INSTRUCTION SHEET
ADDITIONS TO
MILWAUKEE CODE OF ORDINANCES
VOLUME 2

SUMMARY

This supplement incorporates changes to Volume 2 of the Milwaukee Code of Ordinances enacted by the following Common Council file:

151308 An ordinance relating to chronic code violation nuisances.

151320 An ordinance revising certain licensing regulations for the purposes of correcting errors, clarifying language and eliminating obsolete provisions.

Section Affected	Action	File Number	Effective Date	Remove Pages	Add Pages
Remove old MEMO (Suppl. #281)					
				v-vi	v-vi
200-33-48-a	am	151308	2/5/2016	46a-46b	46a-46b
200-53-2-n-1	am	151308	2/5/2016	63-64f	63-64f
200-53-2-n-3	cr	151308	2/5/2016	"	"
200-53-2-o	am	151308	2/5/2016	"	"
200-53-3-a	am	151308	2/5/2016	"	"
275-20-4-i	rp	151320	2/5/2016	553-554	553-554
275-20-4-j	rn to 275-20-4-i	151320	2/5/2016	"	"
275-20-4-k	rn to 275-20-4-j	151320	2/5/2016	"	"
Ch. 275 (hist.)				579-580	579-580

For subscription or distribution questions contact the Legislative Reference Bureau, Code Section, (414) 286-3905.

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

Abbreviations:

am=amended ra=renumbered and amended rn=renumbered
cr=created rc=recreated rp=repealed

MEMO

If all supplements have been properly inserted, this book contains all actions of the Common Council through January 19, 2016.

1/19/2016
Suppl. #282

b. The fee for posting a placard pursuant to s. 200-11-6 upon any single family premise shall be $60.

c. The fee for posting a placard pursuant to s. 200-11-6 upon any 2-or 3-family premise shall be $120.

d. The fee for posting a placard pursuant to s. 200-11-6 upon any premise with 4 or more residential units shall be $180.

e. The fee for posting a placard pursuant to s. 200-11-6 upon any commercial building not containing residential units shall be $180.

f. The placard posting fee shall be assessed and collected as a special tax against the real estate upon which the placard is posted and shall be a lien upon the real estate.

44. PRESSURE PIPING SYSTEMS HANDLING FLAMMABLE AND COMBUSTIBLE LIQUIDS. a. The permit fee for all flammable and combustible liquids piping systems which utilize pressure piping or a suction system shall be 1% of the cost of construction. The minimum permit fee shall be $50. All installations used for the storage of flammable and combustible liquids which utilize a pressure piping system or a suction system shall be inspected at least once every 3 years. The fee for each periodic inspection shall be $50.

b. There shall be a processing fee of $5 for each permit issued.

44.2. PROPERTY RECORDING FEE.

a. The initial recording fee for a residential or commercial building, a condominium unit or a condominium association shall be $40.

b. There shall be a fee of $40 for filing a new application in the event of a change in ownership, and, unless excepted from the fee pursuant to s. 200-51.5-5-b, there shall be a fee of $40 for any other new or subsequent filing of an application required under s. 200-51.5.

c. There may be a fee of $40 for correcting any error or omission on an application filed with the department

d. Owners, operators, condominium association operators and resident agents of condominium associations recorded under s. 200-51.5 may request and the department shall issue written verification of the contents of the department's recording file for their buildings, units, or associations (as the case may be).

e. Payment of any unpaid fees or charges shall be made prior to the acceptance of the application by the department.

44.3. PROPERTY RECORDING EN FORCEMENT FEE. A monthly fee of $75 may be charged for failure to comply with an order to record a property, unit or association as required by and in accordance with s. 200-51.5.

44.5. PUBLICLY ACCESSIBLE COLLECTION BIN PROVIDER AND BIN PERMITS.

a. Permits shall be issued for a period of one year beginning on October 1, and ending on the following September 30. Those publicly accessible collection bin provider and bin permits whose permits are due to expire April 30, 2009 shall be extended to expire on September 30, 2009.

b-1. The permit fee for a publicly accessible collection bin provider shall be $500.

b-2. The permit renewal fee for a publicly accessible collection bin provider shall be $500.

c-1. The permit fee for each publicly accessible collection bin shall be $50.

c-2. The permit renewal fee for each publicly accessible collection bin shall be $50.

d. There shall be an additional fee of $25 for filing a late renewal application for either permit.

e. The fee for retrieval of a publicly accessible collection bin from a designated holding location shall be $250 for each bin.

(See s. 239-13.)

45. PUMPS, FLAMMABLE LIQUID.

a. The permit fee for the installation of flammable liquid pumps or dispensers on any premises shall be computed at $15 for each pump, dispenser or nozzle.

b. The permit fee for replacements shall be the same rate as for a new installation.

c. Minimum fee: $75.

d. There shall be a processing fee of $5 for each permit issued.

46. RAZING. a. The permit fee for the razing or demolishing of any building or structure shall be $40 plus $0.002 per cubic foot of the volume of the building.

b. The permit fee for interior demolition of any building or structure shall be computed at 1% of the cost of demolition. The minimum fee shall be $60.

c. If, as a result of noncompliance with an order to raze or rehabilitate a property, the city must take action to issue a contract to raze the property, the following contract administration charges shall be assessed before a rehabilitation permit is issued:

c-1. Evaluation of bids, letting contracts and notifying contractor: $200 plus 20% of parcel demolition bid.

c-2. If a parcel is razed on contract by the city, the cost of demolition plus $125 will be assessed against the real estate as a special charge

d. There shall be a processing fee of $5 for each permit issued under par. a or b.

47. REGISTRATION OF RESIDENTIAL PROPERTY PENDING FORECLOSURE.

a. The fee for registration of a residential property pending foreclosure, as required by s. 200-22.5-4 shall be $300.

b. If a completed registration form is not received by the commissioner within 5 working days of initiation of the foreclosure proceedings, or if the registration fee required in par. a is not received by the commissioner upon registration, there shall be an additional late fee of $25.

