

CITY OF SOUTH MILWAUKEE

23-1

CHAPTER 23
PUBLIC PEACE AND SAFETY

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23.01 RIOT - DISORDERLY ASSEMBLAGE. Any person who shall make or aid in making any riot, noise or disturbance or who shall aid or countenance any disorderly assemblage in the City of South Milwaukee shall, upon conviction, pay a fine of not less than \$1.00 nor more than \$200.00 and the cost of prosecution for each offense, and in default of payment of such fine, shall be confined in the House of Correction for a period not to exceed 30 days.

23.04 DISCHARGE OF FIREARMS PROHIBITED.

- (1) No person shall fire or discharge any rifle, gun or fowling piece, pistol, firearm, or air rifle of any kind or description within the City of South Milwaukee, except that the Common Council may grant permission to fire or discharge firearms for practice shooting or target practice at specific places. The Council reserves the right to revoke such permission without cause.
- (2) Any person who shall violate any of the provisions of this section shall, upon conviction, pay a fine of not less than \$1.00 nor more than \$200.00 and the cost of prosecution for each offense, and in default of payment of such fine, shall be confined in the House of Correction for a period not to exceed 30 days, and in addition to such penalties, the Police Justice may, in his discretion, confiscate the firearm or air rifle used by, or in possession of, the person convicted of any such violation.

23.05 SMOKING IN PUBLIC VEHICLES PROHIBITED.

- (1) It shall be unlawful for any person to smoke any cigar, pipe or cigarette, or carry any lighted cigar, pipe or cigarette within the enclosed section of any interurban car or any motor propelled vehicle used in the business of transportation of passengers as a common carrier for compensation operated in the City of South Milwaukee. These provisions shall not apply to taxicabs or to interurban cars nor to motor propelled vehicles with smoking compartments specially provided. It shall be the duty of the Chief of Police and the Medical Advisor to enforce the provisions of this section.
- (2) It shall be the duty of the person, firm or corporation having control of any interurban car or any motor propelled vehicle used in the transportation of passengers, as a common carrier for compensation, to cause to be painted in a conspicuous place of any such car or motor propelled vehicle, the following: "No Smoking - Municipal Ordinance".
- (3) Any person who shall violate any provision of this section shall, upon conviction, pay a fine of not less than \$1.00 nor more than \$200.00 and the cost of prosecution for each offense, and in default of payment of such fine, shall be confined in the House of Correction for a period not to exceed 30 days. (1) & (2) Am. 10/29/53, 499

23.06 FALSE ALARMS PROHIBITED.

- (1) It shall be unlawful for any person to give or cause to be given a false alarm with intent to deceive, or to pull the lever of any fire alarm signal box except to signal the Fire Department or Police Department in case of fire or necessity for the services of either said departments, and except where repairs or testing is being done by officers and employees of the City, or to tamper, meddle, or interfere in any way with said boxes, or any part thereof, or to cut, injure, break, deface or remove any of said boxes, or any of the wires or supports thereof connected with any part of said system; or to make any connection or communication therewith so as to interrupt or interfere with the proper working of said systems, or with evil intent to injure, break or destroy any machinery or fixtures connected with said system.

- (2) Any person who violates any provisions of this section shall, upon conviction, pay a fine of not less than \$1.00 nor more than \$200.00 and the cost of prosecution for each offense, and in default of payment of such fine, shall be confined in the House of Correction for a period not to exceed 30 days.

23.07 RUBBISH ACCUMULATION PROHIBITED.

- (1) It shall be unlawful for any person within the City of South Milwaukee to permit the accumulation upon his premises of paper, rags, empty boxes, barrels, rubbish, trash, wastepaper, excelsior, or other combustible or explosive materials or anything which might cause a hazard to health or safety.
- (2) Whenever there shall be found in any building or upon any premises any accumulation of paper, rags, empty boxes, barrels, rubbish, trash, anything which is liable or apt to cause or aid in the spreading of fire or inflammable conditions, dangerous to the safety of such buildings or premises, or adjacent or surrounding buildings or premises, or the occupants thereof, or is liable to endanger or hinder firemen in the case of a fire, or is a hazard to the health of the occupants or the public, the Chief of the Fire Department, if the condition is a fire hazard, or the Medical Advisor, if the condition is a health hazard, shall serve a written notice upon the owner or occupant of said premises ordering the removal of the same within a reasonable time, to be specified within said order. If such condition be not removed at the expiration of the period of time stated in the notice, it shall be deemed a nuisance and the Chief of the Fire Department or the Medical Advisor, are authorized to have the same removed by the City and the cost of said removal shall be recovered in an action by the City against the owner or occupant of the property.
- (3) Any person who violates any provision of this section shall, upon conviction, pay a fine of not less than \$1.00 nor more than \$200.00 and the cost of prosecution for each offense, and in default of payment of such fine, shall be confined in the House of Correction for a period not to exceed 30 days.

23.08 ZONES OF QUIET ESTABLISHED.

- (1) There are hereby created and established zones of quiet in all territory embraced within a distance of 250 feet of every hospital within the City of South Milwaukee.
- (2) It shall be the duty of the City Engineer of the City of South Milwaukee to place or cause to be placed on lamp posts or some other conspicuous place at a distance of not more than 250 feet in each direction from every hospital in the City of South Milwaukee, signs or placards displaying the words "Hospital - Zone of Quiet".
- (3) Any person who shall make or cause to be made any loud, disturbing or unnecessary noise, sound or commotion within a zone of quiet shall, upon conviction, pay a fine of not less than \$1.00 nor more than \$200.00 and the cost of prosecution for each offense, and in default of payment of such fine, shall be confined in the House of Correction for a period not to exceed 30 days.

23.09 BARBED WIRE FENCES PROHIBITED.

- (1) It is declared necessary in the interests of public safety and welfare that the use of barbed wire in the building or repair of fences in residential districts be prohibited.
- (2) It shall be unlawful for the owners of any premises located in any part of the City of South Milwaukee to construct or maintain any fence constructed in whole or part of barbed wire unless the barbed wire is more than six feet above the ground.
- (3) Any fence now erected or maintained in violation of subsection (2) hereof is declared to be a nuisance and the owner hereof is hereby required to remove the same within 15 days after the effective date of this section.
- (4) Any person who violates any provision of this section shall, upon conviction, pay a fine of not less than \$1.00 nor more than \$200.00 and the cost of prosecution for each offense, and in default of payment of such fine, shall be confined in the House of Correction for a period not to exceed 30 days. Each day's violation of the provisions of this section shall constitute a separate offense. Upon conviction, the police are hereby authorized to enter upon the premises of the owner, in the event he does not remove the barbed wire promptly after conviction, and remove the barbed wire from the fence constituting a violation of this section.

23.10 LOCOMOTIVE WHISTLES RESTRICTED.

- (1) It shall be unlawful for any person, engineer, firm or corporation to sound or blow, or cause to be sounded or blown, or to assist in sounding or blowing within the limits of the City of South Milwaukee the whistle of any locomotive or steam engine while approaching and crossing any public street which is protected by either gates or watchmen, or both, except that such whistle may be sounded or blown as an emergency signal to employees.
- (2) Any person, engineer, firm or corporation who violates any provision of this section shall, upon conviction, pay a fine of not less than \$1.00 nor more than \$200.00 and the cost of prosecution for each offense, and in default of payment of such fine, shall be confined in the House of Correction for a period not to exceed 30 days.

23.11 LIMITING THE NUMBER OF DOGS AND CATS. (Repl. & Recreated, 1967)

- (1) Except as provided in paragraph (2) hereof, no individual or family unit living together, firm or corporation occupying shall keep more than a total of three (3) dogs and cats, said total of three (3) to consist of not more than two (2) dogs or two (2) cats upon any premises with the exception that a litter of pups or kittens, or a portion of a litter, may be kept for a period of time not exceeding five (5) months from birth.
- (2) No individual or family unit living together in a single-family home shall keep more than a total of three (3) dogs or three (3) cats or a combination of dogs and cats totaling not more than (3) animals upon any premises with the exception that a litter of pups or kittens, or portion of the litter, may be kept for not more than five (5) months from birth.
- (3) 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 the purposes of enforcement of this chapter, to be the owner of the animal. Such owner is responsible for licensing the animal and for properly caring for and restraining the animal.
- (4) Pet shops as allowed pursuant to Chapter 15 of the South Milwaukee Code are exempt from the dog and cat limitations of this section.
- (5) All dog and cat owners shall maintain the following conditions:
 - a. All animals shall be maintained in a healthy condition or, if ill, shall be given appropriate treatment immediately.
 - b. The quarters in which the animals are kept shall be maintained in a clean condition and in a good state of repair.
 - c. Animal pens or enclosures shall be large enough to provide freedom of movement to the animals contained therein.
 - d. Food supplies shall be stored in rodent proof containers and food and water containers shall be kept clean.
 - e. Litter or bedding material shall be changed as often as necessary to prevent an odor nuisance.
 - f. Feces shall be removed from yards, pens and enclosures daily and more often, if necessary, and stored in tightly covered metal containers until final disposal.
 - g. Yards, pens, premises and animals shall be kept free of insect infestations.
 - h. No odor or noise nuisance shall be permitted.
 - i. All premises shall be maintained and operated in a nuisance free manner.
- (6) Any person who violates any provision of this Section shall be subject to a forfeiture of not less than Ten Dollars (\$10.00) nor more than One Thousand Dollars (\$1,000.00). Each day a violation continues constitutes a separate offense. The Court, in addition, shall have the authority to a) require restitution for the cost of removal of any animals in excess of the number herein permitted at the rate of the fee amount imposed by the Common Council in its Administrative Fee Schedule for animal removal and b) impound the animals on the premises or in the household that is in violation of the maximum number of dogs permitted in this Section, or which is in an unsafe or unsanitary condition, all in accordance with the impounding provisions of Wis. Stats. 174.046.

