property to be one-half acre or more over a 3-year period.

c. The development or redevelopment occurring causes an increase of 0.5 acres or more of impervious area.

5. RUNOFF RELEASE RATE. a. If the development or redevelopment occurring causes an increase of 0.5 acres or more of

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impervious area, the release rate and requirements shall be governed by Milwaukee metropolitan sewerage district ch. 13 - surface water and storm water rules.

b. If the development or redevelopment occurring meets any of the criteria in sub. 4 and does not cause a land disturbing activity of 0.5 acres or more of impervious area, the peak runoff flow rates under post-development conditions shall be at least 50% less than the peak runoff rates under pre-development conditions.

6. RUNOFF DISCHARGE QUALITY CONTROL. a. Any development or redevelopment shall, by design, reduce to the maximum extent practicable the total suspended solids load by 80%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirement of this paragraph.

b. This subsection applies whenever a storm water management plan is required in the separate storm sewer system or if storm water runoff from the development or redevelopment meets any of the criteria of sub. 4 and storm water runoff from that development or redevelopment discharges into waters of the state.

7. ADDITIONAL REGULATIONS. The following additional storm water management regulations shall apply to development or redevelopment within the Milwaukee River greenway site plan review overlay zone:

a. Storm water best management plans shall show topographical lines and bluff lines.

b. Storm water best management practices shall be located as close to the source of runoff as possible, and shall emphasize techniques that incorporate native plants, shrubs and trees and mimic natural landscape features.

c. Storm water management facilities shall not be permitted within the primary environmental corridor, as mapped by the southeastern Wisconsin regional planning commission, unless the city engineer determines, based on evidence provided by the developer, that such facilities are necessary to protect public safety or bluff stability. The placement of storm water management facilities within the 50-foot setback from top of bluff required by the overlay zone's design standards,

as adopted by the common council in file number 081569, shall be permitted if these facilities emphasize the use of such storm water management practices as rain gardens, vegetated swales and similar techniques, and do not adversely impact bluff stability and public access.

d. Every storm water management facility shall be designed and constructed in a manner to minimize erosion and bluff instability. The permit requirements of ch. 30, Wis. Stats., shall also apply to any alterations to the river bank.

e. A storm water management plan required pursuant to this section shall be prepared in accordance with the manual of storm water management practices, including both the provisions that apply citywide and the provisions that apply only to the Milwaukee River greenway site plan review overlay zone.

120-15. Maintenance of Drainage Facilities.

1. Every 5 years the person shall submit a written recertification for the approved storm water management plan from a registered professional engineer that the drainage facility is operating as originally designed along with an updated irrevocable letter of credit, certified check or surety bond or letter of financial guarantee from the person as provided in s. 120-9. By submitting the guarantee, the person consents to allowing the city to inspect the best management practices prescribed in the storm water management plan.

2. When applicable, the facilities shall be maintained in accordance with the agreements set forth in s. 120-11.

3. Minimum maintenance requirements and procedures outlined in the manual of storm water management practices described in s. 120-13 shall also be used.

4. Violations of this section shall be subject to the enforcement procedures and penalties set forth in s. 120-17.

120-17. Enforcement. 1. **NUISANCE.** The following activities are deemed a public nuisance:

a. Any development that is commenced without an approved storm water management plan.

b. Any drainage facility which is not constructed in accordance with the approved storm water management plan.

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c. Any drainage facility not maintained in accordance with ss. 120-9, 120-11 or 120-15.

d. Any activity which adversely impacts on water quality.

2. COMPLIANCE ORDER. a. Any public nuisance under this section shall be subject to the provisions of chs. 79, 115 and 116.

b. When the commissioner of the department of neighborhood services determines that a willful violation of the provisions of this chapter exists or has reasonable grounds to believe that one does, the commissioner may order the person to correct the violation by issuing a notice of violation, citation or stop-work order.

c. Any person who commences activity without an approved plan may be required to restore the land to its original condition within 10 days.

d. If the person fails to take corrective action after being noticed, the department of neighborhood services shall take whatever steps are necessary as soon as possible to correct the violation, including but not limited to, using city forces or engaging contractors.

3. RECOVERY OF COSTS. a. If the person has filed an irrevocable letter of credit, certified check or surety bond as required in s. 120-9, the appropriate guarantee shall be executed.

b. If the person has not filed an irrevocable letter of credit, certified check or surety bond as required in s. 120-9, the cost shall be billed to the person, payable within 30 days.

c. If the person has filed an irrevocable letter of credit, certified check, or surety bond, but is less than the actual cost:

c-1. The appropriate guarantee shall be executed.

c-2. The difference in cost shall be billed to the person, payable within 30 days.

d. If the person fails to pay within 30 days, the bill shall become a lien on the real property and collectible in accordance with s. 66.0627, Wis. Stats.