48. REINSPECTION FEE.

a. To compensate for inspectional and administrative costs, a fee of $60 may be charged for any reinspection to determine compliance with an order to correct conditions of provisions of the code under the jurisdiction of the department of neighborhood services or assigned to the department, except no fee shall be charged for the reinspection when compliance is recorded. A fee of $75 may be charged for a second reinspection, a fee of $200 for a third reinspection and a fee of $350 for each subsequent reinspection unless the inspected premises is subject to a nuisance notice under s. 80-12, in which case the fee as set forth in s. 81-20 may be charged for inspection of such nuisance. Reinspection fees shall be charged against the real estate upon which the reinspections were 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.

b. To compensate for inspectional and administrative costs, a $50 fee may be charged for any inspection or reinspection when a contractor requests an inspection for permit related work and the work is not ready at the time of the requested inspection. Failure to pay additional reinspection fees after one notice may result in withholding future permits.

49. RENEWING OF PERMIT. a. The fee for renewing a permit, which has been revoked in accordance with s. 200-31 by the commissioner of neighborhood services or commissioner of city development, shall be 50% of the total original permit fees paid.

b. There shall be a processing fee of $5 for renewing a permit.

49.2. REPEAT LITTER CHARGE. To compensate for inspectional, administrative and equipment costs, the commissioner may issue a $100 charge for the 3rd and each subsequent violation of s. 79-12 on any property in a 12-month period.

49.5 RESIDENTIAL RENTAL CERTIFICATE. a. The inspection fee associated with a residential rental certificate shall be $85 for each rental unit in a building, subject to the provisions of s. 200-53-5-b. The certificate shall be valid for 4 years from the date of issuance if no disqualifying violations are found at the initial inspection. The certificate shall be valid for one year from the date of issuance if disqualifying violations are found at the initial inspection. The certificate may be given temporary status if nonhazardous code violations are found at the initial inspection.

b. There shall be no additional fee imposed when a temporary status is removed and a regular residential rental certificate is issued.

c. The inspection fee for renewal of a residential rental certificate shall be $85 for each rental unit in a building. The inspection renewal fee for multifamily buildings of 10 or more units shall be consistent with the provisions of s. 200-53-5-b.

d. A fee of $50 shall be imposed if the department is unable to gain access to the unit for the inspection pursuant to s.200-53-5-a at the agreed upon time.

e. Delinquent residential rental inspection fees shall be charged against 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.

(See s. 200-53.)

50. SEWAGE DISPOSAL SYSTEM.

a. The examination fee for each sewage disposal system permit shall be $100.

b. The examination fee shall not be refunded to the applicant irrespective of whether or not the permit for which application is made is granted or denied by 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.

c. There shall be a processing fee of $5 for each sewage disposal system permit.

percentage of complaints occurring at rental units, and condition of the units in the area. Frequent inspection of these units is necessary to maintain safe, decent and sanitary living conditions for residents living in the rental units and to protect the investment made by the city in the area defined by sub. 2-d.

2. DEFINITIONS. In this section:

a. "Building maintenance code" means that portion of the building code which establishes the minimum requirements and standards of health, sanitation, safety and occupancy for residential property. These regulations governing the condition and maintenance of residential property, and the responsibility of property owners are set forth in ch. 275.

b. "Conditions which effect safe, decent and sanitary living conditions of persons occupying a residential rental unit" include items that violate fire safety; lack of or poor condition of sanitary facilities; absence of adequate heating systems or equipment; items which effect the safe operation of electrical and mechanical systems; items which effect structural integrity of the building or the ability of the building envelope to keep out the weather; or one or more conditions that if not corrected would be reasonably expected to become conditions that effect the safe, decent and sanitary conditions of the occupants.

c. "Disqualifying violation" means conditions which effect safe, decent and sanitary living conditions of persons occupying a residential rental unit, or other conditions that violate the provisions of the building code, building maintenance code or zoning code that indicate in their totality that the rental unit is not being properly maintained.

d. "Designated residential area" means:

d-1. The area defined as inspection district 1 which consists of census tracts 99-102,117-120 and the western portion of census tracts 103 and 116 with the eastern boundary defined by interstate I-43.

d-2. The area defined as inspection district 2 which is the area bounded by the following streets: Edgewood Ave. to Newberry Blvd. and Cambridge Ave. to Hackett Ave.

d-3. The area defined as inspection district 3, the boundary of which starts at the intersection of 87th and Congress Sts., thence southward to the intersection of 87th and Marion Sts., thence westward on Marion St. to a point midway between 91st and 92nd Sts., thence northward to Congress St., thence eastward on Congress St. to the point of beginning.

e. "Dwelling" means a building which includes one or more distinct living units. It does not include a residential 2-family building in which one of the units is owner-occupied.

f. "Owner" has the meaning as set forth in s. 200-08-66.

g. "Residential rental certificate" means a written and signed statement prepared by the commissioner after an inspection has been made, that the condition of a dwelling is in compliance with the building maintenance and zoning code.

h. "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.

i. "Sale, transfer or conveyance of ownership" means to transfer any ownership interest in a dwelling except by mortgage, gift, devise or bequest. 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.

j. "Time of sale, transfer or conveyance" means the time when a written purchase agreement is executed by the buyer; in the absence of a purchase agreement, it shall mean the time prior to the execution of any document providing for the transfer or conveyance of a dwelling in the designated residential area.

k. "Unit" means any independently rented living space whose term of lease is 30 days or greater.