23.13 GO-KART TRACKS REGULATED.

- (1) No person, firm or corporation shall, within the limits of the City of South Milwaukee, construct, maintain or operate or cause to be so constructed, maintained or operated, any track or area designed for the purpose of operating motor vehicles thereon, for a consideration or otherwise, unless such person, firm or corporation shall have a license then in force authorizing the construction, maintenance and operation of such track or area, issued by the City Clerk by authority of the Common Council.

For the purpose of this ordinance, the term "Motor Vehicle" shall include any and all power driven conveyances.

(2) LICENSES.

- (A) Application. A written application for a license to construct, maintain and operate such track or area shall be filed with the City Clerk upon forms provided by the said Clerk, and all of the questions in the application must be answered fully. Such application shall be properly signed and sworn to before a Notary Public or other official authorized to administer oaths.
- (B) Inspection and Investigation. The City Clerk shall notify the Chief of Police, Chief of the Fire Department and the City Engineer of such application, and these officials shall inspect or cause to be inspected each application and the premises covered thereby to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto. These officials shall furnish to the Common Council in writing the information derived from such investigation accompanied by a recommendation as to whether a license should be granted or refused.
- (C) Issuance. No such license shall be granted where it appears from the investigation that the applicant is of unsound moral character; that any information furnished in the application is false or incomplete in a material respect; that the applicant is under the age of 21 years or where the investigation disclosed any conduct of such track or area by the applicant would be detrimental to the welfare and best interests of the public.
- (D) Fees. The fee for such track or area license shall be \$10.00 per year for each track licensed to any such person, firm or corporation. The license year shall be from July 1 to the next succeeding June 30. For the purpose of this paragraph, each track in excess of one constructed, operated or maintained by the same person, firm or corporation on a single tract of land or several connected tracts of land shall be considered additional tracks.
- (3) CONSTRUCTION. Each track which shall be constructed for the purpose of operating "motor vehicles" as herein defined shall be enclosed by a fence not less than four feet in height and of suitable strength so as to aid in preventing spectators from being injured by accidents occurring on such track. In addition, if such track is of any shape other than circular or oval, track lanes which are close proximity to each other and upon which vehicles move in opposite directions shall be separated by suitable bumpers so that vehicles shall be prevented from crossing over.

- (4) **RACING PROHIBITED.** Any such licensed track or area shall be used for amusement purposes only and no racing shall be authorized by the licensee.
- (5) **MUFFLERS.** All vehicles operated on such track or area shall be equipped with a muffler as defined in Section 347.39, Wisconsin Statutes, which must give results equivalent to or better than those of a Clinton Muffler, Model 2220A. In addition, such track operation shall be subject to the provisions of the South Milwaukee Code relating to noise.
- (6) **SPEED.** No motor vehicle shall be operated on such track or area at a speed in excess of 20 miles per hour, and all "Go-Karts", "Go-Boy Karts" or other such motor vehicles offered for use to the general public for a consideration or otherwise shall be equipped with a device or gear ratio so that such vehicle cannot be operated at a speed in excess of 20 miles per hour.
- (7) **PARKING.** For each such track or area, including multiple track areas, there shall be provided an off-street parking area for not less than 15 automobiles.
- (8) **HOURS OF OPERATION.** No motor vehicle shall be operated on such track or area prior to the hour of 10:00 A.M. or after the hours of 10:00 P.M. on Mondays through Saturdays, or prior to the hour of 12:00 Noon or after the hour of 10:00 P.M. on Sundays.
- (9) **LITTER PROHIBITED.** The track area, parking lots, and the entire area upon which such track is maintained and operated shall be kept clean, neat, orderly and at all times free of debris of any kind.
- (10) **INSURANCE.** The licensee shall provide and carry liability insurance to indemnify him against loss arising out of personal injury on such track or as a result of the operation of any motor vehicle in the licensed area and shall file with the City Clerk along with the application for a license, a certificate indicating that such insurance is in full force and effect with limits of at least \$25,000.00 for each injury.
- (11) **PERMITTED VEHICLES.** No motor vehicle shall be permitted on any such track at any time except such miniature motor vehicles denominated "Go-Karts", "Go-Boy Karts" or similar miniature single engine, minimum horse-power vehicles. The provisions of this paragraph shall not be construed to prohibit the operation of larger motor vehicles on such tracks for the purposes of maintenance and repair of such track.
- (12) **SUPERVISION AND RESPONSIBILITY.** It shall be the duty and responsibility of the licensee to require compliance with the terms of this ordinance by all persons making use of such track or area. Such licensee shall provide adequate supervision of all activity at such track. Such licensee or his authorized agent shall be in attendance at all times while such track is open and being operated.
- (13) **PENALTY.** Any person, firm or corporation who, as licensee, permits or fails to prevent a violation of any section or subsection of this ordinance shall be assessed a forfeiture of not less than \$1.00 nor more than \$200.00 plus the costs of prosecution for each and every offense or, in case of default of payment of such fine and costs, shall be imprisoned in the House of Correction for a period not to exceed 60 days. Cr. 08/11/60, 650

23.14 PENALTY. Any person, firm or corporation who violates any provision of Sections 23.11 or 23.12 shall, upon conviction, pay a fine of not less than \$1.00 nor more than \$200.00 and the cost of prosecution for each offense, and in default of payment of such fine, shall be confined in the House of Correction for a period not to exceed 30 days.

23.15 VEHICULAR PARKING AND JUNK AUTOMOBILES.

(A) DEFINITIONS.

- (1) "A vehicle not in safe operating condition" means a motor vehicle which does not meet the requirements and standards of Chapter 347 of the Wisconsin Statutes relating to equipment of vehicles.
- (2) "Disabled motor vehicle" means any one or more of, but not limited to, the following:
 - (a) Motor vehicle not having affixed thereto the current valid state registration plates for the motor vehicle;
 - (b) Disabled or not currently operable motor vehicle, whether or not having affixed thereto the current valid state registration plates for the motor vehicle;
 - (c) Any vehicle not in safe operating condition.
- (3) "Improved parking area" means that portion of a front or side yard which is paved with asphalt, concrete or stone and devoted to a driveway, and that portion of a rear yard which has been improved for parking purposes by paving with stone, asphalt or concrete.

(B) DISABLED MOTOR VEHICLES - TIME LIMIT FOR PARKING OR STORAGE. The parking, storage, or accumulation of any disabled motor vehicle of whatsoever kind or parts thereof outside of a building on any premises or lot which has not been granted a junk yard permit in any zoning district of the city for a period of time exceeding 14 days in any one calendar year is prohibited with the following exceptions:

- i. Additional periods of storage of disabled motor vehicles beyond 14 days may be permitted provided a detailed written application is made to and approved by the Board of Appeals. The Application to the Board of Appeals shall be submitted with the fee shown in the most recently adopted schedule of Administration Services and Fees. Extended permission may be granted on such conditions as the board deems reasonable. However, in no event shall permission be granted to store the vehicle or part in any part of any residential premises which is not an improved parking area within the meaning of this ordinance and in no event shall the Board of Appeals permit the outside storage of more than one disabled motor vehicle, or major component thereof, on a premises in any zoning district for more than 60 days.
- ii. Any commercial premises on which an auto body repair shop is a permitted use may store a damaged vehicle to be repaired for up to 90 days. Storage of a vehicle beyond this 90 day limit can be permitted by the Board of Appeals but in no event shall the board grant an extension of greater than 60 days.

- iii. The provisions of this ordinance shall not apply where the owner of the property is also the owner of a vehicle is licensed under Sec. 341.14(2m) or 341.14(4) Wis. Stats. and is the owner of parts on the owned premises which are permitted by Sec. 341.266 or 341.268 Wis. Stats.

Section 23.15 (B) Am. 03/06/90, 1456, Section 23.15 (B) Rpl. and Recr. 4/16/02, 1816.

- (C) **RESPONSIBILITY.** The owner or lessee of any disabled motor vehicle or parts thereof and the owner, agent or tenant of any premises within any zoning district upon which such disabled motor vehicle or parts thereof are parked, stored or maintained, shall be individually responsible for complying with the provisions of Section 23.15(A) through 23.15(B).
- (D) **PENALTIES.** Any person, firm or corporation who violates the provision of Sections 23.15(A) through 23.15(C) shall, upon written notice from the Police Department, remove the vehicle or parts thereof within 10 days of the date of the notice or shall pay a forfeiture of not less than \$10.00 nor more than \$200.00 for each offense, and each day that such violation continues shall be considered as a separate offense.
- (E) **VEHICLE ABANDONMENT PROHIBITED - REMOVAL - DISPOSAL.**
- (1) No person shall leave any non-operable, wrecked, disabled or junked motor vehicle on any street, alley or public place within the city for more than 24 hours.
- (2) No person shall leave unattended any motor vehicle, trailer, semi-trailer or mobile home on any public highway or private or public property, for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. Whenever any vehicle has been left unattended on a public street without the permission of the City for more than 48 hours, the vehicle is deemed abandoned and constitutes a public nuisance. Whenever any vehicle has been left unattended on private property without permission of the property owner for more than 24 hours, the vehicle is deemed abandoned and constitutes a public nuisance.
- (3) Any vehicle in violation of this section shall be impounded until lawfully claimed or disposed of under sub. (3) except that if it is deemed by the Chief of Police or his designee that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the expiration of the impoundment period upon determination by the Chief of Police that the vehicle is not stolen or otherwise wanted for evidence or other reason. All substantially complete vehicles in excess of 19 model years of age shall be disposed of in accordance with sub. (4)(C).
- (4) The owner of any vehicle abandoned contrary to the provisions herein shall be fined not less than \$50.00 nor more than \$200.00 for each 24 hours of violation plus the costs of towing and impoundment, and on failure to pay, may be imprisoned not more than 60 days in the House of Correction.
- (a) Any police officer who discovers any motor vehicle, trailer, semi-trailer or mobile home on any public highway or private or public property which has been abandoned shall cause the vehicle to be removed to a suitable place of impoundment. Upon removal of the vehicle, the officer shall notify the Chief of Police of the abandonment and of the location of the impounded vehicle.

