

INSTRUCTION SHEET ADDITIONS TO MILWAUKEE CODE OF ORDINANCES VOLUME 1

SUMMARY

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

- 260109 A substitute ordinance relating to revisions of various provisions of the code for purposes of correcting errors, clarifying language, eliminating obsolete provisions, and updating references.
- 260367 A substitute ordinance relating to street parking exceptions.
- 260369 A substitute ordinance relating to dangerous and exotic animals.

Remove old MEMO (Suppl. #459)

<u>Section Affected</u>	<u>Action</u>	<u>File Number</u>	<u>Effective Date</u>	<u>Remove Pages</u>	<u>Add Pages</u>
Ch. 78 Table				v-vi 211-216	v-vi 211-216b
78-1-13-a-3	rc	260369	8/1/2026	"	"
78-1-19	cr	"	"	"	"
78-1-33	rp	"	"	"	"
78-1-35	rp	"	"	"	"
78-5-1	am	"	"	"	"
78-5.5	cr	"	"	"	"
78-22	rp	"	"	220c-220L	220c-220L
78-23-1-a	am	"	"	"	"
78-23-1-b	am	"	"	"	"
78-23-6.5	cr	"	"	"	"
78-23-9	am	"	"	"	"
78-23-9.5	rc	"	"	"	"
78-23-10	rc	"	"	"	"
78-23-10.5	cr	"	"	"	"
78-23-11	rc	"	"	"	"
78-23-11.5	cr	"	"	"	"
78-23-11.7	cr	"	"	"	"
78-25	rc	"	"	"	"
78-55-6-a	am	"	"	"	"
79-1-2	am	260109	"	221-222	221-222
79-10-2	am	"	"	228c-228d	228c-228d
100-54-10-a	am	"	"	497-498	497-498

<u>Section Affected</u>	<u>Action</u>	<u>File Number</u>	<u>Effective Date</u>	<u>Remove Pages</u>	<u>Add Pages</u>
101-27-1-a-2-k	cr	260367	8/1/2026	547-548	547-548
101-27-1-a-2-L	cr	"	"	"	"
101-27-1-a-2-m	cr	"	"	"	"
101-27-1-a-2-n	cr	"	"	"	"
106-21-3	corr			617-618	617-618
106-31-3	corr			623-624	623-624
106-53-2	am	260109	8/1/2026	628c-630	628c-630

Abbreviations: am=amended ra=renumbered and amended rn=renumbered
 cr=created rc=recreated rp=repealed
 corr=correction

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Revised 7/14/2026
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MEMO

If all supplements have been properly inserted, this book contains all actions of the Common Council through July 14, 2026.

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CHAPTER 78 ANIMALS

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78-1. Definitions. In this chapter:

1. ACCIDENTAL LITTER means a litter that was not intentionally bred, planned, facilitated, or allowed for the purpose of sale, distribution, or other commercial activity at the time breeding

occurred, and that is not the result of repeated or negligent failure to take reasonable steps to prevent breeding, including failure to separate, contain, or sterilize animals, as described in sub. 6.5.

1.5. ANCHOR SWIVEL means a device that connects the tether to the anchor and prevents twisting or tangling by allowing the tether to rotate freely.

1.6. ANIMAL CONTROL CONTRACTOR means any person, entity, or organization under contract with the city pursuant to s. 173.15, Wis. Stats., to provide animal care, holding, treatment, or disposition services.

1.7. ANIMAL FANCIER means any person in a dwelling unit who keeps, harbors, shelters, or possesses at any time any combination of dogs, cats, or rabbits numbering exactly 5, and who is not subject to residential breeder requirements under s. 78-7. Animal fancier status applies regardless of the age of any animal. The occurrence of an accidental litter, when the owner complies with the accidental litter standards of s. 78-7-4 shall not constitute animal fancier status unless the numerical threshold of 5 is met beyond the applicable compliance period established under sub. 78-7-4.

2. APIARY means the assembly of one or more colonies of bees at a single location.

3. APPROVED means approved by the commissioner.

4. AT LARGE means an animal is off the premises of its owner and on any public street or alley, school grounds, a public park, or other public grounds or on private property without the permission of the owner or person in lawful control of the property. An animal shall not be deemed to be at large if:

a. It is attached to a leash not more than 6 feet in length which is of sufficient strength to restrain the animal and the leash is held by a person competent to govern the animal and prevent it from annoying or worrying pedestrians or trespassing on private property or trespassing on public property where such animals are forbidden; or

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b. It is properly restrained within a motor vehicle; or

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

5. BEEKEEPER means a person who owns or has charge of one or more colonies of bees and has demonstrated to the commissioner that he or she has obtained formal education or sufficient practical experience to act as a beekeeper.

6. BEEKEEPING EQUIPMENT means anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

6.5. BREEDING ACTIVITY means the intentional or unintentional production of, or possession of animals from, a litter of dogs, cats, or rabbits, originating from animals owned, kept, or harbored by a person, including circumstances in which the person knew or reasonably should have known that one or more animals were intact and capable of reproduction and did not take reasonable steps to prevent breeding. Reasonable steps shall include effective sterilization or physical separation of intact animals of opposite sexes and may include other commonly accepted veterinary or animal husbandry measures to prevent reproduction. Reasonable steps do not include intermittent supervision, intent to sterilize at a future date, or reliance on confinement without physical separation.

7. BODILY HARM means physical pain or injury or any impairment of physical condition.

8. CARETAKER means any person 16 years of age or older who, in the absence of the owner, temporarily harbors, shelters, keeps or is in charge of a dog, cat or any other domesticated bird or animal.

9. CAT means a domesticated member of felis domestica.

9.5. CHOKE COLLAR means any collar that tightens around a dog's neck when pressure is applied, designed to restrict or choke the animal.

10. COLONY means an aggregate of bees in a hive consisting principally of workers, but having, when perfect, one queen and at times many drones, including brood, combs, honey and the receptacle inhabited by the bees.

11. COMMISSIONER means the commissioner of health, his or her designated representative within the health department, or any other city official to whom the commissioner's functions or duties under this chapter have been delegated pursuant to a memorandum of understanding.

12. COMMISSIONER OF PUBLIC WORKS means the legally designated head of the department of public works of the city of Milwaukee or his or her authorized representative.

13. DANGEROUS ANIMAL means:

a-1. Any animal which, when unprovoked, bites or otherwise inflicts bodily harm on a person, domestic pet or animal on public or private property.

a-2. Any animal which chases or approaches a person in a menacing fashion or apparent attitude of attack without provocation upon the streets, sidewalks or any public grounds or on private property without the permission of the owner or person in lawful control of the property.

a-3. Any animal that demonstrates a documented pattern of aggressive behavior toward persons, domestic pets, or other animals that creates a reasonable concern for public safety.

b. The biting or injury of a person by an animal shall in the absence of contrary evidence be presumed to be due to an unprovoked attack. Provocation of the animal by the person or animal that is bitten or injured or the fact that the animal bit or injured another person or animal as a result of provocation shall be considered in mitigation and if the provocation is purposeful or substantial, the court may accept the alleged bite or injury as self-defense by the animal and not classify the animal as dangerous.

c. An animal shall not be deemed a dangerous animal if it bites, attacks or menaces any person or animal to:

c-1. Defend its owner, caretaker or another person from an attack by a person or animal.

c-2. Protect its young or another animal.

c-3. Defend itself against any person or animal which has tormented, assaulted or abused it.

c-4. Defend its owner's or caretaker's property against trespassers.

14. DEPARTMENT means the health department or any department to which health department functions or duties under this chapter have been delegated pursuant to a memorandum of understanding.

15. DOG means a domesticated member of canis familiaris.

15.5. DOG SHELTER means an enclosed structure that provides a dog with adequate protection from the elements, including protection from rain, snow, sun, and extreme temperatures, and allows the dog to stand, turn around, and lie down comfortably.

16. DOMESTICATED ANIMAL means any bird or animal of any species which usually lives in or about the habitation of humans as a pet or animal companion. The term does not include a dangerous animal, a prohibited dangerous animal or a feral cat.

18. DWELLING UNIT means one or more rooms, including a bathroom and kitchen facilities, which are arranged, designed or used as living quarters for one family or household.

19. EXOTIC ANIMAL means any live animal that is not normally domesticated in the United States and that poses a potential risk to public safety or animal welfare. a. The term includes, but is not limited to, any of the following:

a-1. Big cats, including lions, tigers, leopards, jaguars, cougars, cheetahs, and hybrids.

a-2. Bears.

a-3. Non-human primates.

a-4. Crocodilians, including alligators and crocodiles.

a-5. Venomous reptiles.

a-6. Constricting snakes, monitor lizards, snapping turtles, or other reptiles presenting safety or containment concerns.

a-7. Wolves, coyotes, foxes, and hybrids not otherwise permitted by state law.

b. An animal shall not be considered domesticated solely because it is trained, tame, accustomed to human interaction, privately owned, born in captivity, or claimed to be a service animal or emotional support animal.

23. FOWL means all domesticated birds and nondomesticated game birds ordinarily considered to be edible.

24. GROOMING means care or service provided to the exterior of an animal to change its looks or improve its comfort but does not mean the treatment of physical disease or deformities.

25. GROOMING ESTABLISHMENT means a business establishment in which a domesticated bird or animal is received for grooming.

26. HIVE means an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times many drones, including brood, combs, honey and the receptacle inhabited by the bees.

27. HONEY BEE means all life stages of the common domestic honey bee, apis mellifera species.

28. KENNEL means an establishment in which more than 3 dogs or 3 cats, or any combination thereof, over the age of 5 months may be kept for boarding, breeding, safekeeping, convalescence, humane disposal, placement, sale or sporting purposes. This is the same type of facility referred to as an "animal boarding facility" in ch. 295.

28.5. MICROCHIP means a registered electronic identifier implanted under an animal's skin, linked to a registry containing the current owner's contact information.

29. MULTIPLE DWELLING means a commercial or residential building consisting of 3 or more dwelling units.

29.5. NON-TIGHTENING COLLAR means a collar designed to maintain a consistent fit around the dog's neck without tightening when tension is applied to the leash or tether.

30. OWNER means any person owning, harboring, sheltering or keeping a dog, cat or any other domesticated bird or animal.

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

32. PET SHOP means a business establishment, other than a kennel, where domesticated mammals, birds, fish or reptiles are kept for sale.

32.5. PINCH COLLAR means a collar composed of interlocking links with inward-facing prongs, which applies even pressure around a dog's neck when pulled.

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33.5. POTABLE WATER means water that is safe and suitable for a dog or other animal to drink, free from contamination and readily accessible.

34. PROHIBITED DANGEROUS ANIMAL means:

- a. Any animal that is determined to be a prohibited dangerous animal under s. 78-25.
- b. Any animal that, while off the owner's or caretaker's property, has killed a domestic pet or animal without provocation.
- c. Any animal that, without provocation, inflicts substantial bodily harm on a person on public or private property.
- d. Any animal brought from another city, village, town or county that is described under s. 78-5-2-b.
- e. Any dog that is subject to being destroyed under s. 174.02(3), Wis. Stats.
- f. Any dog trained, owned or harbored for the purpose of dog fighting.

34.2. PRONG COLLAR means a collar fitted with inward-facing metal prongs that press into a dog's neck when tension is applied.

34.5. REPEATED PRACTICE means, within a 12-month period, the occurrence of more than one litter or the transfer of animals on more than one occasion, attributable to the same person, household, or animals owned, kept, or harbored by that person. Repeated practice includes placements occurring on more than one occasion, whether from the same litter or from multiple litters, and whether by sale, adoption, rehoming, or other means, regardless of whether compensation is received.

34.7. RESIDENTIAL BREEDER means any person who engages in breeding activity within a dwelling unit or on residential property, or who advertises for sale, sells, transfers, or otherwise distributes animals from any litter for compensation or other consideration or as part of a repeated practice, regardless of whether the numerical limits in s. 78-5-3 are exceeded, regardless of whether the animals were bred by the person or acquired from another source, and whose activity does not rise to the level of a dog breeding facility or other breeding operation regulated under ch. ATPC 16, Wis. Adm. Code.

37. SUBSTANTIAL BODILY HARM means bodily injury that causes a laceration that requires stitches, any fracture of a bone, a

concussion, a loss or fracture of a tooth or any temporary loss of consciousness, sight or hearing.

38. TETHER means a rope, chain, cable, or similar device used to secure a dog outdoors to a stationary object or anchoring device to restrict the dog's movement.

39. TRANSFER means any change in ownership or custody of an animal, whether by sale, gift, adoption, barter, or other means, including placement outside the animal's house of origin. Transfer does not include temporary boarding, veterinary care, grooming, training, or foster placement through a recognized rescue, shelter, or animal welfare organization.

40. VETERINARY INSPECTION CERTIFICATE means a document issued and signed by a licensed veterinarian indicating that an animal has been examined and found to be free of signs of contagious or infectious disease on the date of examination that occurs on or near the date of transfer.