L. "Zoning code" means any requirements and standards set forth in ch. 295.

m. “Habitability violation” means a condition that a landlord is required to disclose to a prospective tenant under state administrative rules related to residential rental practices.

n. “Nuisance property” means a dwelling that, within the prior year, has been either of the following:

n-1. Determined to be a nuisance under s. 80-10-3-a-1 or s. 80-12-3-a, and the time for appealing the determination has passed or the determination was upheld on appeal.

n-2. Subject to an order from the chief of police to modify an abatement plan under s. 80-10-3-a-2.

n-3. The owner of the dwelling has been charged for enforcement costs as set forth in s. 80-10-4 or inspection fees as set forth in s. 80-12-3-e

o. "Chronic nuisance premises" means a dwelling that, within the prior 2 years, has qualified under s. 80-10-6 or s. 80-12-6.

3. RESIDENTIAL RENTAL CERTIFICATE REQUIRED. a. The owner of a dwelling within the designated residential area, a nuisance property or a chronic nuisance premises shall apply for a residential rental certificate for each unit within the dwelling. Unless a unit has a valid residential rental certificate or temporary residential rental certificate, no owner of the unit shall permit any person to occupy the unit as a tenant or otherwise. A residential 2-family building that is owner-occupied is exempt from this requirement.

Note: The commissioner of neighborhood services shall evaluate the results and effectiveness of the ordinance and report to the common council these results and potential improvements to be made prior to December 31, 2018. The authorization of this ordinance shall expire on December 31, 2018 unless reauthorized by the common council

b. Changes in ownership interest as the result of a sale, transfer or conveyance of a dwelling within the designated residential area, nuisance property, or chronic nuisance premises will require the new owner within 30 days of sale, transfer or conveyance, to apply for a residential rental certificate, subject to the provisions of sub. 6-e.

c. Any person selling, transferring or conveying an ownership interest in a dwelling shall expressly inform any person acquiring or receiving an ownership interest in a property that a residential rental certificate is required by the city.

4. APPLICATION. a. An application for a certificate shall state the owner's legal name, phone number and date of birth, state the street address of the dwelling to be inspected, be signed by the owner, and be filed with the department on forms provided by the department in accordance with the following deadlines:

a-1. Not more than 30 days after January 1, 2015, if the dwelling is located in inspection district 3, or the dwelling is a nuisance property or chronic nuisance premises.

a-2. Not less than 30 days prior to the expiration of an issued certificate.

a-3. Not less than 30 days before converting a building into a dwelling.

a-4. Not more than 30 days after acquiring a 2-family building that was exempt from the requirements of this section.

a-5. Not more than 30 days after the dwelling is determined to be a nuisance property or qualifies as a chronic nuisance premises.

b. Failure to apply for the residential rental certificate as required in sub. 3-b may subject the owner to the penalties specified in sub. 13-a.

5. INSPECTION. a. Upon application, the department shall inspect the condition of the dwelling for compliance with the building maintenance and zoning code. The department shall make the inspection within 60 days of the date of application unless another date is mutually agreed upon by the department and the owner. Failure to provide access to the property on the agreed inspection date will subject the property owner to the fees specified in s. 200-33-49.5-d. The owner shall inform the tenant of the unit and place a posting on the door of the unit stating the date and time of the inspection at least 2 days prior to the inspection.

b. If a multifamily building has 10 or more units, the department shall inspect a sampling of dwelling units, of not less than 2 and not more than 10% of the dwelling units in the multifamily building. In no event will the department charge a fee for more than 10 units in a building. If the department determines upon inspection of the sampling of dwelling units there are code violations that effect the safe, decent and sanitary living conditions for the tenants of the multifamily building, then the department shall inspect another sampling of units up to 100% of the dwelling units as deemed necessary to enforce the provisions of the code. The number of the second sampling will be based on the degree of the conditions discovered in the inspected units. In that case, the fee shall be based upon the charge per unit inspected as provided in section 200-33-49.5.

c. An owner is not exempt from complying with all other applicable laws, standards and regulations pertaining to the condition and use of buildings and structures including the authority of the commissioner to perform housing inspections in accordance with applicable law.

d. Properties subject to the requirements of this section shall be exempt from the certificate of code compliance requirement in s. 200-52.

6. ISSUANCE OF CERTIFICATES.

a. Four-year certificate. The department shall issue a 4-year residential rental

certificate only if the dwelling is not a nuisance property or chronic nuisance premises and only if the initial inspection of a dwelling or unit reveals no habitability violations or disqualifying violations.

b. One-year certificate. If upon initial inspection of the dwelling or unit the department finds no habitability violations, but finds one or more disqualifying violations or that the dwelling or unit does not conform to the building maintenance code or zoning code, then the department shall issue a one-year residential rental certificate. If upon inspection of the dwelling or unit, the department finds one or more habitability violations, then the department shall issue a one-year residential rental certificate only after all habitability violations have been corrected.

c. Reinspection. The commissioner may reinspect a dwelling after 30 days if disqualifying violations are observed during an inspection and assess reinspection fees under s. 200-33-48

d. Revocation. If after issuance of a 4-year certificate the dwelling becomes a nuisance property or chronic nuisance premises or the department subsequently finds the dwelling or unit has disqualifying violations, habitability violations or a pattern of repeated building or zoning code violations, the department may revoke the 4-year certificate and in lieu thereof issue a one-year certificate after any habitability violations have been corrected. The dwelling or unit shall again be eligible for a 4-year certificate only upon the expiration of the one-year certificate, and as of the first subsequent annual inspection, no disqualifying violations or habitability violations are found. The commissioner may also revoke either a 4-year or one-year certificate if he or she determines that violations are of a critical nature that constitute an unsafe or unfit condition that results in orders issued under ss. 200-11-5 or 200-12.5.

e. Transfer of Property. In the event of a sale, transfer or conveyance of a property within 3 months of the initial issuance of the certificate, the certificate may be transferred to the new owner until the end of a certificate valid for one year, or one year from the date of issuance of the certificate in the case of a 4-year certificate, provided the new owner submits an application as required by sub. 4. No inspection shall be required pursuant to this paragraph.

f. Occupancy Without Certificate. No owner of the dwelling or unit in the designated inspection districts which does not possess a valid rental certificate for that dwelling or unit shall permit any person to occupy the dwelling or unit as a tenant or otherwise. No owner of a dwelling that is a nuisance property or chronic nuisance premises which does not possess a valid rental certificate for that dwelling or unit shall permit any person to occupy the dwelling or unit as a tenant or otherwise. Upon discovery of units occupied without a certificate the department will initiate enforcement action to gain access to the property, including inspection warrants, to determine code compliance.