- (b) The owner of any abandoned vehicle, except a stolen vehicle, is responsible for the abandonment and all costs of impounding and disposing of the vehicle.
- (c) Any vehicle which is deemed abandoned by a duly authorized City of South Milwaukee representative and not disposed of under sub. (2) shall be retained in storage for a minimum period of 10 days after certified mail notice has been sent to the owner and lienholders of any record to permit reclamation of the vehicle after payment of accrued charges. Such notice shall set forth the year, make, model and serial number of the abandoned motor vehicle, the place where the vehicle is being held, and shall inform the owner and any lienholders of their right to reclaim the vehicle. The notice shall state that the failure of the owner or lienholders to exercise their rights to reclaim the vehicle under this section shall be deemed a waiver of all right, title and interest in the vehicle and a consent to the sale of the vehicle. Each retained vehicle not reclaimed by its owner or lienholder may be sold. The City of South Milwaukee may dispose of the vehicle by sealed bid or auction. At such sale, the highest bid for any such motor vehicle shall be accepted unless the same is deemed inadequate by a duly authorized City of South Milwaukee representative, in which event, all bids may be rejected. If all bids are rejected or no bid is received, the City of South Milwaukee may either re-advertise the motor vehicle at a private sale or junk the vehicle. Any interested person may offer bids on each abandoned vehicle to be sold. The public notice of the sale shall be published as a Class 2 Notice and a public notice shall be posted at the Office of the South Milwaukee Police Department. The posting of the notice at the Police Department shall be in the same form as the certified mail notice sent to the owner or lienholders of record. Upon sale of an abandoned vehicle, the City of South Milwaukee shall supply the purchaser with a completed form designed by the department enabling the purchaser to obtain a regular certificate of title for the vehicle. The purchaser shall have 10 days to remove the vehicle from the storage area but shall pay a reasonable storage fee established by the City of South Milwaukee for each day the vehicle remains in storage after the second business day subsequent to the sale date. Ten days after the sale, the purchaser shall be deemed to be abandoned and may be sold again. Any listing of vehicles to be sold by the City of South Milwaukee shall be made available to any interested person or organization which makes a written request for such list. The City of South Milwaukee may charge a fee for the list.
- (d) Within five days after the sale or disposal of a vehicle as provided in this subsection or sub. (2), the Police Department shall advise the Department of Transportation of the sale or disposition on a form supplied by the department.

(F) PROHIBITED PARKING AREAS

- (1) It shall be unlawful to park any vehicle, trailer, or equipment, as defined herein on any lawn or grass, or other yard that is not an improved parking area as defined in Section (A)(3) on any residentially zoned property or property however zoned if it is used for residential purposes.

(a) Vehicles or equipment shall include house trailers (campers); utility trailers, mobile homes, motor vehicles, trucks, passenger vehicles, motor homes, motorcycles, other trailers, boats, construction equipment, machinery, or any parts of the above.

(2) Limits of improved parking areas shall be as defined herein or under Chapter 15 (Zoning Code).

(a) Front, side, and rear yards of the primary structure shall not be used as an improved parking area except for a driveway extending from the public street or alley to a garage. The front yard of the primary dwelling shall be lawn or landscaping area, except for walkways connecting from sidewalks, roads or driveways to front of dwellings.

(b) The total area of yard used for parking and driveway purposes shall not exceed forty (40) percent of the larger of the required minimum or actual front or rear yard setback area, and shall not exceed 24 feet in width.

(c) Driveways and improved parking areas shall be a minimum of two (2) feet from a side (or rear) property line, except as noted herein.

(d) 1) Where a property has frontage and access to a public alley, a driveway or improved parking shall only be from the alley to the rear yard.

2) On a corner lot, improved parking shall only be from one side.

(3) Exceptions

a) Single family or two family dwellings that have side entry garages in front of a dwelling may exceed coverage by administrative review.

b) The City may approve an increase in front yard driveway coverage by administrative review when the increase would meet the intent of the code or where ordinance standards cannot be reasonably applied to the lot or create an unreasonable hardship based on the characteristics of the premises and/or land. A hardship cannot be based on the number or type of vehicles owned by the occupants or owners. As part of such review, the owner or applicant may be required to add screening around the driveway to help hide the parking area and vehicles from view of adjacent properties or from the street. The property owner or applicant may use a privacy fence, landscaping, or other means to meet the requirements.

c) Properties that exceed the maximum coverage as of the date of this ordinance shall not expand the improved parking area. Property owners exceeding the maximum shall not be required to remove permanently paved improved areas and may use such areas for parking.

(4) Responsibility

The owner or lessee of any vehicle or equipment defined under Section (1)(a) and the owner, agent or tenant of any premises within any residential zoning district upon which such vehicle or equipment are parked, stored or maintained, shall be individually responsible for complying with the provisions of Section 23.15 (F).

(5) Penalties and Enforcement

a) Any person, firm or corporation who violates the provisions of Section 23.15 (F)(1) shall, upon written notice from the Police Department, remove the vehicle or equipment within 10 days of the date of the notice or shall pay a forfeiture of not less than \$10.00 nor more than \$200.00 for each offense, and each day that such violation continues shall be considered as a separate offense.

b) The City engineer and/or the Building Inspector shall be primarily responsible for reviewing compliance with Section 23.15 (F)(2) and enforcement of provisions as it pertains to limits of improved parking for new construction or expansion of improved parking for previously developed properties.

Created, 12/2/2008, 1983

23.16 LOITERING OF MINORS.

- (1) 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, vacant lots or any public places in the City of South Milwaukee, either on foot or in or upon any conveyance being driven or parked thereon, between the hours of 11:00 P.M. and 5:00 A.M. of the following day, official City time, unless accompanied by his or her parent, guardian or other adult person having his or her care, custody or control, or unless performing an errand or duty if directed by his parent or guardian, or of urgent necessity, or unless pursuing the duties of his employment in an expeditious and orderly manner, or unless going directly home from places of business or amusement or private homes, or the minor is participating in , or going to or returning from, the exercise of religion or the exercise of any of the minor's rights protected under the First Amendment of the United States Constitution under article 1, Sec. 3,4, or 18 of the Wisconsin Constitution. 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. Amd. 12/18/07, 1960
- (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, vacant lots or any public places in the City of South Milwaukee between the hours of 11:00 P.M. and 5:00 A.M. of the following day, official City time, unless the said person under the age of 17 years is accompanied by his or her parent, guardian or other adult person having his or her care, custody or control; provided that any parent, guardian or other person herein 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 Section 23.16(1).
- (3) **PENALTY.** Any person under the age of 17 years violating the provisions of Section 23.16(1) shall be referred to the proper authorities as provided in Chapter 48 of the Wisconsin Statutes.
- (4) **PENALTY.** Any person, firm or corporation violating Section 23.16(2), upon conviction thereof, shall be fined not less than \$10.00 nor more than \$200.00, and in default of payment thereof, be confined in the House of Correction not more than 30 days.

23.167 CHILD SEX OFFENDER RESIDING WITHIN 1000 FEET OF SCHOOLS, DAY-CARE CENTERS, PARKS AND OTHER SPECIFIED FACILITIES AND CHILD SAFETY ZONES.

§ 167-1. Purpose.

§ 167-2. Definitions.

§ 167-3. Residency restrictions.

§ 167-4. Residency exceptions.

- § 167-5. Original domicile restriction.
- § 167-6. Child safety zones.
- § 167-7. Violations.
- § 167-1. Purpose.

This Chapter is a regulatory measure aimed at protecting the health and safety of children in South Milwaukee from the risk that convicted sex offenders may re-offend in locations close to their residences. The City finds and declares that sex offenders who prey upon children are a serious threat to public safety. When convicted sex offenders reenter society, they are much more likely than any other type of offender to be re-arrested for a new sexual assault. Given the high rate of recidivism for sex offenders and that reducing opportunity and temptation is important to minimizing the risk of reoffense, there is a need to protect children where they congregate or play in public places in addition to the protections afforded by state law near schools, and other places children frequent. The City finds and recognizes that in addition to schools, children congregate or play at public parks. Amended 2/7/12, 2041

§ 167-2. Definitions.

As used in this Chapter and unless the context otherwise requires:

A “crime against children” shall mean any of the following offenses set forth within the Wisconsin Statutes, as amended, or the laws of this or any other state or the federal government, having like elements necessary for conviction where the victim is a child:

- §940.225(1) First Degree Sexual Assault;
- §940.225(2) Second Degree Sexual Assault;
- §940.225(3) Third Degree Sexual Assault;
- §940.30 False Imprisonment-victim was minor and not the offender’s child;
- §940.31 Kidnapping-victim was minor and not the offender’s child;
- §948.02(1) First Degree Sexual Assault of a Child;
- §948.02(2) Second Degree Sexual Assault of a Child;
- §948.025 Engaging in repeated Acts of Sexual Assault of the Same Child;
- §948.05 Sexual Exploitation of a Child;
- §948.055 Causing a Child to View or Listen to Sexual Activity;
- §948.06 Incest with a Child;
- §948.07 Child Enticement;
- §948.075 Use of a Computer to Facilitate a Child Sex Crime;
- §948.08 Soliciting a Child for Prostitution;
- §948.095 Sexual Assault of a Student by a School Instructional Staff;
- §948.11(2)(a) or (am) Exposing Child to Harmful Material-felony sections;
- §948.12 Possession of Child Pornography

B. “Residence” (reside) means the place where a person sleeps, which may include more than one location, and may be mobile or transitory.