78-3. Owner or Caretaker's Duty; Presumption.

1. The owner or caretaker of any animal shall confine, restrain or maintain control over the animal so that the unprovoked animal does not attack or injure any person or domesticated animal.

2. The occupant of any premises on which a dog, cat or any other domesticated bird or animal remains or to which it customarily returns daily for a period of at least 10 days shall be presumed, for purposes of enforcement of this chapter, to be harboring, sheltering or keeping the animal.

78-5. Keeping of Animals Within City.

1. PERMITTED ANIMALS. No animal that is not a domesticated animal may be kept within the city or brought into the city limits except as provided in s. 78-5.5.

2. CERTAIN ANIMALS PROHIBITED.
a. Except as otherwise provided in this chapter, no person shall keep within the city, either temporarily or permanently, any live cows, cattle, horses, sheep, swine, goats, roosters, ducks, turkeys, geese or any other domesticated livestock, or undomesticated fowl provided, however, that the animals or fowl may be kept at places approved by the commissioner for slaughtering, educational purposes, research

purposes and for circuses or similar recreational events. Upon approval by the commissioner, horses used for livery service may be kept within the city. No rabbits or guinea pigs shall be kept within any portion of any multiple dwelling.

b. No person may bring into or keep in the city an animal that a Wisconsin city, village, town or county has declared dangerous or vicious, has banished from the city, village, town or county or has ordered to be destroyed. The commissioner may declare such an animal to be a prohibited dangerous animal in Milwaukee upon receipt of an official written declaration from the other city, village, town or county setting forth the grounds for the declaration, the name of the animal, if known, and the description of the animal.

c. No person may bring into or keep in the city, for sale or otherwise, either for food or for any other purposes whatsoever, any animal which, in accordance with the recommendations of the Compendium of Animal Rabies Control from the National Association of State Public Health Veterinarians, Inc., is not able to be effectively vaccinated against rabies, or any animal dead or alive, bird, insect, reptile or fish which is otherwise dangerous or detrimental to health.

3. NUMBER PERMITTED. a. No person shall keep, harbor, shelter, or possess at any one time more than 4 dogs, cats, or rabbits, in any combination, unless the person holds either a valid animal fancier permit authorizing the keeping of 5 animals, or a residential breeder permit authorizing the keeping of more than 5 animals or holds a valid kennel, pet shop or grooming establishment permit, or meets the definition of a dog breeding facility or other regulated operation under ch. ATCP 16, Wis. Adm. Code.

b. An animal fancier permit authorizes the keeping of no more than 5 animals.

c. The keeping of more than 4 dogs, cats, or rabbits, in any combination, in a dwelling unit located within a multiple-family dwelling is declared to be a nuisance. No animal fancier permit, limited exemption or residential breeder permit shall be issued for a dwelling unit located within a multiple-family dwelling.

d. No more than one animal fancier permit may be issued per qualified dwelling unit that is a single-family dwelling or in a duplex.

e. Animals temporarily fostered through a recognized rescue, shelter, or animal welfare organization shall not be counted toward the numerical limit established in this section, provided that documentation of foster status is available to the department upon request.

f. Nothing in this section shall be construed to exempt any person from obtaining a residential breeder permit when breeding activity occurs, as required under s. 78-7, or from obtaining a kennel permit when the numerical threshold for kennel regulation is met.

4. ANIMAL REMOVAL. The department may confiscate and remove animals from a premises for violation of sub. 1, 2 or 3 or ss. 78-6, 78-6.5, 78-23, 78-25 and 78-31, or if the animals constitute a public health threat as determined by the health department. The department may convey such animals to be housed and handled appropriately. If necessary, such animals may be disposed of in a humane manner by the department or their designee.

5. LIMITED EXEMPTION FROM NUMERICAL LIMITS. a. Exemption Authorized. A limited exemption from the numerical limit established in sub. 3 may be granted to a household that maintains 6 or more dogs, cats, or rabbits, in any combination, subject to the conditions of this subsection. This exemption authorizes the keeping of animals in excess of the numerical limits otherwise permitted under this chapter and does not alter how animals are counted under sub. 3 or the definition of animal fancier under s. 78-1-1.7.

b. Permit and Authorization Requirements. b-1. A household maintaining 6 or more animals shall be required to obtain a limited exemption under this subsection and shall comply with all other applicable permitting requirements of this chapter.

b-2. A limited exemption shall not take effect until the department issues a written exemption approval letter that identifies the premises address, all animals covered by the exemption, any conditions of approval, and the effective date of the exemption.

b-3. Upon issuance, the department shall register the exemption in its records for enforcement purposes.

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c. Eligibility Conditions. A limited exemption may be granted only if all of the following conditions are met: c-1. Spaying or Neutering. All dogs, cats, and rabbits maintained in the household shall be spayed or neutered. Proof shall be provided in the form of a veterinary record, invoice, or verification from designated impound facility, animal control commission, or animal control contractor.

c-2. Nuisance Prevention. Animals kept under this exemption shall not create excessive noise, odor, sanitation concerns, or other nuisance conditions affecting adjacent properties. Verified nuisance conditions shall constitute grounds for revocation.

c-3. Capacity and Humane Care. The exemption shall be revoked if the number of animals exceeds the reasonable capacity of the premises to maintain sanitary conditions, adequate space, and humane care, even in the absence of nuisance complaints.

c-4. Multiple Dwellings Prohibited. A limited exemption shall not be available for any household located in a multi-family dwelling.

d. Duration, Renewal, and Inspection.

d-1. A limited exemption shall expire 3 years from the date of issuance unless renewed.

d-2. An exemption holder shall apply for renewal no later than 30 days prior to expiration and shall submit updated documentation demonstrating continued compliance, including proof of spaying or neutering for all animals.

d-3. Prior to renewal, the department may conduct an inspection of the premises to verify sanitary conditions, adequate space, compliance with nuisance standards, and continued eligibility.

d-4. Failure to provide reasonable access for inspection after written notice shall constitute grounds for denial or revocation.

e. Revocation, Expiration, and Return to Compliance. e-1. Upon expiration or revocation of a limited exemption, the household shall return to compliance with the numerical limit under s. 78-5-3 within 30 days, unless another applicable permit authorizing the keeping of more than five animals is obtained.

e-2. Failure to timely renew an exemption shall result in automatic expiration.

e-3. A violation of any condition of approval or applicable requirement of this chapter shall subject the owner to citation and may result in revocation.

f. No Waiver of Other Requirements. A limited exemption granted under this subsection does not waive any other requirement of this chapter or state law. All licensing, vaccination and microchipping requirements, cruelty standards, tethering limits, sanitation obligations, and leash and control provisions remain fully in effect.

78-5.5. Exotic Animals.

1. PURPOSE. The purpose of this section is to protect public health, safety, and welfare by regulating the possession of exotic animals, which by their nature are unpredictable, may pose a danger to persons, property, and other animals, and are not suited for residential or urban environments.

2. PROHIBITED POSSESSION. Except as provided in sub. 3, no person may keep, harbor, possess, breed, sell, transfer, give away, otherwise transfer possession of, or exhibit an exotic animal within the city.

3. EXEMPTIONS. This section does not apply to any of the following:

a. Accredited zoological parks.

b. Veterinary hospitals or clinics providing temporary medical care.

c. Accredited educational or research institutions maintaining exotic animals for academic, scientific, or research purposes.

d. Government agencies acting within the scope of official duties.

e. Wildlife rehabilitators licensed by the state of Wisconsin.

f. A humane society, animal shelter, or animal welfare organization temporarily housing an exotic animal that has been surrendered, impounded, or otherwise received for protective custody, treatment, placement, or transfer, provided the animal is housed in a manner approved by the department.

g. Licensed or otherwise lawfully authorized circuses, exhibitions, educational programs, research programs, or similar special events that are limited in duration and conducted in compliance with all applicable federal, state, and local laws.

4. TEMPORARY TRANSPORT. Transportation of an exotic animal through the city is permitted provided that the animal remains confined in a secure enclosure at all times and is not kept within the city longer than reasonably necessary for transport.

5. SERVICE ANIMALS. Nothing in this section shall be interpreted to alter rights or obligations established under applicable federal or state law governing service animals. An animal shall not be exempt from this section solely because it is designated or claimed to be an emotional support animal.

6. LIABILITY. Any person possessing, transporting, or otherwise having custody of an exotic animal within the city shall be liable for all costs associated with the capture, containment, impoundment, veterinary care, relocation, or destruction of the animal if it escapes, is unlawfully possessed, or otherwise poses a threat to public safety.

7. SEIZURE AUTHORITY. An exotic animal possessed in violation of this section may be taken into custody by a humane officer or law enforcement officer pursuant to s. 173.13, Wis. Stats., and may be impounded in accordance with s. 78-21.

8. ANIMALS KEPT PRIOR TO EFFECTIVE DATE. A person who lawfully possesses an exotic animal prior to the effective date of this section may continue to possess the animal for the remainder of the animal's natural life provided that all of the following conditions are met:

a. The animal is registered with the department within 60 days after the effective date of this section.

b. The owner demonstrates containment measures sufficient to prevent escape and protect public safety.

c. The animal is not bred, sold, transferred, or replaced within the city.

d. An exotic animal lawfully possessed prior to the effective date of this section may not be transferred except to a person or entity located outside the city and only with prior written approval of the department.

e. As a condition of approval, the owner shall provide the name and address of the proposed receiving person or entity and any other information required by the department to verify that the transfer is lawful and that the animal will be kept in compliance with applicable law.

f. The department may require proof that the receiving jurisdiction or receiving entity has been notified or has accepted the animal.

9. PUBLIC NUISANCE. Any exotic animal kept, harbored, possessed, or maintained in violation of this section is declared to be a public nuisance and may be subject to enforcement action, including seizure and impoundment.

10. ADMINISTRATION. The department may establish procedures for interdepartmental coordination, training, emergency response, temporary holding, and disposition of exotic animals seized or surrendered under this section.

11. PENALTIES. Violations of this section are subject to the penalties provided in s. 78-55-6.

78-6. Keeping of Honey Bees in the City.

1. PERMIT REQUIRED. No person shall keep honey bees in the city without being a beekeeper and obtaining a valid permit issued by the commissioner. The permit process requires a completed application accompanied with a fee prescribed in s. 60-7-7, and an inspection which must meet all provisions of sub. 3. The permit application is also subject to a potential objection hearing pursuant to sub. 2.

2. NEIGHBORHOOD APPROVAL REQUIRED. Before a permit is issued for the keeping of bees the following process must be followed:

a. Once a permit is applied for all property owners within a circular area having a radius of 200 feet, centered on the premises for which a permit has been requested, shall be notified by the commissioner. This shall be done via first-class U.S. mail.

b. Property owners shall have 14 working days to file a written objection and request for a hearing to the commissioner if they object to the granting of a permit.

c. If a timely written objection and request for a hearing has been submitted to the commissioner, the commissioner shall hold a hearing within 14 days.

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d. Within 10 days of completion of the hearing conducted pursuant to par. c, the commissioner shall mail to the objector and permit applicant his or her written determination on the granting of the permit, taking into consideration factors listed under sub.3.

3. KEEPING OF HONEY BEE HIVES.

A permit authorizes the keeping of honey bee hives on a premise, provided the following:

a. No more than 2 hives are allowed on a lot.

b. Honey bees are limited to eastern european races of *apis mellifera*.

c. All honey bees shall be kept in hives with removable frames which shall be kept in sound and usable condition.

d. A minimum 6-foot high closed fence, closed hedge, building or other solid flyway barrier or other barrier which the commissioner determines to be of sufficient height shall be located between hives and the property lines for all hives located within 20 feet of the property line. A supply of water shall be located within these enclosures and flyway barriers. A flyway barrier is not needed if the bee hive is kept at least 10 feet off the ground.

e. All hives and related structures that form the apiary shall be located a minimum of 20 feet from the front property line and 10 feet from all other property lines.

f. Hives shall be located a minimum of 50 feet from dwellings, porches, gazebos, decks, swimming pools, permanently affixed play equipment and any other habitable area on any adjoining lots unless the owner of the adjoining property has provided written permission for closer hive placement.

g. Hives shall be provided with fresh water throughout the day and be designed to allow bees to access water by landing on a hard surface. This is not required during the winter.

3. AUTHORITY. The humane officer has the authority to seize an animal found at large and impound it in a place designated by the commissioner. In addition, a humane officer may request law enforcement officers to enforce and prosecute violations of this section and state statutes, and may cooperate in those prosecutions.

78-21. Impounding of Animals.

1. IMPOUNDING. Any police officer or humane officer finding an animal at large may seize the animal and impound it in the place designated by the commissioner. The commissioner may also cause the seizure and impoundment of animals at large.