7. VIOLATIONS IDENTIFIED.

a. Any building maintenance and zoning code violations identified in the initial inspection for a residential rental certificate shall be abated within a reasonable amount of time to be determined by the department.

b. Any violations identified after a residential rental certificate has been issued shall be abated within a reasonable amount of time to be determined by the department and subject to the provisions of the code.

8. ENFORCEMENT.

a. Should the department upon inspection determine that there are conditions which constitute an imminent danger to health and safety pursuant to chs. 275 and 295, it shall order the condition to be remedied and may limit or prohibit occupancy where appropriate.

b. The department shall reinspect the premises as necessary to determine that the recorded code violations have been satisfactorily corrected. A reinspection fee may be charged in accordance with s. 200-33-48.

9. DEPARTMENTAL REVIEW AND APPEALS.

a. The owner may request review of decisions regarding violations or regulations imposed by the department. The request shall be made in writing on forms provided by the department and shall specify the grounds for administrative review. The request for administrative review shall be filed within 10 days of the issuance of the order.

b. The administrative review hearing shall occur within 10 days after receipt of the request.

c. The commissioner, or the person appointed as the commissioner's designee, shall conduct the administrative review hearing. At the hearing, owner and staff shall present all relevant information to the case.

d. Within 7 days of completion of the hearing conducted under this subsection, the commissioner shall mail or deliver to the owner

his or her written determination stating the reasons therefore.

e. If an owner is not satisfied by the decision reached by the commissioner, he or she may make further appeal to the standards and appeal commission pursuant to s. 200-17.

10. REVOCATION. A residential rental certificate may be revoked at the discretion of the commissioner if violations which are considered to be an unfit or unsafe condition pursuant to sub. 6-d are observed during a subsequent inspection.

11. RULES AND REGULATIONS. The commissioner shall issue rules and regulations for the administration of this section.

12. REMEDIES; OTHER PROVISIONS. a. The remedies provided in this section are not to be construed to be exclusive of any other remedy under this code, and the department may take further actions to ensure compliance with this section including, but not limited to, seeking injunctive relief and obtaining inspection warrants.

b. Nothing in this section shall be construed to limit the authority of the department to perform housing inspections in accordance with this code.

c. Nothing in this section shall limit the department from enforcing any other provision of the code or any state or federal law under its jurisdiction.

d. Nothing in this section shall be construed to relieve or exempt any person from complying with all applicable laws, this code, and standards and regulations relating to the condition and use of buildings and structures.

e. Nothing in this section shall limit, impair, alter or extend the rights and remedies of persons in the relationship of landlord and tenant that exist under applicable law.

13. PENALTY.

a. An owner failing to apply for a residential rental certificate of compliance shall be subject to a forfeiture of not less than $100 for the first failure to apply. The owner shall be subject to a forfeiture of not less than $150 for failure to respond to each subsequent notice to apply which shall be sent by the department.

b. An owner failing to comply with any other provisions of this section shall be subject to the penalties provided in s. 200-19.

200-55. Home Occupations.

1. PURPOSE AND INTENT. The purpose and intent of this section is to permit residents of the city a broad choice in the use of their homes as a place of livelihood and the production or supplementing of personal and family income. This section is also intended to protect residential areas from adverse impacts of activities associated with certain home occupations.

2. CERTIFICATE REQUIRED. Any person engaged in a home business requiring a license or permit from the city must first obtain a certificate of home occupation from the commissioner of neighborhood services and pay the fee specified in s. 200-33-24.5. An application for a certificate of home occupation shall be filed with the department of neighborhood services on forms provided by the department. An inspection may be required prior to issuance of the certificate.

3. REQUIREMENTS. All home occupations shall comply with the requirements provided in ss. 295-503-3-c, 295-603-4-c and 295-803-4-c.

200-57. Community Garden Permit. 1. PERMIT REQUIRED. No person may establish or maintain a community garden without first obtaining a community garden permit from the commissioner of city development or the commissioner's designee.

2. APPLICATION. Application for a community garden permit shall be made on a form provided therefor by the commissioner or designee. The application shall contain the following information:

a. The name of the organization that will be operating the community garden, as well as the name, address and home telephone number of an authorized representative of the organization who will be responsible for overall operation of the community garden.

b. The types of vegetables, fruits, flowers or other plants that are expected to be grown on the site.

c. The anticipated daily hours of operation of the community garden.

d. The average and maximum numbers of persons expected to be present at the community garden on a given day.

e. A description of pedestrian and vehicular access to the site.

f. A description of where persons coming to the community garden by motor vehicle are likely to park their vehicles, including any parking restrictions in effect in the anticipated parking area.

g. Whether any motorized vehicles or farm equipment will be brought onto the site, including the means of transporting the vehicles or equipment to and from the site and any

provisions for storing the vehicles or equipment on the site.

h. Whether operation of the community garden will involve the application of pesticides or herbicides and, if so, information on the types of pesticides or herbicides that will be applied, the name of the individual or business who will be making the application and a description of measures that will be taken to warn persons entering the community garden site of the presence of these chemicals.

3. COMMUNITY OUTREACH. At the time of submitting an application for a community garden permit, the applicant shall submit to the commissioner of city development or the commissioner's designee a description of the applicant's outreach to the surrounding neighborhood to develop public awareness of, and support for, the proposed community garden. The outreach may include, but shall not be limited to, circulation of petitions of support or distribution of fliers in the surrounding neighborhood.

