

**INSTRUCTION SHEET
ADDITIONS TO
MILWAUKEE CODE OF ORDINANCES
VOLUME 2**

SUMMARY

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

191344 An ordinance relating to property deconstruction.

<u>Section Affected</u>	<u>Action</u>	<u>File Number</u>	<u>Effective Date</u>	<u>Remove Pages</u>	<u>Add Pages</u>
Remove <u>old</u> MEMO (Suppl. #315)				v-vi	v-vi
218-10	am	191344	2/7/2020	109-112	109-110
295-201-401	corr.			675-676	675-676

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

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

Abbreviations:

am=amended
cr=created

ra=renumbered and amended
rc=recreated

rn=renumbered
rp=repealed

MEMO

If all supplements have been properly inserted, this book contains all actions of the Common Council through January 21, 2020.

1/21/2020
Suppl. #316

Razing of Buildings 218-10-5

b-4. Site Posting. Prior to commencement of deconstruction activity, a yard sign approved and provided by the commissioner shall be posted on each street frontage of the site. The sign shall:

b-4-a. Indicate that the structure is being deconstructed

b-4-b. Provide department of neighborhood services contact information for questions or concerns.

b-4-c. Remain in place throughout the course of deconstruction.

b-4-d. Be posted within 5 feet of a street lot line, be visible to pedestrians and motorists, and not be posted in a public right-of-way.

b-5. Heavy Machinery. Heavy machinery may be used in deconstruction to assist in the salvage of materials for reuse or to remove material not required to be salvaged for reuse. Heavy machinery may not be used in deconstruction to remove or dismantle components of buildings in ways that render building components unsuitable for salvage. For purposes of this section, heavy machinery includes, but is not limited to, track hoes, excavators, skid steer loaders, and forklifts.

b-6. Documentation. The demolition permit holder shall maintain receipts for donation, sale, recycling, and disposal of all materials for any deconstruction project. Materials intended for reuse on site, and materials disposed of and concerning which no receipt for disposal is obtainable, shall be documented with photographs. The commissioner may ask that the permit holder produce the receipts or photographs for inspection any time until the demolition permit is closed.

b-7. Closing of Demolition Permit. A completed post-deconstruction form and all documentation required in subd. 6. shall be submitted to the department before a department inspector may approve a demolition permit as closed.

c. Exemptions. The following are exempt from the requirements of this section:

c-1. The moving of a building, provided it occurs in accordance with s. 218-2.

c-2. Any primary dwelling structure that the commissioner has determined is unsuitable for deconstruction because either of the following is true:

c-2-a. The structure is structurally unsafe or is otherwise hazardous to the health, safety or welfare of the public and too unsafe or hazardous for deconstruction.

c-2-b. Most, or a substantial portion, of the material in the structure is not suitable for reuse.

d. Request for an Exemption. An applicant may request an exemption from the requirements of this section under par. c by submitting a written request for exemption, together with supporting evidence, when submitting a demolition permit application. Where the city, as the owner of the primary dwelling structure, seeks an exemption, the commissioner shall approve and sign a city-exemption form to document satisfaction of the exemption requirements of par. c.

e. Determination of an Exemption. The commissioner shall make the final determination of exemption based on evidence submitted by the applicant as well as an inspection to confirm conditions and unsuitability.

The demolition permit shall not be issued until the final determination is made on the exemption request. If the applicant disagrees with the final determination, the determination may be appealed by the applicant under sub. 6.

5. ENFORCEMENT AND PENALTIES. a. General. a-1. A first violation of this section may be subject to a penalty of up to \$1,000.

a-2. A second violation of this section committed by the same person or firm may be subject to a penalty of up to \$2,000.

a-3. Third and subsequent violations of this section by the same person or firm may be subject to a penalty of up to \$3,000.

a-4. Penalties may be imposed on a per-month, per-day or per-incident basis, or such other basis as the commissioner may determine appropriate based upon the criteria in par. f.

a-5. Any person receiving a notice of violation shall, within 10 days of issuance of the notice, either pay to the city the stated penalty amount or appeal the penalty under sub. 6.

b. Heavy Machinery. b-1. Improper use of heavy machinery in violation of this section may be subject to a penalty of up to \$20,000.

