

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. 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 stenches, or which shall be dangerous or prejudicial to the public health, is declared to be a public nuisance.

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. 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 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.

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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.

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 appeals board 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 appeals board 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 appeals board 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 appeals board 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 stenches 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.

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.

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.

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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. Admin. 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.

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 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 discommode any person or damage any property.

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2. UNLAWFUL TO POSSESS. It is unlawful for any person to have in his possession or under his control any stinkingbean, 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 the depositing on public or private property of solid waste, 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.

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 uncleaned noncombustible food containers or incinerator refuse, is permitted.

b. Those upon which the dumping of refuse which includes used and discarded uncleaned 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 appeals board 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 appeals board 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 appeals board 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 adjacent to an IH or IM district | 65 | 55 |
| 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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