§ 167-3 Residency restrictions.

No person who has been convicted of or been found not guilty by reason of a mental defect of disease of a crime against children as defined herein shall reside within 1000 feet of the real property comprising of any of the following:

- A. Any facility for children (which means a public or private school) and/or
Amended 2/7/12, 2041
- B. Any facility used for:
 - (1) a public park or parkway;
 - (2) a public swimming pool;

- (3) a public library;
- (4) Deleted, 2/7/12, 2041
- (5) a public playground;
- (6) a school for children;
- (7) athletic fields used by children;
- (8) Deleted, 2/7/12, 2041
- (9) aquatic facilities open to the public.

The distance shall be measured from the closest boundary line of the real property supporting the residence of a person to the closest real property boundary line of the applicable above enumerated use(s). A map depicting the above enumerated uses and the resulting residency restriction distances, as amended from time to time, is on file in the Office of the City Clerk for public inspection.

§ 167-4. Residency exceptions.

A person residing within 1000 feet of the real property comprising any of the uses enumerated in § 167.3 above, does not commit a violation of this Chapter if any of the following apply:

- A. The person has established a residence prior to the effective date of this Chapter on August 30, 2007, which is within 1000 feet of any of the uses enumerated in § 167-3. above, or such enumerated use is newly established after such effective date and it is located within such 1000 feet of a residence of a person which was established prior to the effective date of this Chapter.
- B. The person is a minor or ward under guardianship or the offense occurred when the person was a minor and the conviction was in a juvenile court. Amended, 5/6/08, 1968

§ 167-5. Original domicile exemption.

In addition to and notwithstanding the foregoing, a person who has been convicted of a crime against children shall be permitted to reside in the City of South Milwaukee if such person was domiciled in the City of South Milwaukee at the time of the offense resulting in the person's most recent conviction for committing the crime against children.

§ 167-6. Child safety zones.

No person who as an adult has been convicted of or been found not guilty by reason of mental defect or condition of a crime against children as defined in this chapter shall enter or be present upon any real property upon which there exists any of the following facilities:

- (1) a public playground;
- (2) a school for children;
- (3) athletic fields used by children;
- (4) Deleted, 2/7/12, 2041;
- (5) Any public or private school. Amended 2/7/12, 2041

§ 167-7. Violations.

For the reasons stated in both the Purpose and Preamble of Ordinance No. 1944, the Common Council of the City of South Milwaukee finds that violations of the residence restrictions of this ordinance which continue for more than 30 days after notice of the violation constitute an activity or use of property that interferes substantially with the comfortable enjoyment of life, health, safety of another or others and constitute a public nuisance. If a person violates § 167-3 above, by establishing a residence or occupying residential premises within 1000 feet of those premises as described therein, without any exception(s) as also set forth above, the City Attorney, upon referral from the Chief of Police, shall bring an action in the name of the City in the Circuit Court of Milwaukee County to permanently enjoin such residency as a public nuisance. If a person violates § 167-6 above, in addition to the aforesaid injunctive relief, such person shall be subject to a forfeiture of not less than \$100 nor more than \$1000 for each violation. Each day a violation continues shall constitute a separate offense. In addition, the City may undertake all other legal and equitable remedies to prevent or remove a violation of this Chapter.
Amended 2/7/12, 2041

§ 167-8. Severable provisions.

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.
Created 8/21/07, 1944

23.18 DEFINITIONS. As used in this ordinance, unless the context indicates otherwise:

- (1) "Collar" means a band, strip or chain placed around the neck of a dog.
- (2) "Department" means the Department of Agriculture, Trade and Consumer Protection.
- (3) "Livestock" means any horse, bovine, sheep, goat, pig, domestic rabbit or domestic fowl, including game fowl raised in captivity.
- (4) In addition to and as a supplement to any other definition of the term "owner" in this chapter, the term "owner" shall also mean 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.

Repealed 04/21/98, 1705; Created 04/20/99, 1735

23.19 RABIES CONTROL. Rep. & Recr. 06/01/99, 1737, 5/15/12, 2048

A. DEFINITIONS. As used in this section, the following terms shall have the meaning indicated:

ISOLATION FACILITY

A humane society shelter, MADACC, veterinary hospital, municipal pound or other place specified by an officer which is equipped with a pen or cage which isolates an animal from contact with other animals.

OFFICER

A police officer, health officer or any other person designated by the City.

OWNER

A person , who owns, harbors, keeps or controls an animal

B. PROVISIONS AND REQUIREMENTS

- (1) The provisions of Wisconsin State Statute Sec. 95.21 are hereby adopted and by reference made part of this Code as if fully set forth herein.
- (2) The owner of an animal shall comply with the provisions of Sec. 95.21 Wis. Stats.
- (3) Any person who suspects that an animal is infected with rabies or has been exposed to rabies infection shall notify an officer who shall take appropriate action as required under Sec. 95.21 (4), Wis. Stats. Any domestic animal that is bitten or scratched by a bat or by a wild, carnivorous mammal that is not available for testing is presumed to have been exposed to a rabid animal.
- (4) Any officer may kill or impound any dog, cat or ferret which he believes, from the appearance or conduct of such dog, cat or ferret to be infected with rabies.
- (5) Any officer may order killed or may kill an animal other than a dog, cat or ferret if the officer has reason to believe that the animal bit a person or is infected with rabies.
- (6) Any person who suspects that any dog, cat or ferret is infected with rabies shall report to the police or health authorities, describing the dog, cat or ferret and giving the name of the owner, if known. Any such dog, cat or ferret shall, upon demand of any officer, be delivered to such officer.
- (7) No person shall knowingly harbor or keep any dog, cat or ferret infected with rabies or any dog, cat or ferret known to have been bitten by any animal known to have been infected with rabies. No person shall fail to report to the police or health authorities the existence of a dog, cat or ferret known to be infected with rabies.

C. RABIES VACCINATION REQUIRED. Every dog, cat or ferret owned or kept in the City shall be vaccinated against rabies by a veterinarian within 30 days after the animal reaches 4 months of age. If the owner obtains the dog, cat or ferret or brings it into the city after the animal reaches 4 months of age, the owner shall have the animal vaccinated against rabies with 30 days after the animal has been obtained or brought into the city, unless the animal has been vaccinated, as evidenced by a current certificate of rabies vaccination. Regardless of the age at initial vaccination, a second vaccination should be given one year later. Every dog, cat or ferret shall be revaccinated according to the recommendation of the vaccine used by the veterinarian administering such vaccinations or before the date that the immunization expires, as stated on the certificate of vaccination.

D. DOGS, CATS OR FERRETS BITING PERSONS. Every owner or keeper of a dog, cat or ferret that has bitten any person and every other person who knows that a dog, cat or ferret has bitten any person shall immediately in writing report such fact to an officer, and such owner or keeper shall immediately confine such dog, cat or ferret for at least 10 days thereafter and shall not release such dog, cat or ferret except with the written approval of the officer. Any such dog, cat or ferret shall be surrendered to the officer upon demand.

E. RISK TO ANIMAL HEALTH.

- (1) If a dog, cat or ferret is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal and if the dog, cat or ferret is not currently immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for 180 days. The owner shall have the animal vaccinated against rabies between 155 and 165 days after the exposure to a rabid animal.

- (2) If a dog, cat or ferret is ordered to be quarantined because there is reason to believe that the animal has been exposed to a rabid animal but if the dog, cat or ferret is immunized against rabies, the custodian of an isolation facility or the owner shall keep the animal leashed or confined for 60 days. The owner shall have the animal revaccinated against rabies as soon as possible after exposure to a rabid animal.

F. DELIVER TO ISOLATION FACILITY OR QUARANTINE ON PREMISES OF OWNER. An officer who orders a dog, cat or ferret to be quarantined shall deliver the animal or shall order the animal delivered to an isolation facility as soon as possible but no later than 24 hours after the original order is issued or the officer may order the animal to be quarantined on the premises of the owner if the animal is immunized currently against rabies as evidenced by a valid certificate of rabies vaccination or other evidence.

G. PENALTIES. The penalty for violation of this ordinance shall be a forfeiture of not less than \$50.00 nor more than \$500.00 for first violation and not less than \$250.00 nor more than \$1,000.00 for any subsequent violation.

23.20 REGULATING VICIOUS DOGS. Rep. & Recr. 03/17/89, 1427, amended 4/17/07, 1940

- (1) "Owner" as used in this ordinance means any person, firm, corporation, organization or department possessing, harboring or having the care or custody, whether temporarily or permanently, of a dog.
- (2) "Vicious Dog" as used in this ordinance means a dog which, at any time or times, bites or has bitten 2 or more people, or a "dangerous dog" which unprovoked, bites a person, or a dog which has caused a serious injury to a person or a dog which has been found to be a vicious or dangerous dog in any other community.
- (2.1) "Serious injury" as used in this ordinance means any physical injury to a person that results in a major fracture, muscle tears, disfiguring lacerations or wounds, or requires multiple sutures or corrective or cosmetic surgery.
- (2.2) "Unprovoked" as used in this ordinance means that the circumstances demonstrate that the dog was not, at the time of the incident, being teased, attacked, tormented, abused or assaulted by a person.
- (3) "Dangerous Dog" as used in this ordinance means any dog which, unprovoked, causes an injury to a person less severe than those described in (2) above. "Dangerous Dog" as used in this ordinance also means any dog which, while off its owner's premises, attacks and injures a domestic animal. Amd. 1/17/08 1961
- (4) "Pit Bull" as used in this ordinance means: Any Pit Bull Terrier, which shall be defined as any dog with characteristics of an American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier breed of dog, or any mixed breed of dog which contains as an element of its breeding the breed of American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier as to be identifiable as partially of the breed of American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Bull Terrier.
- (5) "Animals Running at Large" as used in this ordinance means: An animal shall be deemed to be running at large when it is permitted to run off of the premises of the owner or keeper when it is not accompanied by a person having said animal under control on a leash.
- (6) "Untagged Animals" as used in this ordinance means: An animal is considered to be untagged if a valid license tag is not attached to a collar which is kept on the animal.