2. REPOSSESSION OF IMPOUNDED ANIMALS. a. The possession of any animal seized or impounded by a humane officer or law enforcement shall be restored to the owner or caretaker upon compliance with the conditions set forth in this subsection. Nothing in this subsection shall be construed to authorize any conduct prohibited under s. 173.07(6), Wis. Stats.

b. In addition to the reclamation fee required under sub. 60-5-1, a daily fee for boarding shall be assessed for each calendar day, or portion thereof, during which the animal is held in impoundment. The amount of the daily fee shall be determined by the designated impound facility, animal control commission, or animal control contractor in accordance with its current fee schedule.

c. The designated impound facility, animal control commission, or animal control contractor may assess additional fees for veterinary care, administrative processing, or other services provided during the period of impoundment, as authorized under s.173.23(1), Wis. Stats., and any applicable policy.

d. If the animal is an unlicensed dog or cat, the owner shall obtain a valid license and pay any applicable licensing fees prior to release of the animal by the impound facility, animal control commission, or animal control contractor.

e. No animal shall be released from animal control contractor, or shelter, or impound facility custody until all required fees under this section have been paid in full and all applicable licensing requirements have been met.

78-23. Harboring Dangerous Animals.

1. DANGEROUS ANIMALS REGULATED.

a. No person may harbor or keep a dangerous animal within the city unless all provisions of this section are complied with. Any animal that is determined to be a prohibited dangerous animal under s. 78-25-2 shall not be kept or harbored in the city except as permitted during a compliance period established under s. 78-25.

b. The commissioner may determine an animal to be a dangerous animal whenever the commissioner finds that an animal meets the definition of a dangerous animal in s. 78-1-13. A determination that an animal is dangerous shall be based on one or more documented incidents demonstrating aggressive behavior or other conduct creating a reasonable concern for public safety.

c. The issuance of a citation for a violation of this section need not necessarily be predicated on a determination by the commissioner that an animal is a dangerous animal.

2. LEASH AND MUZZLE. No person owning, harboring or having the care of a dangerous animal may permit such animal to go outside its kennel or pen unless the animal is securely leashed with a leash no longer than 4 feet in length. No person may permit a dangerous animal to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person who is 16 years of age or older, competent to govern the animal and capable of physically controlling and restraining the animal is in physical control of the leash. The animal may not be leashed to inanimate objects such as trees, posts and buildings. A dangerous animal on a leash outside the animal's kennel shall be muzzled in a humane way by a muzzling device sufficient to prevent the animal from biting persons or other animals. A dangerous animal shall not be required to be muzzled upon prior written approval of the health department or when shown in a sanctioned American Kennel Club show. The written approval shall be carried by the owner or caretaker.

3. CONFINEMENT. a. Except when leashed and muzzled as provided in sub. 2, all dangerous animals shall be securely confined indoors or in a securely enclosed and locked pen or kennel that is located on the premises of the owner or caretaker and constructed in a manner that does not allow the animal to exit the pen or kennel on its own volition.

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b. When constructed in an open yard, the pen or kennel shall, at a minimum, be constructed to conform to the requirements of this paragraph. The pen or kennel shall be child-proof from the outside and animal-proof from the inside.

A strong metal double fence with adequate space between fences (at least 2 feet) shall be provided so that a child cannot reach into the animal enclosure. The pen, kennel or structure shall have secure sides and a secure top attached to all sides. A structure used to confine a dangerous animal shall be locked with a key or combination lock when the animal is within the structure. The structure shall either have a secure bottom or floor attached to the sides of the pen or the sides of the pen shall be embedded in the ground no less than 2 feet. All structures erected to house dangerous animals shall comply with all city zoning and building regulations. All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

4. CONFINEMENT INDOORS. No dangerous animal may be kept on a porch, patio or in any part of a house or structure on the premises of the owner or caretaker that would allow the animal to exit the building on its own volition. No dangerous animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the animal from exiting the structure.

5. SIGNS. The owner or caretaker of a dangerous animal shall display, in prominent places on his or her premises near all entrances to the premises, signs in letters of not less than 2 inches high warning that there is a dangerous animal on the property. A similar sign is required to be posted on the kennel or pen of the animal. In addition, the owner or caretaker shall conspicuously display a sign with a symbol warning children of the presence of a dangerous animal.

6. SPAY AND NEUTER REQUIREMENT. Within 30 days after an animal has been designated dangerous, the owner or caretaker of the animal shall provide written proof from a licensed veterinarian that the animal has been spayed or neutered.

6.5. BEHAVIORAL MANAGEMENT PLAN. Within 30 days after an animal has been designated a dangerous animal, the owner or

caretaker shall submit to the department a proposed behavioral management plan designed to minimize risks to public safety and prevent future dangerous behavior. The plan shall be in a form approved by the department and may include requirements relating to confinement, handling, supervision, transportation, veterinary care, behavioral support, exercise, enrichment, emergency procedures, and other measures reasonably necessary to protect public safety. The department may approve the plan, deny the plan with directions for revision, or require modifications to the plan as a condition of approval. The owner or caretaker shall comply with the plan as approved by the department and shall provide documentation demonstrating ongoing compliance upon request of the department. The department may require revisions to an approved plan if circumstances materially change or if additional measures are reasonably necessary to protect public safety. Failure to submit a proposed plan, obtain approval of a required plan, or comply with an approved plan shall constitute a violation of this section.

7. LIABILITY INSURANCE. The owner or caretaker of a dangerous animal shall present to the department or police department proof that the owner or caretaker has procured liability insurance in an amount not less than \$1,000,000 for any personal injuries inflicted by the dangerous animal. Whenever such a policy is cancelled or not renewed, the insurer shall so notify the department.

8. WAIVER BY COMMISSIONER. Upon request, the commissioner may waive any requirement specified in subs. 2 to 7 that the commissioner deems to be inappropriate for a particular dangerous animal.

9. DECLARATION AND ORDER. Upon investigation, a department may issue an order declaring an animal to be a dangerous animal and ordering the owner or caretaker to present the animal to the Milwaukee area domestic animal control commission for the purpose of having a microchip inserted for identification purposes. The cost of the microchip procedure shall be at the expense of the owner. The department may, in the written order, impose additional corrective measures reasonably necessary to protect public safety.

9.5. APPEAL. Whenever an owner or caretaker wishes to contest an order issued under sub. 9 declaring an animal to be dangerous, the owner or caretaker shall, within 72 hours after receipt of the order, deliver to the department a written objection stating the grounds for the objection. The department shall conduct the appeal in accordance with the procedures established under s. 78-25-3.

10. NOTIFICATION. a. The owner or caretaker of a dangerous animal shall notify the department or police department within 24 hours after any of the following occurs:

- a-1. The animal is at large.
- a-2. The animal is unconfined.
- a-3. The animal attacks another animal.
- a-4. The animal attacks a human being.
- a-5. The animal dies.

a-6. The owner or caretaker intends to sell, transfer, give away, or otherwise convey ownership or possession of the animal.

b. The notice required under sub. a shall include information sufficient to identify the animal, the owner or caretaker, and the event requiring notification. If the notice is provided under sub. a-6, the owner or caretaker shall, before the transfer occurs, provide the department or police department with the name, address, and telephone number of the proposed new owner or caretaker and any information reasonably necessary to verify compliance with this chapter. If the proposed new owner or caretaker resides outside the city, or the animal will otherwise be kept outside the city, the owner or caretaker shall also provide evidence, before the transfer occurs, that the police department or other law enforcement agency having jurisdiction over the animal's new residence has been notified of the proposed transfer.

10.5. TRANSFER RESTRICTIONS. No person may sell, transfer, give away, or otherwise transfer possession of an animal designated under this section unless the person has complied with sub. 10.

11. EUTHANASIA. If the owner or caretaker of an animal designated as a dangerous animal is unwilling or unable to comply with the requirements of this section for keeping the animal, the owner or caretaker may cause the animal to be humanely euthanized by a licensed

veterinarian, an animal shelter, or the humane society. The owner or caretaker shall notify the department or police department within 24 hours after the animal has been euthanized and shall, upon request, provide documentation identifying the animal and verifying the date and method of euthanasia.

11.5. REVIEW OF DESIGNATION. a. The department may remove the dangerous animal designation of an animal upon written request of the owner or caretaker if the department determines that:

a-1. The owner or caretaker has demonstrated substantial and continuous compliance with all applicable requirements of this section for not less than one year.

a-2. The animal has not, during that compliance period, been at large, been unconfined, attacked a person or another animal, or otherwise exhibited behavior that would support designation as a dangerous animal.

a-3. The owner or caretaker has provided all information or documentation reasonably required by the department to evaluate the request.

a-4. Removal of the designation would not create an unreasonable risk to public safety.

b. A decision by the department under this subsection is discretionary. Nothing in this subsection limits the department's authority to declare or re-declare an animal dangerous or prohibited dangerous under this chapter based on new facts or subsequent conduct.

11.7. PUBLIC NUISANCE. Any animal kept in violation of this section is declared to be a public nuisance.

12. WAIVER. The commissioner may waive the provisions of subs. 2 to 7 for a law enforcement or military animal upon presentation by the animal's owner or handler of a satisfactory arrangement for safe keeping of the animal.

78-25. Prohibited Dangerous Animals.

1. PROHIBITED DANGEROUS ANIMALS. No person may bring into, keep, or harbor a prohibited dangerous animal within the city except during a compliance period established under this section for the removal, surrender, or other lawful disposition of the animal.

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2. DETERMINATION OF A PROHIBITED DANGEROUS ANIMAL. The commissioner may determine an animal to be a prohibited dangerous animal whenever the commissioner finds that the animal meets the definition of a prohibited dangerous animal in s. 78-1-34 or is a dangerous animal not being kept in compliance with any provision of s. 78-23.

3. DECLARATION AND APPEAL.

a. Upon investigation, the department or a humane officer may issue a written order declaring an animal to be a prohibited dangerous animal. The order may also direct the owner or caretaker to present the animal to the Milwaukee area domestic animal control commission for the purpose of having a microchip inserted for identification purposes. The cost of the microchip procedure shall be at the expense of the owner.

b. Whenever an owner or caretaker wishes to contest an order, he or she shall, within 72 hours after receipt of the order, deliver to the department a written objection to the order. The written objection shall include the specific reasons for objecting to or contesting the order. If an owner or caretaker makes such an objection to the order, the department shall convene a hearing.

c. The hearing shall be conducted before a 3-person dangerous animal panel composed of an environmental health professional, a humane officer, and a veterinarian, as designated by the commissioner of neighborhood services. Each panel member serves as an officer of the city exercising a quasi-judicial function within the scope of s. 893.80, Wis. Stats.

d. At the hearing, the owner or caretaker shall have the opportunity to present evidence as to why the animal should not be declared a prohibited dangerous animal. The hearing shall be held promptly and within no less than 5 days nor more than 10 days after service of a notice of hearing upon the owner or caretaker of the animal.

e. Pending the outcome of the hearing, the animal shall be securely confined in a humane manner either on the premises of the owner or caretaker, if approved by the department, or with a licensed veterinarian, impound facility, or other location approved by the department. The commissioner may order impoundment of the animal pending the result of the hearing.

f. The owner or caretaker shall be notified in writing of the panel's determination. If a determination is made that the animal is a prohibited dangerous animal, the department, commissioner, or chief of police shall establish a compliance period during which the owner or caretaker shall comply with subs. 1, 3, and 4. The compliance period shall be set forth in writing and shall not exceed 30 days after the date of the determination.

g. If the owner or caretaker further contests the determination, he or she may, within 5 days of receiving the panel's decision, appeal the decision to the administrative review appeals board.

4. COMPLIANCE PERIOD. During the compliance period, the owner or caretaker shall comply with all of the following:

a. The animal shall remain securely confined at all times in a manner sufficient to prevent escape and protect public safety.

b. The animal shall not be taken off the premises except for veterinary care, surrender, lawful removal from the city, or as otherwise directed or approved by the department.

c. Whenever removal from confinement is necessary, the animal shall be restrained by leash and, if the animal is a dog or other animal that can practicably be muzzled, muzzled in a manner sufficient to prevent biting.

d. The owner or caretaker shall not sell, transfer, give away, or otherwise transfer possession to another person within the city.

e. The animal may be removed from the premises only as otherwise expressly authorized by state law or court order.

5. REMOVAL OR DISPOSITION. The owner or caretaker shall remove the prohibited dangerous animal from the city, surrender the animal to a person or entity authorized to lawfully possess it, or otherwise lawfully dispose of the animal within the time established under sub. 3-f. The department may require verification demonstrating compliance with this subsection, including from any receiving jurisdiction, receiving law enforcement agency, or receiving person or entity authorized to lawfully possess the animal.

6. DESTRUCTION. Any dog that has caused bodily harm to a person or persons on 2 separate occasions off the owner's or caretaker's

premises, without reasonable cause, may be destroyed as a result of judgment rendered by a court of competent jurisdiction, as specified under s. 174.02(3), Wis. Stats. The city attorney may petition an appropriate court to obtain a court order to destroy such a dog.