4. PENALTIES. In addition to any penalty provided herein or by law, a person who is convicted of violating any provision of this chapter shall forfeit not more than \$2000 for each violation together with the costs of such action. Upon failure to pay the forfeiture, the person shall be subject to imprisonment in the county house of correction for no more than 80 days for each offense. Each day of violation shall constitute a separate offense.

120-19. Appeals. Appeals not under the jurisdiction of the standards and appeals commission, s. 200-17, may be submitted to the administrative review appeals board as provided in s. 320-11.

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LEGISLATIVE HISTORY CHAPTER 120

Abbreviations:

am = amended

cr = created

ra = renumbered and amended

rc = repealed and recreated

rn = renumbered

rp = repealed

<u>Section</u>	<u>Action</u>	<u>File</u>	<u>Passed</u>	<u>Effective</u>
Ch. 120	cr	920650	10/30/92	11/18/92
120-1-1-d	am	060587	10/24/2006	11/10/2006
120-1-1-e	am	011255	1/22/2002	2/5/2002
120-1-1-e	rp	060587	10/24/2006	11/10/2006
120-1-1-f	rn to 120-1-1-e	060587	10/24/2006	11/10/2006
120-1-1-f	cr	080195	7/30/2008	8/16/2008
120-1-1-g	cr	180803	9/25/2018	10/12/2018
120-1-1-h	cr	180803	9/25/2018	10/12/2018
120-3*	rc	060587	10/24/2006	11/10/2006
* Note: Sec. 120-3-20 is effective May 1, 2007.				
120-3-0	am	951346	1/23/96	2/9/96
120-3-1	am	151776	4/15/2016	5/4/2016
120-3-5	am	110060	5/24/2011	6/14/2011
120-3-6	rn to 120-3-7	950892	11/6/95	11/14/95
120-3-6	cr	950892	11/6/95	11/14/95
120-3-6	am	011255	1/22/2002	2/5/2002
120-3-7	rn to 120-3-8	950892	11/6/95	11/14/95
120-3-8	rn to 120-3-9	950892	11/6/95	11/14/95
120-3-9	rn to 120-3-10	950892	11/6/95	11/14/95
120-3-9.5	cr	180803	9/25/2018	10/12/2018
120-3-10	rn to 120-3-11	950892	11/6/95	11/14/95
120-3-11	rn to 120-3-12	950892	11/6/95	11/14/95
120-3-12	rn to 120-3-13	950892	11/6/95	11/14/95
120-3-13	rn to 120-3-14	950892	11/6/95	11/14/95
120-3-14	rn to 120-3-15	950892	11/6/95	11/14/95
120-3-14	am	011255	1/22/2002	2/5/2002
120-3-14.5	cr	151776	4/15/2016	5/4/2016
120-3-15	rn to 120-3-16	950892	11/6/95	11/14/95
120-3-15	cr	151776	4/15/2016	5/4/2016
120-3-16	rn to 120-3-17	950892	11/6/95	11/14/95
120-3-16.5	cr	151776	4/15/2016	5/4/2016
120-3-17	rn to 120-3-18	950892	11/6/95	11/14/95
120-3-17	rn to 120-3-18	011255	1/22/2002	2/5/2002
120-3-17	cr	011255	1/22/2002	2/5/2002
120-3-17.5	cr	151776	4/15/2016	5/4/2016
120-3-18	rn to 120-3-19	950892	11/6/95	11/14/95
120-3-18	rn to 120-3-19	011255	1/22/2002	2/5/2002
120-3-18	am	110060	5/24/2011	6/14/2011
120-3-19	rn to 120-3-20	950892	11/6/95	11/14/95
120-3-19	rn to 120-3-20	011255	1/22/2002	2/5/2002
120-3-20	rn to 120-3-21	950892	11/6/95	11/14/95
120-3-20	rn to 120-3-21	011255	1/22/2002	2/5/2002
120-3-21	rn to 120-3-22	950892	11/6/95	11/14/95
120-3-21	rn to 120-3-22	011255	1/22/2002	2/5/2002
120-3-22	rn to 120-3-23	950892	11/6/95	11/14/95
120-3-22	rn to 120-3-23	011255	1/22/2002	2/5/2002
120-3-23	rn to 120-3-24	950892	11/6/95	11/14/95
120-3-23	rn to 120-3-24	011255	1/22/2002	2/5/2002