4. APPROVAL OR DENIAL OF PERMIT. Upon receipt of a completed application for a community garden permit, the commissioner of city development or the commissioner's designee shall submit the application to the local common council member for review. The commissioner or commissioner's designee shall approve and issue the permit unless the common council member, within 10 days of receipt of the application, notifies the commissioner or commissioner's designee that the local common council member opposes issuance of the permit. The commissioner shall issue a permit unless:

a. The applicant is not a group of individuals or a public or non-profit organization, in which case the applicant does not fit the definition of "community garden" in s. 295-201.

b. The applicant has had a community garden permit revoked at some time in the past 3 years.

c. Operation of the community garden will unreasonably disrupt the safe and orderly use of any street, alley or other public place as a result of vehicular traffic or parking related to the community garden.

d. Operation of the community garden will degrade the surface of the adjacent public right-of-way through the tracking of dirt and other materials onto the public right-of-way, damaging of turf, creation of ruts, damaging of curbs and so forth.

e. Operation of the community garden will occur at such hours or at such intensity as to disturb the peace of the surrounding neighborhood.

f. The community garden will not be in compliance with all applicable standards and requirements of this code.

g. The common council member in whose district the community garden will be located opposes the issuance of the permit based on the criteria in pars. a to f.

5. FEE. There shall be no fee for a community garden permit.

6. REVOCATION OF PERMIT. The commissioner of neighborhood services may revoke a community garden permit upon determining that the community garden is not in compliance with any provision of this chapter or ch. 68, 78, 79 or 275.

7. APPEAL. An applicant whose application for a community garden permit has been denied, or a permit holder whose permit has been revoked, may appeal the denial or revocation to the standards and appeals commission in accordance with the provisions of s. 200-17.

200-61. Architectural Review Board. 1. PURPOSE AND FINDINGS. The common council finds that the physical and architectural character of certain neighborhoods and locations in the city require special regulation with respect to the alteration, rehabilitation and construction of buildings, structures or sites because of significant historical, cultural, social or commercial attributes. In order to promote this goal, an architectural review board is created to review all applications for the alteration, rehabilitation or construction of any building, structure or site in a designated district, except for those exempted under sub. 10, prior to the issuance of permits under s. 200-24 by the department of city development.

2. DEFINITIONS. In this section:

a. "Alteration" means any material change in the exterior appearance of any building, structure or site in the district.

b. "Board" means the architectural review board.

c. "Certificate of appropriateness" means a certificate issued by the board approving the alteration, rehabilitation or construction of any building, structure or site in the district.

d. "Design guidelines" means guidelines adopted by the common council for the alteration, rehabilitation or construction of any building, structure or site in the district.

e. "District" means the area designated by common council resolution 870501 as business improvement district #2 or the area designated by common council resolution 110693 as the East Side architectural review district. “District” also means such additional areas as may be designated by the common council. Each district created hereunder shall have a separate board.

f. "Rehabilitation" means the improvement of property through repair or alteration.

g. Structure shall include, but is not limited to, a temporary or permanent sign or advertisement placed or erected on the exterior of any building, structure, site or in the public way in the district.

3. COMPOSITION. a. The board shall be composed of 7 members. The members shall consist of one member of the historic preservation commission appointed by its chair; the commissioner of the department of neighborhood services or the commissioner’s designee; one member of the common council representing the district under sub. 2-e or the council member’s designee, and 4 citizen members appointed by the mayor and confirmed by the common council. A majority of the citizen members shall own or occupy property in the district. Citizen members and the historic preservation commission member shall be appointed for terms of 3 years or until their successors are appointed and confirmed. Members may be reappointed to succeeding terms.

a-1. The common council board member may designate an alternate in writing by filing with the city clerk’s office. The alternate may represent the common council member and exercise all powers of the member when such member is unable to attend board meetings.

b. With respect to any board for any district created after February 18, 2005, 2 of the initial citizen members shall be appointed for one year; one for 2 years and one for 3 years.

c. Citizen members shall be exempt from city service provisions.

d. Citizen members may be removed for cause by the mayor.

e. Board members shall receive no compensation.

f. No member of the board shall vote on any matter that materially affects the property, income or business interest of that member or creates the appearance of a conflict of interest.

4. FUNCTIONS, POWERS AND DUTIES. The board shall:

a. Adopt by-laws, rules and procedures concerning the operation of the board.

b. Designate one of its citizen members, or retain the services of a consultant, as its administrative officer to perform administrative functions pursuant to the direction of the board and to draft decisions, findings and orders for consideration by the board.

c. Utilize the design guidelines when reviewing applications for certificates of appropriateness for the alteration, rehabilitation and construction of buildings, structures and sites in the district.

d. Issue certificates of appropriateness with or without conditions for the alteration, rehabilitation or construction of any building, structure or site in the district.

e. Advise and assist property owners and other persons and groups, regarding the design guidelines, programs and regulations concerning the district.

f. Work closely with the department of neighborhood services to provide training and technical assistance on issues relating to the design, preservation, repair, renovation and maintenance of buildings, structures and sites in the district.

g. Make recommendations to the common council regarding amendments to the design guidelines and the designation of additional areas for inclusion in the district.