- (7) Prohibitions. No person shall harbor, keep or maintain within the City limits of the City of South Milwaukee any vicious dog. Any dog alleged to be vicious by virtue of an attack upon a human being shall be impounded as directed by the City of South Milwaukee Police Department until disposition of the charge issued by citation. Moreover, the owner of any dog found to be vicious in the trial of a charge of harboring a vicious dog, or by plea to such a charge shall be prohibited from returning that dog to the City of South Milwaukee, and if impounded within the City limits of the City of South Milwaukee, shall remove the dog from the City immediately upon an adjudication that the dog is a vicious dog.
- (8) (A) No person shall harbor, keep or maintain within the City limits of the City of South Milwaukee any Pit Bull which was not currently registered and licensed by the City of South Milwaukee on or before April 1, 1989. This prohibition shall not be applied to animals being transported through the City limits of the City of South Milwaukee within a one-hour period of time and to dogs exempted under Sec. 174.005 and 174.006.
- (B) A pup born to a female Pit Bull licensed and registered pursuant to paragraphs 8(A) and 13 hereof shall be removed from the City of South Milwaukee before the date on which it is required to be licensed pursuant to Chapter 174, Wis. Stats.
- (9) Any person having knowledge which he or she believes constitutes probable cause to believe that another is harboring, keeping or maintaining a Pit Bull, as defined in this ordinance, which was not registered with and licensed by the City of South Milwaukee as a Pit Bull on or before April 1, 1989, shall file with the Health Department a sworn statement setting forth the basis on which they believe the animal to be a Pit Bull, the name and address of the owner of the dog, and a description of the dog or a photograph of the dog. Upon receipt of such a sworn statement the agent of the Health Department designated by the Health Department to handle Pit Bull determinations or the City Code Enforcement Officer shall investigate the matter and if he/she determines that the dog in question is a Pit Bull as defined in these ordinances, and if the Pit Bull was not licensed as a Pit Bull before April 1, 1989, he/she shall issue a written order to the owner requiring the owner to remove the dog from the City. Any owner who objects to the determination of the Health Department agent or Code Enforcement Officer may appeal the determination to the Public Health Administrator or the Board of Health. Any such appeal shall not stay the order. Any person violating an order issued under this section shall be subject to a forfeiture of up to \$1000 for each day of non-compliance with the order. A citation alleging a failure to comply with an order issued pursuant to this section may be issued by any employee designated by the Health Department, by any police officer or by the City Code Enforcement Officer.
- (10) Any person may petition the City Health Department to declare a dog dangerous. Upon receipt of the sworn statement of any person setting forth the nature and date of the act, the name and address of the owner and a description of the dog, the agent of the Health Department designated by the Health Department to handle Dangerous Dog determinations or the City Code Enforcement Officer shall investigate the matter and if he/she determines that the dog in question is a dangerous dog as defined in these ordinances, he/she shall issue a written order to the owner requiring the owner to comply with the dangerous dog provisions of this ordinance or in the alternative remove the dog from the City. Any owner who objects to the determination of the Health Department agent or Code Enforcement Officer may appeal the determination to the Public Health Administrator or the board of Health. Any such appeal shall not stay the order. Any person violating an order issued under this section shall be subject to a forfeiture of up to \$1000 for each day of non-compliance with the order. A citation alleging a failure to comply with the order issued pursuant to this section may be issued by any employee designated by the Health Department, by any police officer or by the City Code Enforcement Officer. Amended 1/20/15, 2097

- (11) No person shall return to or harbor within the City limits of the City of South Milwaukee a dog previously determined by the Municipal Court to be a vicious dog or a Pit Bull.
- (12) No dog shall be declared to be a vicious dog if the injury or damage was sustained by a person who, at the time, was teasing, tormenting, abusing or assaulting the dog, or which the dog was protecting its owner from attack by a human being. No dog shall be declared to be a dangerous dog if the proof of dangerousness concerns an incident where a person was teasing, tormenting, abusing or assaulting the dog, or which the dog was protecting its owner from attack by a human being.
- (13) All owners of dangerous dogs shall, annually on or before April 15th of each year, register their dog at the City Treasurer's Office and shall provide a current color photograph of the dog with the Treasurer's Office, provide proof of dog bite liability insurance in an amount of not less than \$100,000.00 and shall pay a registration fee in an amount established by resolution of the Common Council.
- (14) The owner of any Pit Bull registered and licensed by the City Treasurer on or before April 1, 1989 shall comply with all provisions of this ordinance applicable to dangerous dogs. Any owner of a Pit Bull who fails to keep current the dog's license and registration as provided in Paragraph 13 hereof must remove the dog from the City of South Milwaukee and will not be eligible to re-register the dog. The owner of any previously-permitted Pit Bull who fails to keep current the dog's license is subject to the penalties applicable to any Pit Bull not registered and licensed on April 1, 1989.
- (15) While on the owner's property, a dangerous dog must be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children, and designed to prevent the animal from escaping. Such pen or structure must have a minimum dimension of five feet by ten feet and must have secure sides and a secure top. If it has no bottom secured to the sides, the sides must be imbedded into the ground no less than two feet. The enclosure must also provide protection from the elements for the dog.
- (16) The owner or keeper of a dangerous dog shall display a sign on his or her premises facing out from all sides of the premises warning that there is a dangerous dog on the property. This sign must be visible and capable of being read from a public highway or thoroughfare or within 20 feet of its placement. In addition, the owner shall conspicuously display a sign with a symbol warning children of the presence of a dangerous dog.
- (17) A dangerous dog may be off the owner's premises only if it is muzzled and restrained by an approved lead or chain not exceeding three feet in length and is under the control, by leash, of an adult, able-bodied person. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.
- (18) It shall be the duty of such persons as from time to time may be designated by resolution of the Common Council to apprehend any unlicensed dogs. The South Milwaukee Police Department shall, whenever possible, see that such dogs are transferred to the Milwaukee Area Domestic Animal Control Facility (MADAC) at the earliest possible date where the dogs may be taken care of and reclaimed by the owner under the rules and regulations of said Animal Control Facility. When the dog is impounded by the City before being transferred to MADAC, the owner reclaiming the dog shall be required to pay an amount as established by resolution of the Common Council to the City of South Milwaukee. Rep. & Recr. 04/05/00, 1764

- (19) It shall be the duty of the South Milwaukee Police Department and such other persons as from time to time may be designated by resolution of the Common Council to apprehend any dangerous dogs running at large. Any dangerous dog found running at large shall be impounded and returned to its owner only upon proof of registration as a dangerous dog.
- (20) The owner of any dog previously determined to be dangerous found off the owner or custodian's premises, without a muzzle and/or unleashed and/or not in the control of an able-bodied adult, as required in this ordinance, shall, upon conviction, be subject to a forfeiture of not less than \$500.00 and not more than \$1,000.00.
- (21) In any event, when a dog is impounded, the impounding authority shall give notice to the owners of the impoundment and advise the owners whether and under what circumstances the dog may be redeemed. The owner of any animal impounded, confined or destroyed pursuant to the terms of this ordinance shall be responsible for all costs of such confinement, impoundment or destruction.
- (22) Whenever any person is charged with harboring a vicious dog or Pit Bull as defined in this ordinance, that person shall, to the satisfaction of the Court, remove said dog from the City of South Milwaukee until the trial of the citation. If the owner fails to remove the dog within 48 hours of the service of the citation, the South Milwaukee Police Department shall impound the dog until the trial on the citation. If the dog is determined by plea or trial to be a vicious dog or Pit Bull it shall not be returned to the City of South Milwaukee. Any dog returned to the City of South Milwaukee after being determined to be a vicious dog or a Pit Bull constitutes a public nuisance. Rep. & Recr. 10/06/92, 1522, amended 4/17/07, 1940
- (23) If the owner of a dog, not a Pit Bull and not a dog previously determined to be a dangerous dog, negligently or otherwise permits the dog to run at large or be untagged, the owner shall forfeit not less than \$25.00 nor more than \$100.00 for the first offense and not less than \$50.00 nor more than \$200.00 for subsequent offenses.
- (24) All dogs shall be licensed as provided in Sec. 23.21 to 23.24 of the City of South Milwaukee Municipal Code.
- (25) Violations and Penalties. Where any provision of this ordinance is violated and the violation precipitates impoundment of a dog, the owner shall pay all impoundment fees and in addition:
(A) Any person violating or committing violation of provisions of Paragraph 7 of this ordinance shall, upon conviction, be assessed a forfeiture of not less than \$250.00 nor more than \$1,000.00; (B) Any person violating or committing violation of provisions of Paragraphs 8 or 11 of this ordinance shall, upon conviction, be assessed a forfeiture of not less than \$250.00 nor more than \$1,000.00. Maintaining or keeping a vicious dog or Pit Bull within the City limits of the City of South Milwaukee after a finding in Municipal Court that the owner of that dog has violated any provision of this ordinance relating to vicious dogs or Pit Bulls is hereby declared to be a public nuisance.
- (26) Every day that a violation of this ordinance continues, it shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this ordinance shall pay all expenses including shelter, food, handling, veterinary care, and expert testimony fees necessitated by enforcement of this ordinance.
- (27) The provisions of this ordinance regarding dangerous and vicious dogs shall not apply to animals owned by law enforcement agencies and used for law enforcement purposes.