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b-2. Any person receiving a notice of violation shall, within 10 days of issuance of the notice, either pay to the city the stated penalty amount or appeal the penalty under sub. 6.

c. Additional Enforcement Actions for Certified Deconstruction Contractors. The commissioner may impose the following additional remedies on a certified deconstruction contractor:

c-1. A first violation of this section may result in removal from the list of certified deconstruction contractors for up to 6 months.

c-2. A second violation of this section may result in removal from the list of certified deconstruction contractors for up to 12 months.

c-3. A third or subsequent violation of this section may result in removal from the list of certified deconstruction contractors for an indefinite period. The contractor may not apply for reinstatement to the list of certified deconstruction contractors for a period of 18 months.

d. Temporary Removal. Temporary removal from the list of certified deconstruction contractors shall expire immediately following the end of the term of removal, and shall not require further action by the commissioner except for re-listing of the contractor on the department's website.

e. Stop Work Orders. When necessary to obtain compliance with this section, the commissioner may issue a stop work order requiring that all work, except work directly related to elimination of the violation, be immediately and completely stopped. If the commissioner issues a stop work order, activity subject to the order may not be resumed until such time as the commissioner gives specific approval in writing. The stop work order will be in writing and posted at a conspicuous location at the site. When an emergency condition exists, a stop work order may be issued orally, followed by a written stop work order. It is unlawful for any person to remove, obscure, mutilate or otherwise damage a stop work order.

f. Criteria. The commissioner shall use the following criteria in determining the type and magnitude of penalties or remedies to impose under this subsection:

f-1. The nature and extent of the person's involvement in the violation.

f-2. Whether the person was seeking any benefits, economic or otherwise, through the violation.

f-3. Whether the person has committed similar violations in the past.

f-4. The length of time since any prior violations.

f-5. Whether the violation was isolated and temporary, or repeated and continuous.

f-6. The magnitude and seriousness of the violation.

f-7. The costs of investigating and remedying the violation.

f-8. Other relevant, applicable evidence bearing on the nature and seriousness of the violation.

g. Inspections. The commissioner may conduct inspections whenever necessary to enforce any provisions of this section, to determine compliance with this section or whenever the commissioner has reasonable cause to believe there exists any violation of this section. If the responsible party is at the site when the inspection is occurring, the commissioner will first present proper credentials to the responsible party and request entry.

6. RIGHT OF APPEAL. Whenever the responsible party has been given a written notice, order or determination pursuant to this section, or has been directed to make any correction, pay a penalty or to perform any act, and the responsible party believes the finding of the notice, order or determination was in error, the responsible party may have the notice, order or determination reviewed by the commissioner. If a review is sought, the responsible party will submit a written request to the commissioner within 10 days of the date of the notice, order or determination. Such review will be conducted by the commissioner. The responsible party requesting such review will be given the opportunity to present evidence to the commissioner. Following a review, the commissioner shall issue a written decision. The responsible party may appeal the commissioner's decision to the administrative review appeals board under s. 320-11.

****Enforcement of s. 218-10 is stayed until March 1, 2021.**

For legislative history of chapter 218, contact the Municipal Research Library.

Pages 111-140 are blank.

393. NONCONFORMING means legally established but no longer conforming with the regulations of this chapter.

395. NONCONFORMING PROHIBITED USE means a use which was legally established but which is no longer classified as a permitted use or no longer classified as a special use in the zoning district in which it is located.

397. NONCONFORMING SITE FEATURE means a site improvement which was legally established but no longer conforms with the regulations of this chapter.

399. NONCONFORMING SPECIAL USE means a use which was legally established, at a later date became classified as a special use in the zoning district in which it is located, and which has not received special use approval from the board.

401. NONCONFORMING STRUCTURE means, except in subch. 11, a structure which was legally constructed but which no longer complies with the dimensional requirements of the zoning district in which it is located. In subch. 11, "nonconforming structure" means an existing lawful structure or building which is not in conformity with the dimensional or structural requirements of subch. 11 for the area of the floodplain which it occupies.

402. NONCOMFORMING USE means, in s. 295-415-9, an existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of s. 295-1011 for the area of the floodplain which it occupies. In all other sections, "nonconforming use" shall have the meaning established in subs. 393, 395 or 399, as applicable.

403. NON-RESTAURANT DRIVE-THROUGH FACILITY means a facility which is used for dispensing services or products to customers in motor vehicles. Such facility may include access lanes, signing, lighting and audio systems. This term does not include a drive-in theater or a restaurant with drive-through facility.

405. NURSERY SCHOOL. See DAY CARE CENTER.

407. NURSING HOME means a place where 5 or more persons who are not related to the operator or administrator reside, receive care or treatment and, because of their mental or physical condition, require access to 24-hour nursing services, including limited nursing care, intermediate level nursing care and skilled nursing services, as defined in s. 50.01, Wis. Stats.

411. OPACITY means the screening effectiveness of a buffer-yard or fence expressed as the percentage of vision that the screen blocks.

412. OPEN PAVILION means a freestanding canopy that provides shade or rain coverage over a patio or deck not more than 3 feet above grade.

413. OPEN SPACE, SURFACE means the at-grade area of any site or development site not covered by structures or devoted to vehicular use.