5. CERTIFICATE OF APPROPRIATENESS. No person or entity shall, with respect to the exterior of any building, structure or site in the district, alter, rehabilitate, or reconstruct all or any part of, undertake any new construction with respect to, or permit any work to be performed upon a building, structure or site, nor shall the commissioner of city development issue a permit for any such work unless a certificate of appropriateness has been issued by the board, as provided in this subsection.

a. Application. Applications for a certificate of appropriateness shall be obtained from and filed with the district office which address shall be on file in the city clerk’s office.

b. Review. b-1. Upon receipt of an application for a certificate of appropriateness for the alteration, rehabilitation or construction of any building, structure or site in the district, the board shall review it at its next regular meeting, provided the application is complete and is received before the board's published deadline for the receipt of applications.

b-2. The board may designate one or more persons to administratively approve applications for certificates of appropriateness that comply with the design guidelines without board review, provided that the board shall first adopt a written policy on the types of projects which may be administratively approved.

b-3. Except as provided in subd. 2, the board shall review the proposed alteration, rehabilitation or construction project to determine if it complies with the design guidelines. If the proposed project complies with the design guidelines, the board shall find the proposed project appropriate and issue a certificate of appropriateness. If the board finds that the proposed project does not comply with the guidelines, the board shall deny the application and provide written notice of this denial to the applicant within 30 days of such denial.

b-4. In the event that the board denies an application for a certificate of appropriateness pursuant to subd. 3, the applicant may request a public hearing before the board by submitting a written request to the district office within 30 days of the date of denial.

c. Public Hearing. c-1. Upon receipt of a written request for a public hearing on the board's denial of an application for a certificate of appropriateness, the board shall schedule the hearing within 45 days of receipt of the request.

c-2. Notice of the public hearing shall be sent by certified mail, return receipt requested, addressed to the applicant's address as stated in the application. Notice shall also be posted by the city clerk, sent to the common council member representing the district and sent, via first class mail, to all recorded owners of property within 500 feet of the building, structure or site in the district that is the subject of the public hearing. Notice shall be provided not less than 10 days prior to the date of the public hearing.

c-3. The notice of public hearing may require the applicant to provide supplemental information, including, but not limited to, photographs, plans, floor plans, elevations or detailed drawings of any building, structure, site or portion thereof.

c-4. The board may grant adjournments for any reason upon good cause.

c-5. At the public hearing the applicant shall be entitled to call witnesses and present evidence in support of the application for the certificate of appropriateness. The board shall take testimony from and consider the evidence of any person in attendance at the hearing. An audiotape record shall be made of all proceedings at the public hearing. Such audiotapes shall be made available to any person upon payment of the reasonable costs to process and reproduce such tapes.

c-6. After all evidence has been received, the board shall review the record to determine whether, notwithstanding non-compliance with the design guidelines, the application for a certificate of appropriateness should be granted. In making this determination the board shall consider:

c-6-a. Whether the proposed work would alter or affect any significant architectural feature of the building, structure or site upon which the work is to be done.

c-6-b. Whether the proposed alteration, rehabilitation or construction would harmonize with the character and appearance of neighboring buildings, structures or sites within the district.

c-6-c. Whether the proposed alteration, rehabilitation or construction would be consistent with an approved comprehensive land use plan for the district.

c-6-d. The existence of extraordinary circumstances under which strict adherence to the design guidelines would cause a substantial hardship on the applicant provided, however, that such hardship is not self-imposed or based solely on economic grounds.

c-7. Following review of the record from the public hearing, the board shall either affirm its denial of the application for a certificate of appropriateness or grant the application. If denial of the application is affirmed, the board shall notify the applicant of its decision by certified mail, return receipt requested, within 30 days of its decision. The board shall set forth the findings of fact that constitute the basis for its decision. All decisions of the board shall be filed with the commissioners of neighborhood services and city development.

d. Appeals. Applicants may appeal to the common council the denial of an application for a certificate of appropriateness following a public hearing. Appeals shall be in the form of a written request filed with the city clerk within 30 days after the mailing of the certified letter containing the board's decision. The city clerk shall file the appeal with the common council. The council shall hold a public hearing on the appeal and shall, by a majority vote of its members, affirm or reverse the decision of the board.

e. Resubmission of Application. Whenever an application for a certificate of appropriateness is denied, the proposed alternation, rehabilitation or construction project is ineligible for reconsideration for a period of one year following the denial.

f. The board shall issue a certificate of appropriateness within 30 days of the board's decision granting such application or within 30 days of a decision of the common council reversing the denial of an application of a certificate of appropriateness by the board after public hearing.

6. OTHER PERMITS AND APPROVALS REQUIRED. The issuance of a certificate of appropriateness shall not relieve the applicant from obtaining other necessary permits and approvals required by the city. All other ordinances, rules and regulations of the city remain applicable.

7. COMPLIANCE WITH CERTIFICATES OF APPROPRIATENESS.

a. Within 12 months of the issuance of the certificate of appropriateness, work on the project must begin, shall at all times be in compliance with the certificate and be completed within 24 months of the issuance of the certificate of appropriateness, or the certificate shall be subject to revocation by the board. The board may grant extensions to complete a project upon good cause.

b. Projects approved, started and not completed prior February 18, 2005, shall be granted an extension of 24 months from February 18, 2005.

c. Failure to comply with a certificate of appropriateness shall be a violation of this section. In the event work is being performed without, or not in accordance with, a certificate of appropriateness, the board shall request that a stop work order be issued by the commissioner of neighborhood services.

8. PERMIT REVOCATION. Any permit issued by the commissioner of city development under the terms of this section may be revoked by the commissioner of neighborhood services whenever any of the conditions under which the permit was issued are not complied with.

9. EXCEPTIONS. a. The Henry W. Maier Festival grounds, except for the grounds' perimeter fences, are exempt from the provisions of this section.

b. Ordinary routine maintenance and repair of buildings, structures or sites may be undertaken without a certificate of appropriateness, provided that the work involves routine maintenance or repair of existing features of a building or structure or the replacement of elements of a building or structure with pieces identical in appearance and provided that the work does not change the exterior appearance and does not require the issuance of a building permit.

10. VIOLATIONS. a. Whenever the commissioner of neighborhood services determines that a violation of this section exists or has reasonable grounds to believe that such a violation exists, the commissioner is authorized to order the owner to correct the violation or issue a stop work order, if requested, as provided in sub. 7-c.

b. Any person violating any provision of this section shall be subject to the penalties under s. 200-19.