23.21 DOG AND CAT LICENSE TAX. Requirement. The owner of a dog or cat more than five (5) months of age on January 1 of any year or five (5) months of age within the license year shall annually, or on or before the date the dog or cat becomes five (5) months of age, pay the dog or cat license fee to the City Treasurer and obtain a license. The fee shall be as established by the Common Council by resolution. Rep. & Recr. 10/06/92, 1522

23.23 DOG LICENSES AND COLLAR TAGS.

- (1)(A) License Required. A dog license is necessary for the keeping of any dog over five (5) months of age.
- (B) Licenses. Upon payment of the required dog license tax, the collecting official shall complete and issue to the owner a license for the dog bearing a serial number and in the form prescribed by the department stating the date of its expiration, the owner's name and address, and the name, sex, spayed or unspayed, neutered or unneutered, breed and color of the dog.
- (C) Copies. The collecting official shall keep a duplicate copy of the licenses on file and shall immediately send to the County Clerk, or whatever agency the County Board may direct, a triplicate copy of the license.
- (D) Tag. After issuing the license, the collecting official shall deliver to the owner a tag of durable material bearing the same serial number as the license, the name of Milwaukee County and the license year.
- (E) Tags to be Attached. The owner shall securely attach the tag to a collar, and a collar with the tag attached shall be kept on the dog for which the license is issued at all times, but this requirement does not apply to a show dog during competition, to a dog securely confined indoors or to a dog securely confined in a fenced area.
- (F) Duplicate Tags. A new tag with a new number shall be furnished to the owner by a collecting official in place of the original tag upon presentation of the license. The collecting official shall then endorse the new tag number on the license and shall keep a record in the file.

23.24 ANIMAL WASTE. Renamed 04/21/98, 1705

- (1) It shall be unlawful for any person accompanying a dog to permit the dog to defecate upon any private or public place without the consent of the owner thereof unless the person accompanying the dog immediately cleans up and removes the defecation to the owner's property.

23.25 ANNOYING DOGS. Rep. & Recr. 04/21/98, 1705

- (1) It shall be unlawful for any person to keep an annoying dog in a manner which causes unreasonable annoyance to the neighborhood.
- (2) An annoying dog is one which, with provocation from a source not within the control of its keeper, barks, yelps or howls repeatedly.

23.26 ANIMALS RUNNING AT LARGE AND UNTAGGED. Cr. 06/07/94, 1568

- (1) Animals Running at Large. An animal shall be deemed to be running at large when it is permitted to run off of the premises of the owner or keeper when it is not accompanied by a person having said animal under control on a leash or by other means.
- (2) Untagged Animals. An animal is considered to be untagged if a valid license tag is not attached to a collar which is kept on the animal whenever the animal is outdoors unless the animal is securely confined in a fenced area.
- (3) (A) Each person owning or having custody of an animal shall have that animal on a leash and under control at any time the animal is off the owner's premises.

(B) Each person owning or having custody of an animal shall have that animal tagged as required in these ordinances.
- (4) It shall be the duty of every police officer and such other persons as from time to time may be designated by resolution of the Common Council to apprehend any unlicensed dogs, animals running at large, or pursuing any vehicle or assaulting or attacking any person contrary to the ordinances of the City of South Milwaukee. The Police Department shall, whenever possible, see that such dogs are transferred to the Milwaukee Area Domestic Animal Control Facility (MADAC), at the earliest possible date, where the dogs may be taken care of and reclaimed by the owner under the rules and regulations of said Animal Control Facility. When the dog is impounded by the City before being transferred to MADAC, the owner reclaiming the dog shall be required to pay an amount as established by resolution of the Common Council to the City of South Milwaukee. Rep. & Recr. 04/05/00, 1764
- (5) If the owner or person having custody of an animal permits the animal to run at large or to be untagged, the owner or the person having custody of the animal shall forfeit not more than \$100.00 for the first offense and not more than \$200.00 for subsequent offenses.

23.27 CRUELTY TO ANIMALS.

- (1) (A) No person shall cruelly beat, frighten, overburden or abuse any animal or bird, or use any device or chemical substance whereby pain, suffering or death may be caused, whether belonging to himself or another, except that restraining action pursuant to Section 23.19 may be used in restraining vicious 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 shall 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.
- (3) Shelter.

(A) No person shall fail to provide any animal or bird in his charge with shelter from inclement weather to ensure 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 must 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 degrees Fahrenheit, clean bedding material shall be provided in such shelters for insulation and to retain the body heat of the animal.
- (4) Leashes. Chains, ropes or leashes shall be so placed or attached that they cannot become 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. Such leash shall be located so not to allow such animal to trespass on public property or private property belonging to others, nor in such a manner as to cause harm or danger to persons or other animals.
- (5) Penalties. Any person violating any provision of this section or any person who shall fail, omit, neglect or refuse to obey any order issued pursuant to these sections shall, upon conviction, be subjected to a forfeiture. Such forfeiture shall not be more than \$200.00 for each offense together with the costs of disbursements of prosecution. Upon default or refusal to pay such forfeiture, such person shall be imprisoned in the County Jail or House of Correction for not less than 10 days nor more than 90 days.
- (6) The provisions of this section shall not apply to action directed by the Common Council in response to a threat posed by wild animals to the wellbeing of residents of South Milwaukee. Action determined by the Common Council to be the most reasonable course of action including extermination of the wild animals within the community is not prohibited by this ordinance. Cr. 2/24/05, 1877

23.28 ANIMALS TO BE VACCINATED – Repealed 5/15/12, 2048

23.29 PET SHOPS, KENNELS AND GROOMING ESTABLISHMENTS.

- (1) (A) Pet Shop Defined. The term "pet shop" as used herein shall mean any commercial establishment wherein animals or birds are kept or maintained for and prior to sale. This definition does not include establishments which are keeping or maintaining for sale only fish or other aquatic or nonmammalian amphibious species.
- (B) Kennel Defined. "Kennel" is any commercial establishment where more than two (2) cats, dogs or other animals not prohibited by any other provision of the Municipal Code of the City of South Milwaukee may be kept for boarding, breeding, sale or sporting purposes.
- (C) Grooming Establishment Defined. The term "grooming establishment" as used herein shall mean any commercial establishment at which dogs, cats or other animals are bathed, groomed, clipped, trimmed or shorn or other such treatment is administered, and where no animals are kept or maintained on the premises overnight.
- (2) Permit Required. The Public Health Administrator or designee may issue a pet shop, kennel or grooming establishment permit upon submission of a completed application, payment of a fee in an amount established by resolution of the Common Council and inspection of the premises. The permit year commences on January 1 and ends on December 31. Rep. & Recr. 04/05/00, 1764, Rep. & Recr. 1967
- (3) Conditioning for Issuing and Maintaining Permit. Upon application for issuance or renewal of a pet shop, kennel or grooming establishment permit, an inspection shall be made to determine compliance with the following:

- (A) All animals shall be maintained in a healthy condition or, if ill, shall be given appropriate treatment immediately.
 - (B) The quarters in which the animals are kept shall be maintained in a clean condition and good state of repair.
 - (C) Animal pens or enclosures shall be large enough to provide freedom of movement to the animals contained therein.
 - (D) Food supplies shall be stored in rodent-proof containers. Food and water containers shall be kept clean.
 - (E) Litter and/or bedding material shall be changed as often as necessary to prevent odor or nuisance.
 - (F) Feces shall be removed daily from yards, pens and enclosures, and shall be wrapped and stored in tightly covered metal containers until final disposal. Exception may be made for feces which are properly composted in a manner which creates no vermin, odor or aesthetic nuisance.
 - (G) Yards, pens, premises and animals shall be kept free of insect infestations.
 - (H) No nuisance caused by odor, noise or animals running at large shall be permitted.
 - (I) Provide ventilation of foul air with exhaust fan.
 - (J) No pet shop, kennel or grooming establishment shall be located in any building wherein food products are stored or prepared unless a minimum distance of fifty (50) feet is maintained between such facilities and food storage, preparation of service area or areas. For purposes of this section, self-closing door shall constitute adequate separation.
 - (K) The maximum number of animals to be kept at the facility shall be determined and this number shall be recorded on the permit if and when issued.
- (4) Revocation of Permit. The Public Health Administrator or other person designated by the Board of Health may revoke a pet shop, kennel or grooming establishment permit for serious and/or repeated noncompliance with the provisions of this section. Appeal of revocation shall be made in writing to the Board of Health and execution of the revocation shall be stayed pending action by the Board of Health. Rep. & Recr. 04/05/00, 1764

23.30 SMOKING PROHIBITED IN CERTAIN AREAS

- (A) **Purpose.** The Common council recognized that smoking of cigarettes and tobacco products is hazardous to an individual's health and may affect the health of nonsmokers/smokers when they are involuntarily in the presence of smoking. Reliable scientific studies assessed by credible health officials have found that secondhand tobacco smoke is a significant health hazard for children, elderly people, and individuals with cardiovascular disease or impaired respiratory function. Air pollution caused by smoking is an offensive annoyance and irritant. Smoking results in serious and significant physical discomfort the nonsmokers. This Ordinance is adopted for the purpose of protecting the public health, safety, comfort and general welfare of the people of the City of South Milwaukee, especially recognizing the health interests of nonsmokers, who constitute a majority of the population.