415. OPEN SPACE, USABLE means a common or private outdoor area at grade level or on a roof, porch, deck, court or balcony or any combination thereof, designed for outdoor living, recreation or landscaping with a minimum horizontal dimension of 6 feet. Open space with a horizontal dimension less than 6 feet or a total area of less than 60 square feet is not considered usable.

416. OPEN SPACE USE means a use having a relatively low flood damage potential and not involving structures.

419. OUTDOOR MERCHANDISE SALES means retail sale of produce, other foodstuffs or any of the products listed in sub. 505, primarily outside an enclosed structure, for more than 90 days in any calendar year. This term shall not include a motor vehicle sales facility, garden supply or landscaping center, lumber yard, building supply or home improvement center, or Christmas tree lot

421. OUTDOOR RACING FACILITY means an establishment engaged in operating a track for racing, including but not limited to the racing of motor vehicles, dogs or horses.

423. OVERLAY ZONE means an area where certain additional requirements are superimposed upon a base zoning district or underlying district and where the requirements of the base or underlying district may or may not be altered.

425. PARCEL. See LOT.

427. PARK OR PLAYGROUND means a public, noncommercial park, playground or open space. This term does not include a community center, festival grounds, indoor or outdoor recreation facility or sports facility.

295-201-429 Zoning

429. PARKING LOT, ACCESSORY USE means surface parking spaces for 5 or more light motor vehicles, and adjacent access drives and aisles, where the parking spaces are not located in a structure and the parking of motor vehicles is not the principal use of the premises. This term does not include commercial parking operations, which shall be considered a principal use, or the parking of heavy motor vehicles, but does include outdoor operating areas of light motor vehicle-oriented uses, such as filling stations, car washes and drive-through facilities.

431. PARKING LOT, PRINCIPAL USE means surface parking spaces for 5 or more light motor vehicles, and adjacent access drives and aisles, where the parking spaces are not located in a structure and the parking of motor vehicles is the principal use of the premises. This term includes both commercial parking operations and private surface parking lots, but does not include the parking of heavy motor vehicles.

435. PARKING SPACE, OFF-STREET means any motor vehicle parking space that is located on the same premises as the use it serves and is not located on public right-of-way.

437. PARKING STRUCTURE, ACCESSORY USE means parking spaces and adjacent access drives, aisles and ramps that are located in a structure with 2 or more levels, where the parking structure is not the principal use of the premises. This term does not include private one-story garages for single-, 2- or multi-family dwellings but does include parking spaces that are integrated into a larger structure that houses the principal use of the premises.

439. PARKING STRUCTURE, PRINCIPAL USE means parking spaces and adjacent access drives, aisles and ramps that are located in a structure with 2 or more levels, where the parking structure is the principal use of the premises. This term includes commercial parking operations as well as private parking structures. This term does not include private one-story garages for single-, 2- or multi-family dwellings.

441. PASSENGER TERMINAL means a facility for passenger transportation operations, including but not limited to a passenger rail station, bus terminal or passenger ship terminal. This term includes a bank, general retail establishment, personal service, light motor vehicle rental facility, tavern, fast-food/carry-out restaurant or sit-down restaurant when any such use is an accessory use located within the terminal structure. This term does not include an airport or heliport.

443. PAWN SHOP means an establishment primarily engaged in the business of lending money on the deposit or pledge of any article or jewelry, or purchasing any article or jewelry with an expressed or implied agreement or understanding to sell it back at a subsequent time at a stipulated price, and which is licensed as a pawnbroker by the state of Wisconsin pursuant to s. 134.71, Wis. Stats.

445. PAYDAY LOAN AGENCY means an establishment licensed by the Wisconsin department of financial institutions under s. 138.14, Wis. Stats., to originate or service payday loans.

447. PEDESTRIAN LINK means a clearly defined pedestrian walkway between the public sidewalk and a building entrance.

447.5. PERGOLA means a vertical structure without a solid roof or solid walls, but which may include lattice. It is typically used for decoration, to provide support for plants, or to frame a view.

448. PERMANENT SUPPORTIVE HOUSING means multi-family housing that is not transitional housing or housing licensed by the state of Wisconsin, in which on-site services, such as case management and peer support, are available to tenants who are disabled or at risk of homelessness, and who are living independently.

449. PERSON means any individual, partnership, firm, organization, association, corporation or limited liability company, its agents or assigns or other legal entity capable of holding either legal or equitable title to real property.

451. PERSONAL SERVICE ESTABLISHMENT means an establishment providing services which are of a recurring and personal nature to individuals. This term includes, but is not limited to, a barber shop, beauty salon, shoe repair shop, seamstress, tailor, fortune teller, tanning salon, massage establishment, body piercing establishment or tattoo establishment. This term does not include a portrait studio, dry cleaning establishment, laundromat, photocopy center, health club or repair shop for household items.