"For legislative history of chapter 200, contact the Legislative Reference Bureau."

SUBCHAPTER 2
LICENSING

275-20. Licensing Of Licensed Dwelling Facilities. 1. DEFINITION. In this section, "offer" means to communicate a willingness, desire or intent.

1.1 COMPLIANCE. No person may operate or let to another for occupancy any licensed dwelling facility**,** except in compliance with the requirements of this section.

1.2 POLICY. The common council declares its purposes in adopting these provisions are to:

a. Protect the public health, safety and welfare of the people of the city.

b. Protect the character and stability of residential areas.

c. Correct and prevent housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare and health of persons occupying licensed dwelling facilities.

1.5. ADOPTION OF STATE CODE. Except as otherwise provided in this subchapter, the city of Milwaukee adopts ch. DHS 195, Wis. Adm. Code, as amended, as part of this code.

2. LICENSE REQUIRED. No person, firm or corporation, either as owner, operator, lessee, manager, officer or agent, may keep, maintain, conduct or operate for gain or profit, or may offer to keep, maintain, conduct or operate for gain or profit, any licensed dwelling facility in the city without first obtaining a license therefor in the manner hereinafter provided.

3. APPLICATION. License application forms shall be obtained from the city clerk and require the information specified in s. 85-12. In addition, if the applicant is a nonresident of Milwaukee county, the application shall contain the name and street address of a local representative inside the Milwaukee county limits who shall be a natural person upon whom service can be made under this chapter of a summons or other processes issued by any court.

4. PLAN OF OPERATION. An application for a licensed dwelling facility 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.

a. 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.

b. Plan of Operation. If, after the license has been issued, the licensee wishes to 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.

6. LICENSE FEE. See s. 200-33 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 chief of police, the commissioner of neighborhood services and 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 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 license should be granted. The procedure for considering an appeal shall be as provided in s. 85-2.7.

11. ISSUANCE.

a. General. See s. 85-12.5 for provisions relating to the issuance of a license.

b Occupancy. Each license shall list the maximum number of persons that may reside in the total building or portion thereof for which the license is issued.

c. Expiration. A license shall expire on the date specified, unless sooner suspended or revoked as provided in this section.

12. POSTING. Each license shall be posted in a conspicuous place on the premises.

13. TRANSFER. No license for a licensed dwelling facility may be transferred. 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 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.

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.

16. DUE PROCESS AND COMMON COUNCIL REVIEW. If there is a possibility that the licensing committee will not recommend renewal of the license, or if revocation proceedings are initiated, the procedures for notice and committee hearing and for the committee report, recommendations and common council consideration in ss. 85-3 to 85-5 shall apply.

17. CAUSES FOR NONRENEWAL, SUSPENSION OR REVOCATION. In addition to the provisions of s. 85-4-4, the recommendation of the committee may also be based upon evidence including sub. 20 and any of the following:

a. A conviction of the licensee, the licensee's agent, manager, operator or any other employe for keeping a gambling house or house of prostitution or for any violation of law, the circumstances of which are substantially related to the circumstances of the operation of the licensed dwelling facility.

b. The licensed dwelling facility is operated in such a manner that it generates complaints from neighbors or residents relating to, but not limited to, loud and raucous noise, undesirable activities of residents or guests of residents, and has a substantial adverse effect upon the health, safety, convenience or property interests of the surrounding neighborhood.

c. The conviction of the licensee, local representative of the licensee or the officers or directors of a corporation, or any employe for any felony, misdemeanor or civil forfeiture the circumstances of which substantially relate to the operation of the licensed dwelling facility.

d. The police department receives calls for service at the licensed dwelling facility for such reasons and in such numbers as to indicate the dwelling facility constitutes a threat to the health, safety, convenience or property interests of the surrounding neighborhood.

e. The licensed dwelling facility is in violation of this code or has had separate orders to correct violations issued on substantially the same code violations within an 18-month period.

f. The licensed dwelling facility is operated in such a manner that it constitutes a public or private nuisance or that conduct on or by the residents and guests of the licensed premises has had a substantial adverse effect upon the health, safety, convenience or property interests of the immediate neighborhood.

LEGISLATIVE HISTORY
CHAPTER 275

Abbreviations:

am = amended	ra = renumbered and amended	rn = renumbered
cr = created	rc = repealed and recreated	rp = repealed