7. ENFORCEMENT. The department and police department may make whatever inquiry is deemed necessary to ensure compliance with this section. Animals regulated under this section may be impounded in accordance with s. 78-21. Nothing in this section limits the authority of the department under s. 78-5-4 or other applicable law to confiscate, remove, house, handle, or humanely dispose of animals when authorized.

8. PUBLIC NUISANCE. Any prohibited dangerous animal kept or harbored in violation of this section is declared to be a public nuisance.

9. WAIVER. The commissioner may waive one or more procedural or confinement-related requirements of this section for a law enforcement or military animal upon presentation by the animal's owner or handler of a satisfactory arrangement for safe keeping of the animal. No waiver may authorize the keeping of an animal in a manner that creates an unreasonable threat to public safety.

78-27. Control of Rabid Animals. 1. The owner of any animal which has contracted rabies or which has been exposed to rabies or which is suspected of having rabies or which has bitten any person and is capable of transmitting rabies shall upon demand of the police department or commissioner produce and surrender the animal to the police department or commissioner to be held in quarantine in a place designated by the commissioner for observation for a period of time determined by the commissioner.

2.a. If, upon investigation by the commissioner an animal other than a dog or cat has bitten a person or appears to be infected with rabies, the animal may be destroyed as directed by the commissioner, in accordance with s. 95.21(4)(b), Wis. Stats.

b. If, upon investigation by the commissioner and a determination by a veterinarian that a dog or cat exhibits symptoms of rabies, the dog or cat may be destroyed as directed by the commissioner, who shall act in accordance with s. 95.21(5)(d), Wis. Stats.

3. No person may knowingly harbor or keep any animal infected with rabies or any animal known to have been bitten by a rabid animal.

78-29. Animals; Disturbing the Peace.

1. COMPLAINTS. No person may own, keep, have in his or her possession or harbor any bird or animal which by frequent and habitual howling, yelping, barking or otherwise shall cause serious annoyance or disturbance to persons in the neighborhood. No prosecution may be commenced except upon the request of the commissioner following written complaint signed by one or more affected adult persons. No persons may be convicted under the provisions of this section except upon testimony of one or more adult persons.

2. CITATIONS. Notwithstanding sub. 1, enforcement personnel from the department and the police department may utilize a citation to help obtain relief from animal annoyances. In such instances, a notice shall be issued to the owner or caretaker of the animal producing the alleged nuisance specified by the complainant. Following issuance of such notice and where subsequent complaints are received of an alleged continued nuisance, the designated enforcement agencies may attempt to verify the reported animal nuisance. Where such verification is accomplished, these enforcement personnel may issue or cause to be issued a citation in accordance with other provisions of this chapter on the owner or caretaker of the animal causing the disturbance.

78-31. Cruelty to Animals. 1. CRUELTY. a. No person may cause, allow or personally beat, frighten, overburden, neglect or abuse any animal or bird, or use any device or chemical substance by which pain, suffering or death may result, whether the animal or bird belongs to the person or another, except that reasonable force may be used to drive off dangerous or trespassing animals.

b. No person shall abandon or transport any animal or bird in a cruel manner.

2. FOOD AND WATER. No person owning or having custody of any animal or bird may neglect or fail to provide it with necessary nourishing food at least once daily and provide a constant supply of clean water to sustain the animal or bird in good health.

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3. SHELTER. a. No person may fail to provide any animal or bird in his or her charge with shelter from inclement weather to insure the protection and comfort of the animal or bird.

b. When sunlight is likely to cause overheating or discomfort to any animal or bird, shade shall be provided by natural or artificial means to allow protection from the direct rays of the sun.

c. Dogs and cats kept outdoors for more than one hour at a time shall be provided with moisture proof and windproof shelter of a size which allows the animal to turn around freely and to easily sit, stand and lie in a normal position and to keep the animal clean, dry and comfortable. Whenever the outdoor temperature is below 40° F, clean, dry bedding material in quantity and type approved by a duly appointed humane society officer shall be provided in such shelters for insulation and to retain the body heat of the animal. Automobiles shall not be used as animal shelters.

d. No person shall keep, harbor, raise or possess any animal or bird in any garage, shed or vacant structure.

4. LEASHES. Chains, ropes or leashes shall be placed or attached so that they cannot be entangled with another animal or object and shall be of sufficient length in proportion to the size of the animal to allow the animal proper exercise and convenient access to food, water and shelter. A leash shall be located so as not to allow an animal to trespass on public or private property nor in such a manner as to cause harm or danger to persons or other animals.

5. ANIMAL FIGHTING. a. Instigation. No person shall cause or allow any animal to lunge at, or fight any other animal or person.

b. Spectators. No person shall intentionally be a spectator of animal fighting.

6. ANIMAL FIGHTING PARAPHERNALIA. a. Definition. In this subsection, "animal-fighting paraphernalia" means equipment, products or materials of any kind that are used, intended for use or designed for use in the training, preparation, conditioning or furtherance of animal fighting, including but not limited to the following:

a-1. A breaking stick, or device designed for insertion behind the molars of a dog for the purpose of breaking the dog's grip on another animal or object.

a-2. A cat mill, or a device that rotates around a central support with one arm designed to secure a dog and one arm designed to secure a cat, rabbit or other small animal beyond the grasp of the dog.

a-3. A treadmill, or an exercise device consisting of an endless belt on which an animal walks or runs without changing places.

a-4. A springpole, or a biting surface attached to a stretchable device, suspended at a height sufficient to prevent a dog from reaching the biting surface while touching the ground.

a-5. A fighting pit, or a walled or otherwise defined area designed to contain an animal fight.

a-6. Any other instrument commonly used in the furtherance of pitting one animal against another animal.

b. Prohibited Activity. No person shall intentionally own, possess, sell, transfer or manufacture animal-fighting paraphernalia with the intent to engage in or otherwise promote or facilitate animal fighting.

c. Penalty. c-1. Any animal-fighting paraphernalia used in violation of this section shall be seized and forfeited to the city.

c-2. Any person who violates this subsection shall, upon conviction, be subject to a forfeiture of not more than \$500, together with the costs of prosecution, and upon default of payment be imprisoned as permitted under law.

7. VETERINARY CARE. No owner or caretaker of any animal shall fail to get prompt veterinary care for the animal if the animal is bleeding or injured, and the owner or caretaker shall provide a copy of a current dog or cat license upon request.

8. ANIMALS IN PARKED VEHICLES.

a. Prohibited. No person shall leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of the animal due to heat, cold, lack of adequate ventilation, lack of food or water, or any other circumstance that could reasonably be expected to cause suffering, disability, or death to the animal.

b. Removal of Animal. A member of the police department or fire department who observes a violation of par. a is authorized to take all steps that are reasonably necessary for the removal of an animal from an unattended motor vehicle after making a reasonable effort to locate the motor vehicle owner or other person responsible.

9. TETHERING AND OUTDOOR HOUSING STANDARDS. a. A dog shall be physically able to tolerate tethering based on age, breed, and health.

b. No dog under 6 months, or pregnant or nursing female dog, may be tethered.

c. The tether shall be no less than 15 feet in length and allow unimpeded access to shelter, potable water, and food.

d. The tether shall include a functioning swivel at both the anchor point and attachment point to prevent tangling.

e. The tether shall attach to a properly-fitted, non-tightening collar or harness.

f. Choke, pinch, prong, weighted, or restrictive collars are prohibited while tethered.

g. The tether shall not exceed one-eighth (1/8) of the dog's body weight and shall be free of materials that can injure, bind, or abrade the dog.

h. The tether may not allow the dog to cross onto neighboring property or any public walkway, sidewalk, right-of-way, or street.

i. Tethering is prohibited during any heat, cold, wind, or storm advisory issued by the national weather service or local authority.

j. No dog may be tethered more than 6 total hours within any 24-hour period.

k. No tethering shall be permitted between 10:00 p.m. and 6:00 a.m. when unattended.

l. No dog may be tethered more than 2 continuous hours without at least one hour of release.

m. The owner or caretaker shall be present on the premises and monitor the dog at reasonable intervals.

n. The dog shall have continuous access to a shelter allowing it to stand, turn, and lie down comfortably with adequate shade and weather protection.

o. The dog shall have continuous access to potable water and appropriate food while tethered.

p. Each dog shall be tethered by its own independent tether. Shared radii or overlapping lines that permit entanglement are prohibited.

q. Tethering shall not create excessive noise, aggression displays beyond property lines, or other nuisance conditions.

r. This subsection does not apply to a facility or person regulated under ch. ATCP 16, Wis. Adm. Code, when tethering is conducted in compliance with applicable state standards.

10. ATTENDED TETHERING. The tethering restrictions in sub. 9 apply only to unattended dogs. These restrictions shall not apply when the dog is tethered outdoors and the owner or caretaker remains outside with the dog, maintains direct visual contact, and is able to immediately assist or intervene if needed.

78-33. Nuisance Birds. Starlings, English sparrows and feral pigeons are declared a public nuisance and may be trapped or destroyed under the supervision of the commissioner subject to applicable federal and state regulations.

78-35. Bird Feeding. Feed for birds shall be placed in a covered hopper, gravity type feeder. The platform of the feeder shall be of reasonable size and surrounded by a ledge to deter food from blowing off. The feeder shall be placed on top of a rodent-proof pole which extends at least 3.5 feet above the ground and shall be placed at least 6 feet from the nearest climbable object, or the feeder may be suspended from a tree if protected by rodent guards. Feed for birds shall not be placed on the ground where it is accessible to rodents. No more than 4 bird feeders shall be located on any premises. The feeder shall be maintained in a sanitary condition and cleaned regularly. The area below the feeder shall also be kept free of accumulations of feed.

78-37. Pigeon Harborages. Whenever the owner or tenant of any property in the vicinity of a premises upon which there are pigeon harborages makes a complaint to the department of a feral pigeon nuisance and if a pigeon nuisance is found to exist, the commissioner shall order the owner or manager of the premises to make the premises reasonably pigeon-proof and when necessary cover openings with hardware cloth or other suitable material for preventing pigeons from entering in or upon the premises.

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78-39. Selling Baby Fowls. No person may display, give away or sell baby chicks or ducklings or any other young of domestic or nondomestic fowl as pets or novelties provided, however, that this prohibition does not apply to baby chicks kept pursuant to s. 78-6.5.

78-41. Stuffed Animals; Preservatives. No person may sell dead, stuffed birds or animals as novelties which have been preserved with arsenic or any other substance toxic to humans.

78-43. Turtles. No person may sell live turtles with a carapace length of less than 4 inches as pets or novelties.

78-45. Giving Away Animals as Prizes. No person may raffle or give as a prize or premium any live animal.

78-47. Display of Birds in Food Establishments. No person may display birds of the psittacine family in any store selling, giving away or preparing food or drink for human consumption unless the birds are so enclosed as to prevent any possible contamination of the food or drink.

78-49. Removal of Dead Animals. Any person owning or having charge or control of any dead animal except those intended for food purposes shall remove the same from the city within 12 hours after the time of the death of the animal. Any person who fails to do so shall relinquish all rights to any such animal, and the commissioner may order the animal removed after the expiration of such time.

78-51. Disposal of Dead Animals and Condemned Meat Products. The commissioner of public works shall collect and dispose of all dead animals reported or found within the city, any fish, poultry or meat products which may be condemned by and ordered removed by the commissioner, and dead fish harvested by the harbor commission. Such collection and disposal may be provided by representatives of the commissioner of public works, or the commissioner of public works may cause the collection and disposal by private contractor. All collection and disposal shall be undertaken within 12 hours of notice and in a safe and sanitary manner satisfactory to the commissioner.

78-53. Conveyance of Dead Animals.

1. PARKING. No person may cause or allow any means of conveyance, including railway cars, used for the transport of dead animals, whether filled or partially filled, to remain at any point within the city for a period longer than 24 hours. No odor nuisance may be created by such parking.

2. SANITARY CONDITION. No person may cause or allow any conveyance or vehicle which is used for the transport of dead or live animals when the same is not in use to be stored or kept on any premises in the city unless the conveyance or vehicle has been cleaned, disinfected and deodorized or as may otherwise may be directed by the commissioner.

3. CONSTRUCTION. No person may use or cause to be used any conveyance or vehicle to carry or hold dead animals or animal refuse in the city, unless the conveyance or vehicle has watertight floors and sides and unless the conveyance or vehicle is constructed and arranged to shield its contents from view and prevent leakage or loss of contents or escape of odors

78-55. Penalties and Enforcement.