- (B) **Definitions.** The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
- (1) ***Assisted living facility*** means a community-based residential facility, as defined in Wis. Stat. § 50.01 (1g), a residential care apartment complex, as defined in Wis. Stat. § 50.01 (1d), or an adult family home, as defined in Wis. Stat. § 50.01 (1) (b).
 - (2) ***Day care center*** means a facility operated by a child care provider that provides care and supervision for 4 or more children under 7 years of age for less than 24 hours a day. (Wis. Stat. § 49.136 (1) (d)).
 - (3) ***Employment*** means any trade, occupation or process of manufacture or any method of carrying on such trade, occupation, or process of manufacture in which any person may be engaged.
 - (4) ***Enclosed indoor area*** means all space between a floor and a ceiling that is bounded by walls, doors, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent. A 0.011 gauge screen with an 18 by 16 mesh count is not a wall.
 - (5) ***Person in charge*** means the person who ultimately controls, governs or directs the activities aboard a public conveyance or within or at a place where smoking is regulated under this section, regardless of the person's status as owner or lessee.
 - (6) ***Place of employment*** means any enclosed indoor area that employees normally frequent during the course of employment, including an office, a work area, an elevator, an employee lounge, a restroom, a conference room, a meeting room, a classroom, a hallway, a stairway, a lobby, a common area, a vehicle, or an employee cafeteria.
 - (7) ***Private club*** means a facility used by an organization that limits its membership and is organized for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose.
 - (8) ***Public place*** means any enclosed indoor area that is open to the public, regardless of whether a fee is charged or a place to which the public has lawful access or may be invited.
 - (9) ***Restaurant*** means an establishment defined in Wis. Stat. § 254.61(5).
 - (10) ***Retail establishment*** means any store or shop in which retail sales is the principal business conducted.
 - (11) ***Smoking*** means burning or holding or inhaling or exhaling smoke from, any of the following items containing tobacco:
 - (a) A lighted cigar.
 - (b) A lighted cigarette.
 - (c) A lighted pipe.

(d) Any other lighted smoking equipment.

- (12) ***Sports arena*** means any stadium, pavilion, gymnasium, swimming pool, skating rink, bowling center, or other building where spectator sporting events are held.
- (13) ***Tavern*** means any establishment, other than a restaurant, that holds a “Class B” intoxicating liquor license or Class “B” fermented malt beverages license.
- (14) ***Tobacco product*** means any form of tobacco prepared in a manner suitable for smoking but not including a cigarette.

(C) **Prohibition against smoking.**

- (1) Except as other wise provided, no person may smoke in any of the following spaces:
- (a) Any enclosed space of a public place or place of employment.
 - (b) Areas in City parks as posted and so designated by the Street Department including the athletic field/bleachers and dugouts, playground and swing set areas, and park restrooms.
 - (c) Sports arenas.
 - (d) Within the outdoor premises of a day care center when children who are receiving a day care services are present.
 - (e) City-owned or leased motor vehicles and equipment.
 - (f) Public forms of transportation, including, but not limited to, motor buses, taxicabs, or other public passenger vehicles.
 - (g) Milwaukee County facilities which have been designated by Milwaukee County authorities by ordinance and posting to be areas where smoking is prohibited.
- (2) The prohibition of smoking under sub. (1) does not apply to any of the following places:
- (a) A private residence.
 - (b) A room used by only one person in an assisted living facility as his or her residence.
 - (c) A room in an assisted living facility in which 2 or more people reside if every person who lives in that room smokes and each of those people has made a written request to the person in charge of the assisted living facility to be placed in a room where smoking is allowed.
 - (d) Designated outdoor areas of municipal buildings.

(D) **Responsibility of person in charge.**

No person in charge may allow any person to smoke in violation of the provisions herein outlined at a location that is under the control or direction of the person in charge.

- (1) A person in charge may not provide matches, ashtrays, or other equipment for smoking at the location where smoking is prohibited.
- (2) A Person in charge shall make reasonable effort to prohibit persons from smoking at a location where smoking is prohibited by doing all of the following:
 - (a) Posting signs setting forth the prohibition and providing other appropriate notification and information concerning the prohibition.
 - (b) Refusing to serve a person, if the person is smoking in a restaurant, tavern, or private club.
 - (c) Asking a person who is smoking to refrain from smoking and, if the person refuses to do so, asking the person to leave the location.
- (3) If a person refuses to leave a location after being requested to do so as provided in par (c), the person in charge shall immediately notify an appropriate law enforcement agency of the violation.
- (4) The person in charge of a restaurant, tavern, private club, or retail establishment may designate an outside area that is a reasonable distance from any entrance to the restaurant, tavern, private club, or retail establishment where customers, employees, or persons associated with the restaurant, tavern, private club, or retail establishment may smoke.

(E) **Signs.**

- (1) No smoking signs shall include the plainly visible “No Smoking” symbol, consisting of a burning cigarette enclosed in a red circle with a red bar across the cigarette.
- (2) Each sign and the language contained there in shall be clearly visible from a distance of at least ten (10) feet and meet the uniform dimensional requirement specified by the Wisconsin Department of Commerce in accordance with Wis. Stat. § 101.123(6).

(F) **Smoking Receptacles.** Cigarette waste must be deposited of in a non-combustible container Meeting the requirements of a third-party testing agency such as Underwriter’s Laboratories (UL), Factory Mutual (FM), or the American Society for Testing and Materials (ASTM). All Taverns and restaurants adjacent to city sidewalks will be required to provide at least one suitable smoking receptacle.

(G) **Enforcement.**

- (1) This Ordinance shall be enforced by the Health Department, Building Inspector, and Police Department or an authorized designee.

- (2) Notice of the provisions of this Ordinance shall be given in writing to all applicants for a business license in the City of South Milwaukee.
 - (3) Any citizen who desires to register a complaint under this Ordinance may initiate enforcement with the Health Department or the Police Department.
 - (4) The Health Department, Police Department, Fire Department, or their designees shall, while an establishment is undergoing otherwise mandated inspections, inspect for compliance with this Ordinance.
 - (5) If an owner, manager, operator, or employee of an establishment subject to this Ordinance observes a person violating the Ordinance, he or she shall immediately direct the person in violation to stop smoking. If the person violating the Ordinance does not stop-smoking, the owner, manager, operator, or employee shall make reasonable efforts to prevent smoking in prohibited areas by:
 - a. Approaching smokers who fail to voluntarily comply with this section and requesting that they extinguish their cigarette or tobacco product and refrain from smoking, or
 - b. Refusing service to anyone smoking in a prohibited area.
 - (6) In addition to the remedies provided by the provisions of this Section, the Health Department, the Police Department or any person aggrieved by the failure of the owner, operator, manager, or other person in control of a public place or a place of employment to comply with the provisions of this Ordinance may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.
- (F) **Violation and penalties.**
- (1) Any person who violates provisions herein by smoking in a prohibited place shall be subject to a forfeiture of not less than \$100 nor more that \$250 for each violation.
 - (2) Any person in charge who violates provisions herein shall be subject to a forfeiture of \$100 for each violation.
 - (a) For violations subject to the forfeiture, if the person in charge has not previously received a warning notice for a violation of this ordinance, the law enforcement officer shall issue the person in charge a warning notice and may not issue a citation.
 - (b) No person in charge may be required under this ordinance, to forfeit more than \$100 in total for all violation s of this ordinance, occurring on a single day.

(H) Clean indoor air.

- (1) Intent and construction. The City of South Milwaukee finds that it is in the interest of the health, safety and welfare of the community to adopt by reference Wis. Stat. § 101.123 and subsequent amendments, additions and recodifications. It is the intent of the common Council that where there may be conflict between Wis. Stat. § 101.123 and this ordinance, that the most restrictive section shall apply. This ordinance shall not be construed to mean that progressive discipline of City employees for violations of the laws, rules and regulations is only authorized where explicitly provide by ordinance.
- (2) Penalty. The penalties provided by Wis. Stat. § 101.123 shall be in addition to the penalties provided for violation of this ordinance when a person has violated both laws. In addition to the penalties provided by this ordinance and Wis. Stat. § 101.123, any City employee who violates any provision of this ordinance or Wis. Stat. § 101.123, may also be subject to progressive discipline by his or her employer.

Created Jun 1, 2010, 2005

23.31 SIGNS IN THE PUBLIC RIGHT OF WAY.

- (A) “Rummage sale” means the sale of used household goods from a residential premise.
- (B) “Open House” sign means a sign advertising an open house, in connection with a house which is on the market and available for sale.
- (C) No person shall place any rummage sale or open house sign in the public right of way at any time. In addition, open house signs and rummage sale signs shall not exceed 4 square feet in sign display area and shall not exceed a 7 day display period, and shall be removed within 24 hours following the conclusion of the sale.
- (D) Signs attached to or painted on a vehicle parked in the public right-of-way for the sole purpose of advertising or relaying commercial messages to the public are prohibited.
- (E) Except as herein provided, no person shall place any type of sign in the public right-of-way without first obtaining a permit for the sign pursuant to Wis. Stats. 66.0425.
- (F) Notwithstanding any other provisions of this chapter, the following signs are permitted if they meet the standards specified in the subsection:
 1. Placed by public utilities or units of government for the safety or welfare of the public, such as signs identifying high voltage underground cable or signs related to the construction of capital improvement projects by units of government.
 2. Official fire-related or police-related signs or signs required to be maintained by law or governmental order, such as warning signs, traffic signs, parking signs or similar regulatory signs or warning signs at a railroad crossing.
 3. Public service information signs with no commercial messages authorized by a governmental entity.
- (G) City Alderman are hereby authorized to remove any signs found in the public right-of-way in violation of this ordinance. Rep & Recr. 12/3/03, 1852

23.32 PROHIBITED RUMMAGE SALES: The following activities in those areas of the City of south Milwaukee which in the City’s downtown shopping area, defined for these purposes as Milwaukee Avenue from 9th Avenue to 13th Avenue and 10th Avenue from Rawson Avenue to Marquette Avenue , are prohibited;

- (A) Rummage sales and garage sales;
- (B) Sales of used furniture, clothing and personal equipment from an outdoor venue or one which is not regularly open for business as a permitted second-hand store.
- (C) Sidewalk sales adjacent to a business except where sale is of items regularly sold within the business building and such sale is permitted by the occupancy permit.
- (D) This ordinance shall be enforced by the Police Department personnel.