Section	Action	File	Passed	Effective
Ch. 275	rn from ch. 51*	85-1396	12/20/85	1/1/86
Ch. 275	rc	86-1766	2/3/87	6/1/87
275-2	cr	901088	11/27/90	12/15/90
275-2	am	921114	11/20/92	12/11/92
275-2	am	980963	12/18/98	1/1/99
275-20	rc	970452	11/25/97	12/16/97
275-20-0	am	050643	10/18/2005	11/4/2005
275-20-1	rn to 275-20-1.2	050643	10/18/2005	11/4/2005
275-20-1	cr	050643	10/18/2005	11/4/2005
275-20-1.5	cr	990090	5/11/99	5/28/99
275-20-1.5	am	081724	5/5/2009	5/22/2009
275-20-2	am	040127	6/15/2004	7/2/2004
275-20-3	am	120914	11/8/2012	1/1/2013
275-20-3	rc	131559	5/13/2014	8/1/2015
275-20-3-0	am	980963	12/18/98	1/1/99
275-20-3-0	am	130299	9/24/2013	10/11/2013
275-20-3-a	am	871174	10/6/87	10/23/87
275-20-3-a	am	990621	7/29/99	8/17/99
275-20-3-d	cr	961690	3/4/97	3/20/97
275-20-4	am	980963	12/18/98	1/1/99
275-20-4	am	990621	7/29/99	8/17/99
275-20-4	am	130299	9/24/2013	10/11/2013
275-20-4	rc	131559	5/13/2014	8/1/2015
275-20-4-i	rp	151320	1/19/2016	2/5/2016
275-20-4-j	rn to 275-20-4-i	151320	1/19/2016	2/5/2016
275-20-4-k	rn to 275-20-4-j	151320	1/19/2016	2/5/2016
275-20-5	rc	131502	4/22/2014	5/9/2014
275-20-5	rc	131559	5/13/2014	8/1/2015
275-20-5-0	am	130299	9/24/2013	10/11/2013
275-20-5-a-1	am	130299	9/24/2013	10/11/2013
275-20-5-a-3	rp	130299	9/24/2013	10/11/2013
275-20-5-c-1-0	am	130299	9/24/2013	10/11/2013
275-20-6	rc	131559	5/13/2014	8/1/2015
275-20-6-0	am	130299	9/24/2013	10/11/2013
275-20-6-a	am	130299	9/24/2013	10/11/2013
275-20-6-c	am	130299	9/24/2013	10/11/2013
275-20-6-f	rp	130299	9/24/2013	10/11/2013
275-20-7	rn to 275-20-20	131559	5/13/2014	8/1/2015
275-20-7	cr	131559	5/13/2014	8/1/2015
275-20-7-0	am	051471	3/23/2006	4/11/2006
275-20-7-p	rp	130299	9/24/2013	10/11/2013
275-20-7-p-2	am	980963	12/18/98	1/1/99
275-20-7-p-3	am	980963	12/18/98	1/1/99
275-20-7-q	rp	130299	9/24/2013	10/11/2013
275-20-7-q-0	am	050735	10/18/2005	11/4/2005
275-20-8	cr	130299	9/24/2013	10/11/2013
275-20-8	rc	131559	5/13/2014	8/1/2015
275-20-8.2	cr	130299	9/24/2013	10/11/2013

* except for 51-2 and 51-17 which were repealed.

275-20-8.2	rp	131559	5/13/2014	8/1/2015
275-20-8.5	cr	130299	9/24/2013	10/11/2013
275-20-8.5	rn to 275-20-17	131559	5/13/2014	8/1/2015
275-20-9	rc	130299	9/24/2013	10/11/2013
275-20-9	rc	131559	5/13/2014	8/1/2015
275-20-9-a	rn to 275-20-9	941797	6/6/95	6/23/95
275-20-9-a	am	980963	12/18/98	1/1/99
275-20-9-b	rp	941797	6/6/95	6/23/95
275-20-9-c	rc	030306	6/24/2003	7/11/2003
275-20-9-d-1	rc	030306	6/24/2003	7/11/2003
275-20-9-d-2	am	030306	6/24/2003	7/11/2003
275-20-9-h-2	am	980963	12/18/98	1/1/99
275-20-9-j	rn to 275-20-9-k	971710	3/3/98	3/24/98
275-20-9-j	cr	971710	3/3/98	3/24/98
275-20-10	rc	131559	5/13/2014	8/1/2015
275-20-11	rc	131559	5/13/2014	8/1/2015
275-20-11-a	am	980963	12/18/98	1/1/99
275-20-12	cr	070549	7/31/2007	8/17/2007
275-20-12	rn to 275-20-22	131559	5/13/2014	8/1/2015
275-20-12	cr	131559	5/13/2014	8/1/2015
275-20-13	cr	131559	5/13/2014	8/1/2015
275-20-14	cr	131559	5/13/2014	8/1/2015
275-20-15	cr	131559	5/13/2014	8/1/2015
275-20-16	am	891827	1/16/90	2/3/90
275-20-16	cr	131559	5/13/2014	8/1/2015
275-20-17-0	am	891827	1/16/90	2/3/90
275-20-17-0	rc	131559	5/13/2014	8/1/2015
275-20-18	cr	131559	5/13/2014	8/1/2015
275-20-19	cr	131559	5/13/2014	8/1/2015
275-20-19-0	am	890136	10/10/89	10/28/89
275-20-19-a	am	890136	10/10/89	10/28/89
275-20-19-a-3	am	921114	11/20/92	12/11/92
275-20-19-b	am	890136	10/10/89	10/28/89
275-20-20	am	871174	10/6/87	10/23/87
275-20-20-a	rp	131559	5/13/2014	8/1/2015
275-20-20-c	rp	131559	5/13/2014	8/1/2015
275-21	cr	131559	5/13/2014	8/1/2015
275-21-3	rp	890991	7/28/92	8/14/92
275-21-6	cr	900249	6/20/90	7/10/90
275-21-6	rc	900512	1/22/91	2/8/91
275-22-3	rp	890991	7/28/92	8/14/92
275-23-6	rp	890991	7/28/92	8/14/92
275-31	cr	901353	12/21/90	1/12/91
275-32-1	am	901353	12/21/90	1/12/91
275-32-3-c	rc	970472	7/25/97	8/13/97
275-32-3-h	rc	911449	7/28/92	8/14/92
275-32-3-h-1-b	am	960621	7/30/96	8/16/96
275-32-3-h-3	am	901353	12/21/90	1/12/91
275-32-3-h-3-a	am	041644	4/12/2005	4/29/2005
275-32-3-i	cr	911449	7/28/92	8/14/92
275-32-3-i-1-a	am	041644	4/12/2005	4/29/2005
275-32-6	am	930944	10/19/93	11/5/93
275-32-7	rc	890682	7/25/89	8/15/89
275-32-7-0	am	041383	2/22/2005	3/11/2005
275-32-7-a-0	am	090428	11/3/2009	1/1/2010
275-32-7-a-2	am	101139	4/12/2011	4/29/2011
275-32-7-a-3	am	090428	11/3/2009	1/1/2010
275-32-7-a-5	am	891307	10/13/89	11/18/89