

**INSTRUCTION SHEET
ADDITIONS TO
MILWAUKEE CODE OF ORDINANCES
VOLUME 1**

SUMMARY

This supplement incorporates changes to Volume 1 of the Milwaukee Code of Ordinances enacted by the following Common Council file:

151899 An ordinance repealing an obsolete code provision relating to police reports of defective sidewalks.

<u>Section Affected</u>	<u>Action</u>	<u>File Number</u>	<u>Effective Date</u>	<u>Remove Pages</u>	<u>Add Pages</u>
Remove <u>old</u> MEMO (Suppl. #350)					
				v-vi	v-vi
Ch. 105 Table				581-582	581-582
105-47-3	corr.			591-592	591-592
105-128	rp	151899	6/11/2016	610a-610b	610a-610b
Ch. 105 (hist.)				610i-610j	610i-610j

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For questions concerning the content of the Milwaukee Code or Ordinances contact the Legislative Reference Bureau, Research Section, (414) 286-2297.

Abbreviations:

am=amended
cr=created

ra=renumbered and amended
rc=recreated

rn=renumbered
rp=repealed

Revised 5/24/2016
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MEMO

If all supplements have been properly inserted, this book contains all actions of the Common Council through May 24, 2016.

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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, employe or agent thereof.

b. The term "labor dispute" shall mean a controversy between an employer and his employes 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 employe 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 employe 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 employe 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 employes involved in such a labor dispute.

c. No professional strikebreaker shall take or offer to take the place of any employe involved in a labor dispute during the course of that dispute.

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.

3. **EXCEPTIONS.** Prohibitions against smoking shall not apply to any of the following:

a. A private residence.

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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. 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.

105-49. Smoking Prohibited on City Property.

1. SMOKING PROHIBITED UPON UNENCLOSED CITY PROPERTY. 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. However, the commissioner may not use this authority to place signs prohibiting smoking in unenclosed areas within any specific distance from the entrances to city-owned or leased buildings.

2. STATE SIGNAGE REQUIREMENTS. Signs setting forth the prohibition against smoking shall comply with requirements established by the state of Wisconsin department of commerce, 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.

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,

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 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

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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.

Public Safety 105—(HISTORY)

105-75-13	am	040559	9/21/2004	10/8/2004
105-75-13	am	101025	4/12/2011	6/1/2011
105-75-13-a-0	am	040559	9/21/2004	10/8/2004
105-75-13-a-0	am	041616	4/12/2005	4/29/2005
105-75-13-c-3	cr	040559	9/21/2004	10/8/2004
105-75-14	rc	101025	4/12/2011	6/1/2011
105-75-14-c-4	am	111233	1/18/2012	2/4/2012
105-75-14-f	cr	040559	9/21/2004	10/8/2004
105-75-14-g	cr	040559	9/21/2004	10/8/2004
105-75-14-g	am	041616	4/12/2005	4/29/2005
105-75-15	rc	101025	4/12/2011	6/1/2011
105-77	cr	901742	3/26/91	4/12/91
105-78	cr	120276	9/25/2012	10/12/2012
105-79	cr	971195	12/16/97	1/8/98
105-79-0	am	150142	6/2/2015	6/19/2015
105-79-1	am	150142	6/2/2015	6/19/2015
105-81	cr	960383	6/25/96	7/13/96
105-91	cr	050287	7/26/2005	8/11/2006
105-91	rc	140381	6/24/2014	7/12/2014
105-91-1	rc	091532	4/13/2010	4/30/2010
105-91-2	am	080196	9/16/2008	10/3/2008
105-91-2	ra to 105-91-2-a	091532	4/13/2010	4/30/2010
105-91-2-b	cr	091532	4/13/2010	4/30/2010
105-91-3	am	080196	9/16/2008	10/3/2008
105-31-3	am	131552	4/2/2014	4/22/2014
105-91-3-0	am	091532	4/13/2010	4/30/2010
105-122	rn from 2-123	881930	3/7/89	3/25/89
105-122-1-c	rc	961310	12/17/96	1/9/97
105-122-1-c	rc	080490	9/16/2008	10/3/2008
105-122.5	cr	911329	6/16/92	7/3/92
105-122.5	rp	060976	12/12/2006	1/4/2007
105-123	rn from 2-123.5	881930	3/7/89	3/25/89
105-124	rn from 2-124	881930	3/7/89	3/25/89
105-125	rn from 2-125	881930	3/7/89	3/25/89
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105-127	rn from 2-127	881930	3/7/89	3/25/89
105-128	rn from 2-128	881930	3/7/89	3/25/89
105-128	rp	151899	5/24/2016	6/11/2016
105-133	rn from 2-133	881930	3/7/89	3/25/89
105-137	rn from 2-137	881930	3/7/89	3/25/89
105-138	rn from 2-138	881930	3/7/89	3/25/89
105-138	rc	902003	3/8/94	3/25/94
105-138-3	am	051702	7/12/2006	7/29/2006

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