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120-3-24	rn to 120-3-25	950892	11/6/95	11/14/95
120-3-24	rn to 120-3-25	011255	1/22/2002	2/5/2002
120-3-25	rn to 120-3-26	011255	1/22/2002	2/5/2002
120-4	cr	151776	4/15/2016	5/4/2016
120-5-1	am	950892	11/6/95	11/14/95
120-5-2-b	am	011255	1/22/2002	2/5/2002
120-5-2-d	am	060587	10/24/2006	11/10/2006
120-7-1-0	am	011255	1/22/2002	2/5/2002
120-7-1-0	am	060587	10/24/2006	11/10/2006
120-7-1	am	950892	11/6/95	11/14/95
120-7-1-c	am	060587	10/24/2006	11/10/2006
120-7-1.5	cr	081664	5/25/2010	6/12/2010
120-7-2	rn to 120-7-3	011255	1/22/2002	2/5/2002
120-7-2	cr	011255	1/22/2002	2/5/2002
120-7-2	rc	060587	10/24/2006	11/10/2006
120-7-2-a	am	950892	11/6/95	11/14/95
120-7-2-c	am	950892	11/6/95	11/14/95
120-7-2-d	cr	110060	5/24/2011	6/14/2011
120-7-2-f	cr	950892	11/6/95	11/14/95
120-7-3	rn to 120-7-4	011255	1/22/2002	2/5/2002
120-7-3	rc	011255	1/22/2002	2/5/2002
120-7-3-d	cr	950892	11/6/95	11/14/95
120-7-3-e	cr	110060	5/24/2011	6/14/2011
120-7-3-f	cr	110060	5/24/2011	6/14/2011
120-7-4-a	am	060587	10/24/2006	11/10/2006
120-7-4-c-1	am	011255	1/22/2002	2/5/2002
120-7-4-d	rp	011255	1/22/2002	2/5/2002
120-7-4.5	cr	151776	4/15/2016	5/4/2016
120-7-5	cr	011255	1/22/2002	2/5/2002
120-7-5	rc	060587	10/24/2006	11/10/2006
120-7-5-b	am	110060	5/24/2011	6/14/2011
120-7-5-c	cr	110060	5/24/2011	6/14/2011
120-7-5-d	cr	110060	5/24/2011	6/14/2011
120-7-6	cr	011255	1/22/2002	2/5/2002
120-7-6	rc	031208	3/19/2004	4/7/2004
120-7-6-a-3	am	151776	4/15/2016	5/4/2016
120-7-6-b	rc	060587	10/24/2006	11/10/2006
120-7-6.5	cr	180803	9/25/2018	10/12/2018
120-7-7	cr	011255	1/22/2002	2/5/2002
120-7-7	rn to 120-7-9	151776	4/15/2016	5/4/2016
120-7-7	cr	151776	4/15/2016	5/4/2016
120-7-8	cr	151776	4/15/2016	5/4/2016
120-9-1	am	011255	1/22/2002	2/5/2002
120-9-2-d	am	080195	7/30/2008	8/16/2008
120-9-3-a	am	080195	7/30/2008	8/16/2008
120-9-5-0	am	151776	4/15/2016	5/4/2016
120-9-5-c	rn to 120-9-5-d	080195	7/30/2008	8/16/2008
120-9-5-c	cr	080195	7/30/2008	8/16/2008
120-9-5-c	rc	180803	9/25/2018	10/12/2018
120-9-5-d	rn to 120-9-5-e	080195	7/30/2008	8/16/2008
120-9-5-e	rn to 120-9-5-f	080195	7/30/2008	8/16/2008
120-9-5-e	rn to 120-9-5-g	151776	4/15/2016	5/4/2016
120-9-5-e	cr	151776	4/15/2016	5/4/2016
120-9-5-f	rn to 120-9-5-g	080195	7/30/2008	8/16/2008
120-9-5-f	rn to 120-9-5-h	151776	4/15/2016	5/4/2016
120-9-5-f	cr	151776	4/15/2016	5/4/2016
120-9-5-g	rn to 120-9-5-i	151776	4/15/2016	5/4/2016

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120-9-6	am	060587	10/24/2006	11/10/2006
120-9-6-a	am	080195	7/30/2008	8/16/2008
120-9-6-a	am	151776	4/15/2016	5/4/2016
120-13-1	am	980963	12/18/98	1/1/99
120-13-1	am	060587	10/24/2006	11/10/2006
120-13-3	cr	011255	1/22/2002	2/5/2002
120-14	cr	081664	5/25/2010	6/12/2010
120-15-1	am	060587	10/24/2006	11/10/2006
120-15-1	am	151776	4/15/2016	5/4/2016
120-17-2-b	am	980963	12/18/98	1/1/99
120-17-2-d	am	980963	12/18/98	1/1/99
120-17-2-d	am	011255	1/22/2002	2/5/2002
120-17-4	am	011255	1/22/2002	2/5/2002

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