1. BY ORDER. a. Whenever any violation of this chapter is found, the commissioner may issue a written order setting forth the character of the violation. This order may be served in any of the following ways:

a-1. Personally.

a-2. By posting in a conspicuous location on the premises where an animal is kept.

a-3. By mailing with an affidavit of the same to the operator of the establishment or place, or to a person responsible for a violation at his or her last known address.

a-4. By leaving a copy at his or her usual place of business with a responsible employee, or his or her usual place of abode in the presence of some competent member of the family at least 14 years of age, which employee or family member shall be informed of the contents of the order.

b. The order shall direct the person to correct such practices or conditions within a reasonable period of time to be determined by the commissioner. The order shall also state the potential legal or enforcement consequences if such practices or conditions have not been corrected within that period of time.

2. SUSPENSION OR REVOCATION OF PERMITS. a. Suspension. If at the end of a period of time set forth in an order, a reinspection by the commissioner reveals that the practices or conditions have not been corrected and such practices or conditions pose a potential threat to the health of persons exposed, the commissioner may notify the operator of the business or place of the commissioner's intent to suspend the permit and give such notice in writing to the operator and also the operator's right to a hearing and the request procedure. When the commissioner determines that existing conditions and violations pose an imminent and immediate and dangerous threat to the health of persons exposed to such conditions, the commissioner may order immediate suspension of a permit by written notification along with instructions on the hearing procedure for review of such an action.

b. Revocation. The commissioner may serve written notice to an operator of the commissioner's intent to revoke a permit issued pursuant to this chapter and shall notify the operator of his or her right to a hearing prior to the action and the process for appeal. Grounds for the commissioner's intent to revoke a permit shall include any of the following:

b-1. The operator has a record of excessive, continuing or recurring violations.

b-2. The violations pose an immediate threat to the public's health or an imminent danger to other animals in the community and unsatisfactory action has been taken by the operator to eliminate the conditions.

b-3. A permit issued pursuant to this chapter has been suspended, and the corrections necessary for reinstatement of the permit have not been made within 6 months following notice of the suspension.

b-4. The operator or persons representing the operator have interfered with the lawful inspection or enforcement activities of the commissioner concerning the place of permit by physical abuse or denial of entry.

3. HEARING. Any person whose permit to operate an establishment or place regulated under this chapter has been suspended, or who has received notice from the commissioner that the permit is to be suspended unless existing conditions or practices at the establishment are corrected, or that the permit is to be revoked, may request and shall be granted a hearing on the

matter before the commissioner. If no written petition for a hearing is filed in the office of the commissioner within 15 days following the day on which the notice was mailed or delivered, the permit shall be deemed to have been automatically suspended or revoked. Upon receipt of notice of permit suspension or revocation, the operator shall cease to operate the establishment. Upon receipt of petition for a hearing, the commissioner shall within 10 days notify the petitioner of the date, time and place of the hearing. Following the hearing the commissioner shall modify or withdraw the notice of permit suspension or revocation or shall suspend or revoke the permit, as in the commissioner's judgment is necessary to protect the public health, safety and welfare of the citizens of Milwaukee and shall notify the petitioner in writing of the decision.

4. APPEALS. Decisions of the commissioner may be appealed to the administrative review appeals board.

5. CITATIONS. The police department may issue citations for any violation of this chapter except that the police department may not determine an animal to be a prohibited dangerous animal under s. 78-25.

6. VIOLATIONS OF CERTAIN REGULATIONS. a. Any person violating any of the following provisions of this chapter listed in Column A for which specific penalties are not provided elsewhere in this subsection shall be liable on conviction to the penalties listed in column B and described in ch. 61:

A	B
78-3-1	Class I
78-5-1	Class F
78-5-2-a	Class C
78-5-2-b	Class L
78-5-2-c	Class F
78-5-3	Class F
78-5-4	Class F
78-5.5	Class F
78-6 to 79-17-1	Class C
78-17-6	Class F
78-19	Class C
78-22	Class F
78-23-1 to 78-23-7	Class F
78-23-10 to 78-23-10.5	Class I
78-25-1	Class K
78-25-3 to 78-25-5	Class K
78-27 to 31	Class F
78-35 to 47	Class C
78-49	Class F
78-53	Class F

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b-1. Any person who commits a second or subsequent violation of s. 78-17-1 or s. 78-19-1, or who commits a second or subsequent violation of an order issued under s. 78-17-1 or s. 78-19-1, shall be liable upon conviction to a Class D penalty under ch. 61.

b-2. Any person who commits a first violation of s. 78-23-2, 78-23-3 or 78-23-4, or who commits a first violation of an order issued under s. 78-23-2, 78-23-3 or 78-23-4 that results in a dangerous animal being at large, shall be liable upon conviction to a Class I penalty under ch. 61.

b-3. Any person who commits a second or subsequent violation of s. 78-23-2, 78-23-3 or 78-23-4, or who commits a second or subsequent violation of an order issued under s. 78-23-2, 78-23-3 or 78-23-4 that results in a dangerous animal being at large, shall be liable upon conviction to a Class L penalty under ch. 61.

b-4. Any person who commits a violation of s. 78-23-1 that results in a dangerous animal causing bodily harm to a person shall be liable upon conviction to a Class L penalty under ch. 61.

b-5. Any person who commits a second or subsequent violation of s. 78-25-1 or who commits a second or subsequent violation of an order issued under s. 78-25-1 shall be liable upon conviction to a Class L penalty under ch. 61, each day of violation or noncompliance being a separate violation.

b-6. Any person who commits a second or subsequent violation of s. 78-31-1 or s. 78-31-5-a, or who commits a second or subsequent violation of an order issued under s. 78-31-1 or s. 78-31-5-a, shall be liable upon conviction to a Class L penalty under ch. 61.

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

7. CITATIONS. a. Citations may be issued for all violations listed in sub. 6 with or without a prior order or notice.

b. The stipulation, forfeiture and court procedure as set forth in s. 50-25 shall apply.

**For the legislative history of chapter 78,
contact the Municipal Research Library.**

**CHAPTER 79
SOLID WASTE REGULATIONS**

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SUBCHAPTER 1
SOLID WASTE REGULATIONS

79-1. Definitions. The following definitions shall apply in the interpretation and enforcement of this subchapter.

1. APPROVED shall mean approved by the commissioner of public works.

2. COMMISSIONER shall mean the commissioner of public works and such supervisory employees of the department to whom his or her authority may be delegated.

2.5. COMPOSTING means the controlled biological reduction of organics to humus.

3. DEPARTMENT shall mean the department of public works.

4. DWELLING UNIT shall mean any habitable room or group of adjoining habitable rooms located within a dwelling and forming a single unit with facilities which are used or intended to be used for living, sleeping, cooking or eating of meals.

4.3. ELECTRONIC DEVICE has the meaning given in s. 287.17(1)(gm), Wis. Stats.

4.5. EXTRA GARBAGE CART means any city-issued garbage cart in excess of one garbage cart per dwelling unit provided for the collection of solid waste pursuant to s. 79-4-1.3.

5. HAZARDOUS SUBSTANCE means any substance or combination of substances including any waste of a solid, semi-solid, liquid or gaseous form which may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may

79-1-5.5 Solid Waste Regulations

pose a substantial present or potential hazard to human health or the environment because of its quantity, concentration, or physical, chemical or infectious characteristics. This term includes, but is not limited to, substances which are toxic, corrosive, flammable, irritants, strong sensitizers or explosives.

5.5. LANDFILL MATERIAL means material that is neither recyclable material nor suitable for composting.

6. LIQUID WASTE shall include drain oil, dirty or waste grease, paints, lacquers, varnishes, thinners, cleaning agents or solvents, and other similar waste materials.

7. LITTER shall include any waste or other things, substances or materials such as garbage, rubbish, used tires, manure, stones, gravel, sand, earth, grass, hay, leaves, twigs, shrubs, branches, ashes, cinders, sawdust, sweepings, dirt, glass, earthenware, wire, nails, construction waste, liquid waste, ice, snow, paper, electronic devices, oil filters, oil absorbent materials and all other debris and discarded materials of similar nature.

7.5. MULTIPLE-FAMILY DWELLING means a property containing 5 or more dwelling units, including those which are occupied seasonally.

8. NAUSEOUS OR OFFENSIVE MATERIALS are those which are unwholesome in nature or have an unpleasant smell or are otherwise nauseous or offensive, such as manure, filth, slops, carcasses, carrion, meat, fish, entrails, hides and hide scrapings, paint, kerosene, oily or greasy substances, and also objects that may cause injury to any person or animal, or damage to vehicle tires such as nails, tacks, pieces of metal, wire, briar thorns, broken glass, and other similar materials or substances.

8.5. OIL ABSORBENT MATERIALS means materials that are used to absorb waste oil.

8.7. OIL FILTER means a filter for motor vehicle engine oil.

8.13. WASTE OIL means any petroleum-derived or synthetic oil that has been used or spilled.

9. PERSON includes any individual, corporation, limited liability company, partnership, association, local government unit, as defined in s. 66.0131(1)(a), Wis. Stats., or state agency or authority or federal agency.

10. PREMISES shall mean a platted lot or part thereof or unplatted lot or parcel of land or plot of land, either occupied or unoccupied by any dwelling or nondwelling structure.

11. RECYCLABLE MATERIAL has the meaning specified in s. 79-23-23.

11.5. RESIDENTIAL DWELLING means a property containing 4 or fewer dwelling units.

12. SOLID WASTE consists of the following categories:

a. Bulky waste is discarded articles, including, but not limited to, furniture designed or manufactured for indoor use, including, but not limited to, upholstered furniture, that has been left exposed in an outdoor area, including an unenclosed porch. The term does not include electronic devices as defined in sub. 4.3 or major appliances as defined in s. 79-23-10.

b. Commercial waste is garbage, rubbish, tree waste, bulky waste, liquid waste, or nauseous or offensive materials resulting from the operation of business enterprises, including, but not limited to, factories, offices, stores or restaurants.

c. Construction waste is waste resulting from construction, demolition, alteration or repair, including excavated material. This includes, but is not limited to, roofing material, brick, stones, concrete, lumber, drywall, paneling and other construction material and is exclusive of any waste resulting from a fire, any painted bricks, blocks or concrete, any asphalt, or any concrete containing iron rods.

d. Domestic waste is garbage, rubbish, tree waste, or certain liquid waste or nauseous or offensive materials resulting from human habitation and the usual routine of housekeeping of residential or multiple-family dwelling units, churches, charitable educational institutions, charitable organizations or residence buildings used by such charitable organizations incident to their operation.

e. Garbage is all waste, animal, fish, fowl, fruit, or vegetable matter incident to and resulting from the use, preparation or storage of food for human consumption, including spoiled food.

f. Manufacturing waste is waste resulting from manufacturing or industrial processes, but shall not include waste generated by human habitation of the manufacturing or industrial premises.

g. Organics is compostable garbage and yard waste.

h. Rubbish is miscellaneous waste material resulting from housekeeping or ordinary mercantile enterprises, including boxes, cartons, excelsior, paper, ashes, cinders, tin cans, bottles, broken glass, metals, rubber, packaging, including flexible packaging or multi-layer containers, plastics, lawn or garden waste or similar materials.

79-8. Collection Conditions. Collection of waste by the department is conditioned upon full compliance with all provisions of this chapter and the rules of the commissioner.

79-9. Private Waste Collector Regulations. Transportation and collection of waste shall be in full compliance with all of the provisions of this chapter.

1. NUISANCE PROHIBITED. No person shall transport material of any kind whatsoever in any vehicle unless the vehicle is so operated and of such construction that the contents shall not blow, fall, scatter, leak or spill upon streets or alleys, or otherwise create a nuisance.

2. PRIVATE COLLECTOR'S LICENSE.

a. No person, except employees of the department in the regular performance of duty, shall collect or transport waste materials on any street or alley, except those acting under the authority of a licensed private waste collector. Each vehicle used by a collector shall bear a license sticker. The sticker shall be prominently displayed on each vehicle.

b. See ch. 81 for the required license fee.

3. GRAFFITI CONTROL. a. In this subsection, "graffiti" has the definition provided in s. 275-35-1.

b. Each licensed private waste collector or applicant for a private waste collector's license shall submit a plan for ongoing and scheduled removal of graffiti on waste containers. The plan shall be attached to the application for a new license or license renewal filed with the city clerk's office. The plan shall include a fax number and the name of the administrator responsible for maintenance for the applicant or licensee and the plan shall be forwarded to the department of neighborhood services.

c. Each private waste container shall be clearly marked or have signage noting the name and phone number of the company responsible for maintenance of the waste container.

d. Graffiti on private waste containers shall be removed within 3 working days following notification by the department of neighborhood services or within 3 working days of the last time the container was emptied, irrespective of any plan submitted under par. b.

4. PENALTY. a. Any licensed private waste collector who violates any provision of this section shall forfeit not less than \$250 nor more than \$1,000 for each offense, and the costs and

disbursements of such action, and in default thereof, shall be imprisoned in the county jail or house of correction for not less than 10 days nor more than 40 days, until such forfeiture costs are paid.

b. Each day of violation shall be a separate offense.

c. Every private waste collector's license may be suspended or revoked by the commissioner of the department of neighborhood services for failure to comply with sub. 3.

d. Every private waste collector's license may be suspended or revoked by the commissioner of public works for failure to comply with any of the rules of the commissioner or if the licensee is convicted of illegal dumping of waste within the city or outside the city under any applicable state statute or code provision.

79-10. Littering on Street by Motor Vehicle.

1. AUTHORITY. The commissioner shall make rules to regulate load stability and the cleaning of vehicle tires, bodies and other parts when any vehicle proceeds from a premises onto any street, alley or public place.

2. CONTRACTOR RESPONSIBLE. No person shall allow any vehicle to proceed from any construction site, whether operated by the contractor, his or her agent, employee or subcontractor, in such manner as to dump, drop, scatter, track or deposit any litter upon any street, alley or public place. The commissioner shall be and is empowered to order any contractor to take such precautions as he or she deems necessary to prevent littering, and to remove any such litter. In the event any contractor shall fail to comply with an order of the commissioner, said commissioner or any commanding officer of a police district may order such operations stopped.

3. EXCEPTION. This section shall not apply to construction work within a barricaded area permitted in the street right-of-way pursuant to a city excavation permit, a city contract, or work by city employees.

4. LOOSE LOADS. All vehicles carrying loose loads such as sand, gravel, demolition debris, or any other miscellaneous debris are required to cover said loads with a canvas, net-type, or other covering approved by the commissioner of public works.

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79-11. Littering of Public Property. No person shall deposit or cause to be deposited, dropped, dumped, discharged, left, spilled or scattered, any litter, nauseous or offensive substance or material, in or upon any park or parkway, sidewalk, street, alley, gutter, catch basin, storm inlet, or other public facility or place. Nothing contained in this section shall prohibit the placing of temporary patch material, sand, ashes, sawdust or salt upon any sidewalk, street or alley for safety in travel, nor the placing of leaves on the street, in season, from October 1 to November 15 inclusive.

79-12. Littering of Premises. 1. PROHIBITED. No person shall deposit, or permit or cause to be deposited, any litter, solid waste or nauseous or offensive substance or material upon any premises, except for materials placed in a manner approved by state or other local regulations, and not in conflict with this chapter.

2. RESPONSIBLE PERSONS. The premises owner and any person in possession of the premises are responsible for maintaining the premises in a condition that does not violate this section. A tenant who is in possession of a premises may be cited for a violation of this section when there is prima facie evidence of the tenant's culpability.

79-12.5. Regulation of Compost Piles.

1. COMPOST PILES. Compost piles shall consist primarily of yard waste. The following items are specifically prohibited from inclusion in any compost pile:

- a. Oils, grease and lard.
- b. Dairy or meat products.
- c. Feces - human, dog, cat or bird.
- d. Diseased plant waste.
- e. Poisonous substances.
- f. Treated lumber, sawdust from treated lumber.
- g. Materials that have been treated with chemicals.
- h. Inorganic material.

2. COMPOSTING BINS. All compost piles shall be contained in composting bins.

a. Composting bins shall meet the following specifications:

a-1. Each bin shall be no taller than 5 feet and the total volume of all bins on a property shall not exceed 125 cubic feet.

a-2. Each bin shall be constructed of commercial-grade material such as heavy-duty plastic, cinderblock, brick, wood or of such other materials as may be approved by the commissioner.

a-3. Each bin shall be built with a hood that permits the venting of gasses without permitting the entrance of rodents.

a-4. Each bin shall be maintained so as to inhibit the entrance of rodents, flying insects and other pests.

a-5. Each bin shall be maintained using proper composting techniques including, but not limited to, timely aeration, soil addition and the monitoring of moisture content.

b. Composting bins shall not be placed in front yards and shall be placed no less than 20 feet from any habitable structure.

79-13. Sidewalks to be kept Clean. No person being the owner of or in possession of premises shall use and maintain such premises or allow such premises to be used in a manner which will permit dirt, mud, snow, ice or other foreign materials to be deposited or accumulate on the public sidewalk.

79-14. Household or Commercial Waste In Certain Containers. 1. ANTI-LITTER BINS. No person shall deposit household, construction or commercial waste in or about anti-litter bins provided by the city, unless granted temporary permission by the department pursuant to the rules of the commissioner.

2. NEIGHBORHOOD CLEANUP DUMPSTERS. No person shall deposit construction or commercial waste in or about neighborhood cleanup dumpsters or other nonportable containers provided by the city, unless granted temporary permission by the department pursuant to the rules of the commissioner.

79-14.5. Depositing of Materials at Drop-off Centers. 1. MATERIALS ACCEPTED. Solid waste shall be accepted for deposit at a city drop-off center according to the conditions for load acceptance established by the commissioner or his or her designee, subject to the exclusions in sub. 2.

SUBCHAPTER 3
DRIVER'S LICENSE

100-54. Public Passenger Vehicle Driver's License. 1. LICENSE REQUIRED.

a. No person shall operate a public passenger vehicle in the city, including a human service vehicle licensed or otherwise regulated by the state of Wisconsin, unless the person first holds a valid license issued under this section.

b. No permittee may allow his or her vehicle to be operated by any person not holding a valid license issued under this section.

2. QUALIFICATIONS. Each applicant for a driver's license shall:

a. Be at least 18 years of age.

b. Possess a valid motor vehicle driver's license, excluding occupational licenses, issued by the state of Wisconsin.

c. If desiring to operate a motorcycle for tours, possess a valid motor vehicle driver's license issued by the state of Wisconsin for the operation of "Class M" vehicles under ch. 343, Wis. Stats., as amended.

e. If a driver of human service vehicles, have successfully completed within 3 years prior to the date of any original application a passenger assistance techniques training program approved by the commissioner of health. This requirement shall be waived if, at any time within the 2-year period prior to the date of filing the application with the city clerk, the applicant held a public passenger vehicle driver's license for human service vehicles issued under this chapter.

f. Be able to read, write and speak the English language to the extent necessary to operate a public service vehicle licensed by the city.

g. Be of sound physique, with good eyesight, and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render a person unfit for the safe operation of a public passenger vehicle.

h. Be clean in dress and person and shall comply with all applicable written standards of dress and appearance specified in the plan of operation provided under s. 100-50-4-b-8.

3. APPLICATION. a. Application for a driver's license shall be filed with the city clerk on forms provided therefor. The application shall require the following information:

a-1. Name, home address and telephone number of the applicant.

a-2. Date of birth, height, weight, color of eyes and hair of the applicant.

a-3. Valid motor vehicle driver's license number issued by the state of Wisconsin.

a-4. License classification for which the applicant is applying.

a-5. Name, business address and telephone number of the person, firm, association or corporation for whom the applicant is or will be employed as a public passenger vehicle driver, if known.

a-6. Whether the applicant has prior to the date of application been licensed to operate a public passenger vehicle in this city.

a-7. Whether the applicant has within the last 5 years had any motor vehicle driver's license issued by the state of Wisconsin suspended or revoked, and the nature of the suspension or revocation.

a-8. Sworn statement by the applicant stating that the applicant is aware that the license may be subject to suspension, nonrenewal or revocation if the licensee violates any rule or regulation provided in this section.

b. Each applicant for a driver's license shall file with the application one recent photograph suitable in size and form, as determined by the city clerk, for inclusion on the applicant's official license.

c. Post office box numbers shall not be acceptable for addresses required on applications for driver's licenses.

4. FEE. All applications shall be accompanied by the fee established in s. 81-44.7.

5. CHANGES TO BE REPORTED. A licensee shall notify the city clerk whenever there is a change in any information that is reported in the application form or renewal application form. The licensee shall make this notification in writing within 10 calendar days after the change occurs.

6. FINGERPRINTING. All applicants shall be fingerprinted as provided in s. 85-21-1.

7. INVESTIGATION. Each application shall be referred to the chief of police who shall cause an investigation of the applicant's criminal history for the preceding 10 years and motor vehicle driving history for the preceding 2 years to be made, and report the findings to the city clerk. The chief of police may object to issuance of the license based on the applicant's criminal history and shall object to issuance of the license if, within the preceding 2 years, the applicant has been convicted of 3 or more moving violations, as defined in s. 343.01(2)(cg), Wis. Stats., arising out of separate incidents or occurrences.

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8. COMMON COUNCIL ACTION; APPLICATION FOR NEW LICENSE. If the police chief files no objection to an application for a new license, the city clerk shall issue the license in accordance with sub. 9. If the police chief files an objection, the application shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 and 85-5 and may be subject to the additional requirements for license issuance under s. 100-56.

9. ISSUANCE OF LICENSE. Any license issued by the city clerk under this section shall contain the following information:

- a. Name and recent photograph of the license holder
- b. License classification indicating the category or categories of public passenger vehicles the licensee is qualified to operate.
- c. The period of time for which the license is valid.

10. CHANGE OF LICENSE CLASSIFICATION. a. During the license period. Any holder of a license issued under this section is permitted to change the license classification during the license period. Requests for changes of classification shall be made by filing an amendment with the city clerk, and by providing documentation of meeting the qualifications for the license classification under s. 100-54-2 and payment of the fee as provided in s. 81-44.7-5.

a-1. If the police chief had not previously filed an objection to the application for the license for which the change in license classification is sought, the city clerk shall issue the license with a change in license classification in accordance with sub. 9.

a-2. If the police chief had previously filed an objection to the application for the license for which the change in license classification is sought, the city clerk shall refer the application for change of license classification to the chief of police for review.

a-2-a. If the police chief files no objection to an application for change of license classification, the city clerk shall issue the license with a change in license classification in accordance with sub. 9.

a-2-b. If the police chief files an objection to an application for change of license classification, the application shall be forwarded to the licensing committee for its recommendation as to whether a license with a change in license classification should be issued.

b. At the time of renewal.

b-1. Any holder of a license issued under this section is permitted to change the license classification at the time application for renewal is filed. Requests for change of license classification shall be made by filing an application for renewal with the city clerk pursuant to sub. 11, and by providing documentation of meeting the qualifications for the license classification under s. 100-54-2 and payment of the fee as provided in s. 81-44.7-4.

b-2. If the licensee fails to submit documentation of meeting the qualifications for the change of license classification at the same time the application for renewal is filed with the city clerk, no change in license classification shall occur, except as provided in par. a.

11. RENEWAL AND NON-RENEWAL.

a. Procedure for Renewal. Applications for renewal shall be made to the city clerk. The clerk shall refer the application to the chief of police for review. The chief of police may object to renewal of the applicant's license based on the applicant's criminal history and shall object to renewal of the license if, within the most recent license period, the applicant has been convicted of 3 or more moving violations, as defined in s. 343.01(2)(cg), Wis. Stats., arising out of separate incidents or occurrences. If the chief of police indicates that the applicant still meets the licensing qualifications, the city clerk shall issue the license unless a written objection to renewal of the license has been filed with the city clerk in accordance with the provisions of s. 85-3-3. If a written objection is filed, or if a determination by the city clerk or a designee of the city clerk is made that the applicant no longer meets the licensing qualifications, the application shall be forwarded to the licensing committee for its recommendation to the common council.

b. If there is a possibility that the committee will not recommend renewal of a permit, the procedures for notice, hearing and review by the common council provided in sub. 12 shall apply.

c. An applicant who has held a public passenger vehicle driver's license in the past 12 months shall be required to file a renewal application. If more than 12 months have elapsed since the date of license expiration, the applicant may file either a new application or a renewal application, except that any application filed after the expiration date of the license period following

a-2-j. Milwaukee River from its outlet to Lake Michigan northwest to Menomonee River, Menomonee River west to Interstate 43, Interstate 43 south to W. Canal St., W. Canal St. west to N. 16th St., N. 16th St. north to Interstate 94, Interstate 94 west to W. St. Paul Ave., W. St. Paul Ave. west to N. 27th St., N. 27th St. north to W. Wisconsin Ave., W. Wisconsin Ave. west to N. 35th St., N. 35th St. north to W. Vliet St., W. Vliet St. east to N. 27th St., N. 27th St. south to W. Highland Ave., W. Highland Ave. east to N. 24th St., N. 24th St. south to W. State St., W. State St. east to N. 21st St., N. 21st St. north to W. Highland Ave., W. Highland Ave. east to N. 20th St., N. 20th St. north to W. Vliet St., W. Vliet St. east to W. Winnebago St., W. Winnebago St. southeast to W. Juneau Ave., W. Juneau Ave. east to Milwaukee River, Milwaukee River northeast to E. Pleasant St., E. Pleasant St. east to N. Franklin Pl., N. Franklin Pl. south to N. Prospect Ave., N. Prospect Ave. northeast to E. Kane Pl., E. Kane Pl. southeast to N. Summit Ave., N. Summit Ave. northeast to E. Lafayette Pl., E. Lafayette Pl. east to E. Lafayette Hill Rd., E. Lafayette Hill Rd. south to N. Lincoln Memorial Dr., N. Lincoln Memorial Dr. northeast to an east-west line at the point of E. North Ave. extended, line at the point of E. North Ave. extended east to Lake Michigan shoreline, Lake Michigan shoreline south to junction with Milwaukee River.

a-2-k. West Lapham Street from South Layton Boulevard to South 30th Street.

a-2-L. South 31st Street from West Burnham Street to West Mitchell Street.

a-2-m. South 31st Street from West Orchard Street to West Greenfield Avenue.

a-2-n. South 33rd Street from West Greenfield Avenue to West Mitchell Street.

b. No vehicle of any kind or description shall be parked on any highway between:

b-1. The hours of 2 a.m. and 6 a.m., except as otherwise restricted or permitted in this section.

b-2. The hours of 10 p.m. and 6 a.m. the following day when the department of public works announces snow-plowing operations or other public works operations are underway, except as otherwise restricted or permitted in this section.

2. SPECIAL PERMIT. a. A vehicle may be parked between the hours of 2 a.m. and 6 a.m., or between the hours of 10 p.m. and 6 a.m. during a declared snow emergency, provided a special privilege permit for the vehicle is first obtained online or from any facility the city may designate for the sale of such permit, after filing an application and paying a permit fee, all as required under this section, and shall be parked as authorized by such permit, as provided in sub.5.

b. The owner of any motor truck with valid license plates issued by the Wisconsin department of transportation, division of motor vehicles, but not used for commercial purposes, and which is not larger than 21 feet in length, 7 feet in width, and 7 feet in height and which has no more than 2 single-tired wheels on the front axle and no more than 2 single-tired or double-tired wheels on the rear axle, shall be eligible to purchase a special privilege permit for said vehicle as provided in this section.

c. Any vehicle for which a person is applying for a special privilege permit may be inspected for purposes of determining eligibility for the permit as provided in this section.

d. Vehicles displaying special privilege permits must also display while parked valid motor vehicle license plates.

3. ALTERNATE SIDE PARKING.

a. On odd and even numbered days. Except as provided in par. b, any vehicle parked pursuant to this section shall be parked only on the even numbered side of the street on those nights bearing an even calendar date during the portion thereof before midnight, and on the odd numbered side of the street on those nights bearing an odd calendar date during the portion thereof before midnight, except that where parking is normally permitted only on one side of the street, vehicles parked pursuant to the aforesaid provisions may be parked on that side of the street only, on every night of the week.

b. Exceptions to alternate side parking.

b-1. Except when parking is prohibited on one side, vehicles may be parked on both sides of designated streets from March 1 to November 30. These streets shall be designated

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when an overnight survey conducted by the commissioner of public works indicates that the demand for curb space for parked vehicles meets certain criteria determined by the commissioner to warrant 2-side parking, the commissioner of public works recommends the area to the common council and the common council approves the recommendation of the commissioner.

b-2. Designated streets are to be found in the common council proceedings, the official record on file in the city clerk's office, and the code on file in the legislative reference bureau.

b-3. Except when parking is prohibited on one side, vehicles may be parked on both sides of streets in designated parking areas described in sub. 1-a-2 on any night, except when the department of public works announces snow plowing operations or other public works operations are underway.

4. CERTAIN VEHICLES NOT ELIGIBLE. a. Motor trucks, except as provided elsewhere in the code, tow trucks, luxury limousines, as defined in s. 100-3-11, motor buses, motor delivery wagons, trailers, semitrailers, camping trailers, motor homes, mobile homes and tractors shall not be eligible for special privilege parking permits under this section.

b. If an ineligible vehicle is parked on any street or highway between 2 a.m. and 6 a.m., the commissioner of public works or commissioner's designee is authorized to placard the vehicle with a warning notice stating that if the vehicle is found parked on any street or highway between 2 a.m. and 6 a.m. again in the next 30 days, the vehicle will be towed.

c. The provisions of par. b shall not apply to any motor truck with valid license plates issued by the Wisconsin department of transportation, division of motor vehicles, which is used for commercial purposes, which is not larger than 21 feet in length, 7 feet in width, and 7 feet in height, and which has no more than 2 single-tired wheels on the front axle and no more than 2 single-tired or double-tired wheels on the rear axle.

5. APPLICATION AND PERMIT.

a. Application Listing. The application listing shall contain the name and city of Milwaukee address of the permit applicant, the license number and state of issuance of valid motor vehicle license plates, the expiration date of the permit applied for and any other reasonable and pertinent information the department may from time to time require. A statement shall be included in the application that the vehicle for which application is made does not violate subs. 2-b and d, and 4.

b. Permits. The permits shall be numbered and contain the expiration date.

c. Display. While the motor vehicle is in a parked position between the hours of 2 a.m. to 6 a.m., the permit shall be displayed in the manner designated by the police department.

6. PARKING FUND. All revenues derived by the city from said permit fees shall be entered into account in accordance with the code.

7. EXCEPTIONS. When Night Parking Permitted. Except as provided in ss. 101-26 and 101-31, this section shall not be effective and in force for the following:

a. Holidays. On the morning of the 1st day of each week, Sunday; and on the morning of, and the morning following, the 1st day of January, New Year's Day; 3rd Monday in January, Dr. Martin Luther King, Jr. Day; last Monday in May, Memorial Day; July 4, Independence Day; 1st Monday in September, Labor Day; 4th Thursday in November, Thanksgiving Day; December 25, Christmas Day, in any year.

b. Shift Worker's Parking Permit. Provided further, that in the case of night workers who are not provided with off-street parking facilities by their employers, such condition shall constitute an emergency, and the chief of police shall, subject to the approval of the common council, designate suitable locations where, notwithstanding the provisions of this section, such night workers shall be permitted to park their automobiles during the period of their employment, and on permit of the chief of police which permit shall be displayed in the lower left hand corner of the windshield pursuant to sub. 5-c. The chief of police, under this authority, may also issue the shift workers permit to car-pooling

a-1. Use, present or cause to be presented as valid any canceled, fictitious or fraudulently obtained, forged or altered library card.

a-2. Sell or lend his or her library card to any other person or knowingly permit the use thereof by another.

a-3. Represent as one's own, any library card not issued to him or her.

a-4. Permit any unlawful use of a library card issued to him or her.

b. Whenever a library card which belongs to another or appears to be altered or fraudulently obtained is displayed to a law enforcement officer or library employee or agent, that person shall take possession of the card and return it to the library.

3. FAILURE TO RETURN LIBRARY MATERIAL. a. After notice has been sent to the last known address, no person may fail to return overdue, borrowed library material.

b. Each individual item borrowed may constitute a separate violation of this section.

c. Refusal to accept or failure to receive an overdue notice mailed by first class mail to such person's last-known address shall not be a defense to a violation of this section. If the person has changed his or her address and fails to notify the Milwaukee public library as required, failure to receive the overdue notice shall not be a defense.

d. No person may fail to return, relinquish or produce library materials in his or her possession regardless of due date upon demand by a police officer, agent or employee of the library.

4. THEFT OF LIBRARY MATERIAL.

a. Whoever intentionally takes and carries away, transfers, conceals or retains possession of any library material with a value of \$500 or less without the consent of a library official, agent or employee and with intent to deprive the library of possession of the material may be penalized as provided in sub. 8-b.

b. The concealment of library material beyond the last station for borrowing library material in a library or possession of library material from which security tags or property identification markings have been removed is evidence of intent to deprive the library of possession of the material. The discovery of library material which has not been borrowed in accordance with the library's procedures or taken with consent of a library official, agent or employee and which is concealed upon the person or among the belongings of the person or concealed by a

person upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing the material.

c. An official or adult employee or agent of a library who has probable cause for believing that a person has violated this subsection in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a peace officer, or to the person's parent or guardian in the case of a minor. The detained person shall be promptly informed of the purpose for the detention and be permitted to make phone calls, but shall not be interrogated or searched against his or her will before the arrival of a peace officer who may conduct a lawful interrogation of the accused person. Compliance with this subsection entitles the official, agent or employee effecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.

5. FRAUDULENT REGISTRATION AND USE OF LIBRARY MATERIALS. a. No person shall directly or indirectly make or cause to be made any false statement regarding the person's own identity or residence or the identity or residence of another person when the person knows his or her statement to be false and when the person intends that false statement to be relied upon for any person's registration for or use of library materials.

b. Evidence that a person has the intent required under par. a is shown by the person's doing any of the following:

b-1. Directly or indirectly giving false or misleading information on a library registration form in any manner.

b-2. Presenting false or fictitious credentials for the purpose of obtaining a library card or the use of library materials.

b-3. Using a library card that was obtained in violation of this subsection to check out library materials.

6. ALTERATION OF IDENTIFICATION MARKINGS. a. No person shall remove, alter or conceal all or any part of an identification mark, label, stamp, writing or attachment that identifies any item or material as the property of the library unless authorized library personnel has marked the item or material as "DISCARDED".

b. No person shall possess, transport, display for sale, sell, trade or retain for personal use any library item or material on which identification markings have been altered as prohibited under par. a.

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c. No person shall possess, transport, display for sale, sell or trade a discard stamp or any other paraphernalia designed to alter identification markings on library materials.

7. ALTERATION OF COMPUTER RECORD. No person may alter a library computer record with the result that such alteration destroys, masks, alters or otherwise makes the record untrue or unreliable.

8. PENALTY. a. A person who violates subs. 2, 3, 5 or 6 may be required to forfeit no more than \$1,000.

b. A person who violates subs. 4 and 7 may be required to forfeit not more than \$1,500.

c. A person in default of a forfeiture under pars. a or b may be imprisoned in the county jail or house of correction for no more than 60 days, until such forfeiture costs are paid.

9. CITATIONS. a. Citations may be issued for all violations of this section with or without prior order or notice by a peace officer.

b. Citations may be issued by the library's investigator or other designated agent for any violation of subs. 2, 3, 5 or 6.

c. Citations issued for violation of sub. 3 shall, for administrative purposes, refer to the incident location defined in this section.

d. The stipulation, forfeiture and court procedure as set forth in s. 50-25 shall apply for any citation issued in accordance with this section.

106-22. Penalty, General. Any person violating any of the provisions of this chapter, for the violation of which no penalty is in this chapter specified, shall be punished by a fine of not less than \$1 nor more than \$100.

106-23. Loitering of Minors (Curfew Hours). It shall be unlawful for any person under the age of 17 years to congregate, loiter, wander, stroll, stand or play in or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, places of employment, vacant lots or any public places in the city either on foot or in or upon any conveyance being driven or parked thereon, between the hours of 10 p.m. and 5 a.m. of the following day, official city time, Sunday through Thursday and between 11 p.m. and 5 a.m. Friday and Saturday, from September 1 through May 31; and between 11 p.m. and 5 a.m. from June 1 through August 31.

1. EXCEPTIONS. This section shall not apply where the actor was accompanied by his or her parent, guardian or other adult person having his or her care, custody or control, or where

the actor was exercising first amendment rights protected by the United States constitution or the Wisconsin constitution, including freedom of speech, the free exercise of religion, and the right of assembly. Unless flight by the actor or other circumstances makes it impracticable, a peace officer shall, prior to issuing a citation for an offense under this section, afford the actor an opportunity to explain his or her reasons for being present in the public place. A peace officer shall not issue a citation for an offense under this section unless the officer reasonably believes that an offense has occurred, and that none of the exceptions described in this subsection apply.

2. RESPONSIBILITY OF PARENTS. It shall be unlawful for the parent, guardian or other adult person having the care and custody of a person under the age of 17 years to suffer or permit or by inefficient control to allow such person to congregate, loiter, wander, stroll, stand or play in or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, places of employment, vacant lots or any public places in the city between the hours of 10 p.m. and 5 a.m. of the following day, official city time, Sunday through Thursday, and between 11 p.m. and 5 a.m. Friday and Saturday, from September 1 through May 31; and between 11 p.m. and 5 a.m. from June 1 through August 31, unless one of the exceptions described in sub. 1 applies; provided that any parent, guardian or other adult person who shall have made a missing person notification to the police department shall not be considered to have suffered or permitted any person to be in violation of this section.

3. RESPONSIBILITY OF OPERATORS. It shall be unlawful for any person, firm or corporation operating places of amusement or entertainment, or any agent, servant or employee of any person, firm or corporation to permit any person under the age of 17 years to enter or remain in such places of amusement or entertainment during the hours prohibited under this section, unless one of the exceptions described in sub. 1 applies.

4. RESPONSIBILITY OF HOTELS, ETC. It shall be unlawful for any person, firm or corporation operating a hotel, motel, lodging or rooming house, or any agent or servant or employee of such person, firm or corporation operating a hotel, motel, lodging or rooming house, to permit any person under the age of 18 years to visit, loiter, idle, wander or stroll in any portion of such hotel, motel, lodging or rooming house between the hours of 10 p.m.

any other place of residence with the unlawful intent to watch, gaze or look upon the occupants therein in a clandestine manner.

3. PUBLIC REST ROOMS. Loiters in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act.

4. SCHOOLS, ETC. Loiters in or about any school or public place at or near which children or students attend or normally congregate. As used in this subsection "loiter" means to delay, to linger or to idle in or about any said school or public place without a lawful purpose for being present.

5. PUBLIC BUILDINGS, ETC. Lodges in any building, structure or place whether public or private without the permission of the owner or person entitled to possession or in control thereof.

6. RESTAURANTS, TAVERNS, CONVENIENCE STORES, FILLING STATIONS, PUBLIC BUILDINGS, ETC., Loiters in or about a restaurant, tavern, convenience store, filling station or other public building. As used in this subsection, "loiter" means to, without just cause, remain in a restaurant, tavern, convenience store, filling station or public building or to remain upon the property immediately adjacent thereto after being asked to leave by the owner or person entitled to possession or in control thereof, or where "no loitering" signs are posted. No arrest shall be made for a violation of this subsection unless the arresting officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of violating this subsection if it appears at trial that the explanation given was true and disclosed a lawful purpose.

7. SOLICITING, ETC. To loiter in or near any thoroughfare or place open to the public in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution. Among the circumstances which may be considered in determining whether such purpose is manifested: that such person is a known prostitute or panderer, repeatedly beckons to stop or attempts to stop, or engages male or female passersby in conversation, or repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture. The violator's conduct must be such as to

demonstrate a specific intent to induce, entice, solicit or procure another to commit an act of prostitution. No arrest shall be made for a violation of this subsection unless the arresting officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of violating this subsection if it appears at trial that the explanation given was true and disclosed a lawful purpose. As used in this subsection:

a. "Public place" is an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles, whether moving or not, and buildings open to the general public including those which serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

b. "Known prostitute or panderer" means a person who within 5 years previous to the date of arrest for violation of this section, had within the knowledge of the arresting officer been convicted in Milwaukee municipal court or Milwaukee county circuit court of an offense involving prostitution.

8. PARKING LOTS, ETC. Loiters in or upon any public parking surface lot or public parking structure, either on foot or in or upon any conveyance being driven or parked thereon, without the permission of the owner or person entitled to possession or in control thereof, notwithstanding the notification requirements of ss. 101-23.5 and 110-10. No arrest shall be made for a violation of this subsection unless the arresting officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of violating this subsection if it appears at trial that the explanation given was true and disclosed a lawful purpose. As used in this subsection:

a. "Public parking structure" means a building enclosure or garage above or under the ground, or any portion thereof, in which automobiles or motor vehicles may be parked, stored, housed or kept, and open to public use with or without charge.

b. "Public parking surface lot" means 5 or more ground level parking spaces, or any portion thereof, not located in a structure, upon which automobiles or motor vehicles may be parked, stored, housed or kept, and open to public use with or without charge.

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9. PRIVATE OR PUBLIC RESIDENTIAL PROPERTY, ETC. Loiters in or on private or public residential property in residential neighborhoods. As used in this subsection, "loiter" means to, without just cause, linger, remain in or on private or public residential property, or to remain upon the property immediately adjacent thereto after being asked to leave by the owner or person entitled to possession or in control thereof, or where No Loitering signs are posted. No arrest shall be made for a violation of this subsection unless the arresting officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of violating this subsection if it appears at trial that the explanation given was true and disclosed a lawful purpose.

10. PENALTIES. Any person who violates any provision of this section shall be fined not more than \$500 together with the costs of prosecution or, upon default of payment, shall be imprisoned in the county jail or house of correction for not more than 20 days; and, further, any person who violates any provision of this section between the hours of 8:00 p.m. and 5:00 a.m. upon a street designated as a cruising area under s. 101-20.5, including the land within the street lines whether or not improved, may be fined not less than \$150 nor more than \$500 or, upon default of payment thereof, shall be imprisoned in the house of correction of Milwaukee county for not more than 20 days.

106-32. Loitering by Gang Members.

1. DEFINITIONS: In this section:

a. "Gang loitering" means remaining in any one place under circumstances that would warrant a reasonable person to believe that the purpose or effect of that behavior is to enable a criminal street gang to establish control over identifiable areas, to intimidate others from entering those areas, or to conceal illegal activities.

b. "Criminal gang" means an ongoing organization, association or group of 3 or more persons, whether formal or informal, that has as one of its primary activities the commission of one or more of the criminal acts, or acts that would be criminal if the actor were an adult, specified in par.

e-1 to 21; that has a common name or a common identifying sign, or symbol; and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

c. "Criminal gang activity" means the commission, attempted commission or solicitation of the offenses, listed in par. e-1 to 21, provided that the offenses are committed by 2 or more persons, or by an individual at the direction of, or in association with, any criminal street gang, with the specific intent of promoting, furthering or assisting in any criminal conduct by gang members.

d. "Criminal gang member" means any person who participates in criminal gang activity as defined in par. c, with a criminal gang, and meets one or more of the following criteria:

d-1. The person is a self-admitted gang member.

d-2. The person is identified as a gang member by a reliable and proven source.

d-3. The person is associated with known gang members and uses gang signs, gang dress and mannerisms.

d-4. The person has been arrested more than one time with known gang members for gang-type criminal offenses.

d-5. The person has been observed by law enforcement associating with known gang members at known gang locations.

d-6. The person has at one time admitted to be a gang member, but now claims that he or she is not a gang member, although he or she continues to associate with known gang members.

e. "Pattern of criminal gang activity" means the commission of, attempt to commit or solicitation to commit 2 or more of the following crimes, or acts that would be crimes if the actor were an adult, at least one of those acts or crimes occurs after December 25, 1993, the last of those acts or crimes occurred within 3 years after a prior act or crime, and the acts or crimes are committed, attempted or solicited on separate occasions or by 2 or more persons:

e-1. Manufacture, distribution or delivery of a controlled substance or controlled substance analog, as prohibited in s. 961.41 (1), Wis. Stats.

e-2. First-degree intentional homicide, as prohibited in s. 940.01, Wis. Stats.

a. Intentionally abscond without paying rent that has been contractually agreed upon in a written lease or written rental agreement with a landlord. Prima facie evidence of intentionally absconding will be established if a tenant fails to pay rent due prior to the vacating of the rental premises by the tenant, the nonpayment of the rent continues for a period of 5 days after vacation of the premises, and the tenant fails to provide the landlord with a complete and accurate forwarding address.

b. Issue any check, money order or any other form of bank or monetary draft as a payment of rent, where such document lacks sufficient funds, where the account is closed or where such draft is unredeemable in any other form or fashion. Prima facie evidence of intention to defraud will be established if a tenant fails within 5 days of a written demand by the landlord or agent to pay in full the total amount of the draft presented as rent payment plus any bank charges to the landlord attributable to the unredeemability of the draft.

2. APPLICABILITY. This section shall apply to written leases or written rental agreements between residential landlords and tenants only. Words and terms used in this section shall be defined and construed in conformity with the provisions of Ch. ATPC 134, Wis. Adm. Code; ch. 704 and s. 990.001 (1), Wis. Stats. The act of service by a landlord of a legal eviction notice or notice to terminate tenancy shall not in itself act as a bar to prosecution under this section.

3. PROCEDURE. A peace officer may issue a citation for either offense only when the complainant provides the following:

a. The name and current or last known address of the tenant, a copy of the subject written lease agreement or written rental agreement.

b. The amount of rent due, date it was due, date the tenant vacated the premises and testimony that the rent remained unpaid for not less than 5 days after vacating and that the tenant did not notify or attempt to notify the complainant of tenant's new address or that tenant knowingly gave complainant a false address.

c. For violations under sub.1-b, the document used for attempting rent payment, the written demand for payment of the full amount plus bank charges, proof of service of the written demand pursuant to s. 704.21, Wis. Stats., and testimony that at least 5 days have elapsed since the date of service and no payment has been made.

4. PENALTY. a. Any person who violates this section shall upon conviction forfeit not less than \$250 nor more than \$1,000 together with costs of prosecution, or, in default of payment, may be imprisoned for not more than 40 days. In addition, the court may order such person to make full or partial restitution, in accordance with s. 800.093, Wis. Stats.

b. In accordance with s. 800.09, Wis. Stats., community service work may be imposed in lieu of making restitution or paying the forfeiture or both.

106-51. Residency Restrictions for Sex Offenders. 1. FINDINGS AND INTENT.

The common council finds that sex offenders who prey on children are sex predators who present an extreme threat to the public safety. Many sex offenders commit numerous offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sex offender victimization to society, while incalculable, clearly exorbitant. The common council finds the risk of recidivism increases if the sex offender recently offended and if the sex offender does not have a strong social network, including community and familial ties. The common council is aware of many studies and reports concerning recidivism of sex offenders and the effectiveness of sex offender residency restrictions. The common council acknowledges that literature on the subject includes some studies that support the practice of sex offender residency restrictions and others that are critical of the practice. The common council is also aware that absent a domicile clause, the city would have open doors for non-resident sex offender residency when other communities have closed doors, inviting a substantial increase in child sex offender placements, with the related adverse impacts on the health, safety and welfare of the city and its residents. It is the intent of this section to enact a regulatory scheme that is civil and non-punitive in order to serve the city's compelling interest to promote, protect, and improve the health, safety and welfare of the citizens of the city.

2. DEFINITIONS. For the purposes of this section:

a. "Child" means a person under the age of 16 years.

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b. "Designated offender" means any person who is required to register under s. 301.45, Wis. Stats., for any offense against a child. This definition does not include a person who is released under s. 980.08, Wis. Stats., so long as the person is subject to supervised release under ch. 980, Wis. Stats., the person is residing where he or she is ordered to reside under s. 980.08, Wis. Stats., and the individual is in compliance with all court orders issued under ch. 980, Wis. Stats.

c. "Hospital" has the meaning given in s. 50.33(2)(a), Wis. Stats.

d. "Residence" ("Reside") means the place where a person sleeps, which may include more than one location, and may be mobile or transitory.

e. "Treatment facility" has the meaning given in s. 51.01(19), Wis. Stats.

3. ORIGINAL DOMICILE RESIDENCY RESTRICTION. A designated offender shall not establish a residence within the city, unless the person was domiciled in the city at the time of the offense resulting in the person's most recent conviction for committing the offense that is within the definition of a designated offender.

4. RESIDENCY RESTRICTION EXCEPTIONS. A designated offender prohibited from establishing a residence within the city as specified in sub. 3 does not commit a violation of this section if the designated offender demonstrates any of the following:

a. The person established a residence and reported and registered the residence as provided in s. 301.45, Wis. Stats., before the effective date of this ordinance, September 23, 2017.

b. The person was under the age of 18 years at the time of the offense or is a ward under guardianship.

c. The residence is also the primary residence of the person's child, grandparent, guardian, parent, sibling or spouse.

d. The residence is a mental health facility or a jail, juvenile facility, prison or other correctional institution where the person is required to serve a sentence.

e. The residence is a hospital or treatment facility.

f. The person's most recent offense that is within the definition of a designated offender occurred more than 10 years ago and it has been at least 10 years since the person was incarcerated for the most recent offense that is within the definition of a designated offender.

5. PENALTY. A designated offender who violates sub. 3 shall be subject to a forfeiture of not less than \$1,000 nor more than \$2,500 for each violation, and in default of payment may be imprisoned as provided by law. Each day a violation continues shall constitute a separate offense. The city may also seek equitable relief.

6. EVALUATION. The common council shall evaluate the effect of this ordinance one year after the effective date of this ordinance, September 23, 2017.

106-53. Loitering of Sex Offenders.

1. LOITERING. It shall be unlawful for any person defined as a designated offender under s. 106-51-2-b, to loiter or prowl, in a school, licensed day care center, park, recreational trail, or playground, in a place, at a time, or a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a peace officer, refuses to identify himself or herself or manifestly endeavors to conceal himself or herself or any object. Unless flight by the actor or other circumstances makes it impracticable, a peace officer shall prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting him or her to identify himself or herself and explain his or her presence and conduct at the school, licensed day care center, park, recreational trail, or playground. No person shall be convicted of an offense under this section if the peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true and, if believed by the peace officer at the time, would have dispelled the alarm.

2. EXCEPTIONS. This section shall not apply where the actor was accompanied by his or her parent, guardian or other adult person having his or her care, custody or control, or where that actor was exercising First Amendment rights protected by the U.S. constitution or Wisconsin constitution, including freedom of speech, the free exercise of religion, or the right of assembly.

3. PENALTY. Any person violating this section upon conviction shall forfeit not less than \$500 nor more than \$5,000, and in default of payment may be imprisoned as provided by law.

**For the legislative history of chapter 106,
contact the Municipal Research Library.**

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