23.33 ALL STORM AND SWIMMING POOL WATER TO BE DISCHARGED ON THE PROPERTY WHERE COLLECTED. It is the duty of every owner of improved real property to take all reasonable steps to ensure that storm and swimming pool water collected on such owner’s real property is discharged upon the collector’s own property or to a storm sewer. This ordinance shall not be construed to impose any obligation to restrict the natural flow of water over the land, but rather, should be construed to require all owners of improved real property to take reasonable steps to ensure that downspouts, sump hoses and pool drains on their property do not create a water nuisance for their neighbors. Cr. 03/16/93, 1532

23.34 ANIMAL FANCIER PERMIT – REPEALED, 1967

23.35 PROPERTY MAINTENANCE CODE - PREAMBLE. Renumbered 05/20/97, 1670. There exist in the City of South Milwaukee buildings, structures, yards, open areas, parking areas, sidewalks, fences and retaining walls hazardous to the inhabitants of the hazardous property, the adjoining property and to the general public; and there exist in the City of South Milwaukee buildings, structures, yards, open areas, parking areas, sidewalks, fences and retaining walls whose appearance, while not hazardous, constitute an unreasonable blight to the immediately surrounding area. To remedy these existing conditions and prevent the occurrence of like conditions in the future, this code is enacted.

23.36 BUILDING REQUIREMENTS. Renumbered 05/20/97, 1670. No person, firm or corporation shall allow or permit any building, whether dwelling, non-dwelling or accessory, on their property to deteriorate or remain in a condition that is not in accord with the following provisions of this section:

- (A) Exterior Walls and Foundations.
 - (1) Every exterior wall shall be free of holes, breaks, loose or rotting boards or timber and any conditions which might admit rain or dampness to the interior portions of the walls, or to the occupied spaces of the buildings.
 - (2) Every foundation and exterior wall shall be weather-tight, rodent-proof, insect-proof, and reasonably watertight, and shall be kept in a reasonably good state of maintenance and repair. The foundation elements shall adequately support the building at all points.
 - (3) It shall be the duty of the owner or occupant of each lot, parcel of land, dwelling, commercial or manufacturing building to keep and maintain the same in such a manner as to aid in the control of harborage or breeding of rodents. Openings to buildings, foundations and other structures shall be closed to prevent entry of rodents.
- Created 7/17/01, 1802

(B) Roof and Drainage.

- (1) All roofs shall be maintained so as to not leak, and all water shall be so drained and conveyed therefrom so as to not cause damage to the exterior walls, eaves, soffits or foundations.
- (2) Gutters and downspouts, when provided, shall be adequately secured, kept free of obstruction and in a reasonable state of repair.

(C) Porches, Railings, Stairways, Decks and Patios. Every outside stair, every porch, deck patio and every appurtenance attached thereto shall be so constructed as to be safe to use and capable of supporting the loads to which it is subjected as required by the Building Code and shall be kept in sound condition and good repair.(D) Doors, Windows and Basement Hatchways.

- (1) Every window, exterior door and basement hatchway shall be substantially tight and shall be kept in sound condition and repair. Every window sash shall be fully supplied with glass window panes or an approved substitute which are without open cracks or holes. Every window sash shall be in good condition and fit reasonably tight within its frame. Approved substitutes are those which conform to the Building Code.
- (2) Every exterior door, door hinge and door latch shall be maintained in good condition. Exterior doors, when closed, shall fit reasonably well within its frame.
- (3) Paint and Other Preservatives. If paint or other preservatives have been applied to an exterior surface, it shall be repainted, resurfaced or otherwise treated in a workmanlike manner when its condition constitutes a present danger of structural deterioration.

23.37 FENCE AND/OR RETAINING WALL REQUIREMENTS. Renumbered 05/20/97, 1670; Rep. & Recr. 04/05/00, 1765

- (8) No person, firm or corporation shall allow or permit their fences and/or retaining walls to deteriorate or remain in a condition that is not in accordance with the following provisions of this section. All fences and retaining walls constructed, reconstructed, or repaired after January 1, 2000 shall conform to the provisions of this section.
- (9) Fences
 - a. All fences shall be properly maintained in a vertical position and kept in good repair or shall be removed. If paint or other preservatives have been applied to the exterior surface, it shall be repainted, resurfaced, or otherwise treated in a workmanlike manner when its condition constitutes a present danger to adjoining property or to any person, or constitutes an unreasonable blight to the immediately surrounding area, as determined by the City Engineer or Building Inspector.
 - b. Fences shall not be constructed or supported with railroad ties, plywood, logs, pipes, metal, fiberglass, or other materials not specifically manufactured to be used as fence. Barbed fences, razor fences, and corrugated steel fencing are not permitted in residential, commercial, or business districts.

- c. Fences shall be constructed of chain link (cyclone), split rail, wood planking, pvc, or other materials specifically manufactured for use as a fence or approved by the building Inspector.
- d. Fences shall not be constructed in a manner that interferes with surface drainage along an adjoining lot line.
- e. Tarps, plywood, or other materials shall not be connected to any fence for screening or other purposes.
- f. Structural members supporting the fence shall be on the interior side.
- g. Snow fence, construction fence, or other temporary fences are only permitted with written approval of City Engineer or Building Inspector.
- h. See Chapter 15 for height regulations.

(3) Retaining Walls

- a. Retaining walls, when present, shall be structurally sound, properly maintained, and kept in good repair. No retaining wall shall be constructed or maintained in such a manner as to allow repeated flow of mud, gravel or debris upon any public sidewalk, street, alley or adjoining property. Retaining walls shall be repaired or reconstructed which are leaning, broken, rotten, or otherwise determined by the Building Inspector or City Engineer to have an unreasonable blight on the immediately surrounding area.
- b. Retaining walls shall not be constructed or supported in any manner with railroad ties, plywood, logs, pipes, metal, fiberglass, or other materials not specifically manufactured for use as a retaining wall.
- c. Retaining walls shall be constructed of textured concrete block, natural stone, manufactured stone block specifically designed for retaining walls, or pressure treated landscape timbers, having a minimum preservation retention level (PRL) of 0.40. Poured concrete walls shall only be permitted with review and approval of the City Engineer.
- d. Retaining walls shall be constructed 12 inches minimum from an adjoining lot line to prevent interference with drainage unless otherwise approved by City Engineer.
- e. Retaining walls exceeding three feet in height above the adjacent grade shall be professionally designed and submitted for review and approval of the City Engineer.
- f. Retaining walls shall be constructed with an adequate foundation of crushed stone or concrete to support the walls and stone backfill to allow for drainage.
- g. Structural members supporting a wall shall be on the interior (fill) side of the wall.
Section 23.37 Rep. & Rec. 04/05/00, 1765

23.38 EXTERIOR PROPERTY REQUIREMENTS. Renumbered 05/20/97, 1670.

- (A) No person, firm or corporation shall allow or permit the exterior property of their real estate to deteriorate or remain in a condition that is not in accord with the following provisions of this section.

- (B) All exterior property areas shall be kept in a clean and sanitary condition; free from any accumulation of combustible or noncombustible material, debris and refuse. Debris and refuse shall include but not be limited to broken concrete, bricks, blocks or other mineral matter; bottles, porcelain and other glass or crockery; boxes; lumber (new or used), posts, logs, sticks, or other wood; tree branches, brush, yard trimmings, grass clippings and other residues; paper rags, animal waste, cardboard, excelsior, rubber, plastic, wire, tin and metal items; discarded household goods or appliances, junk lawn mowers, tar paper, residues from burning or any similar materials which constitute health, fire or safety hazards or an unreasonable blighting influence upon the neighborhood or the City in general. No rubbish, building materials or material of any kind shall be permitted to be stored so as to afford a harborage or breeding place of rodents. The provisions of this section shall not apply to materials stored in conjunction with any mercantile, manufacturing or normal residential use, which provide no rodent harborage, and meet applicable fire and zoning restrictions.
Repealed and recr., 7/17/01, 1802
- (C) Sidewalks, walks, drives and other concrete, asphalt, bricked, graveled, stoned or similarly treated areas shall be kept in sound condition and good repair. Conditions resulting in dust, dirt, loose stones or other aggregate being repeatedly deposited upon the immediate adjacent public or private property shall be corrected.
- (D) Lawn areas, where provided, shall be maintained. The growth of grass or weeds in excess of six inches in height not constituting a garden shall be considered a violation of the maintenance provisions of this section. A garden is a limited area devoted to flower, vegetable or fruit plants or bushes.
- (E) Areas in a natural state shall be kept free of deceased or fallen trees, branches, brush, debris and noxious weeds.
- (F) Whenever erosion of the soil repeatedly causes the same to spill over onto the sidewalk, street, alley or adjoining property, the condition shall be corrected by the construction of a suitable retaining wall, grading or sodding and/or the planting of grass or other suitable ground cover.
- (G) Those unpaved public areas abutting private property between the curb and lot line shall be maintained by the abutting property owner as a lawn area. (See Section 23.203(D)) Any person who feels aggrieved by this subsection shall have the right of appeal following the procedure in Section 23.207. The Board of Appeals is authorized to grant a variance of this subsection if in the Board's discretion the physical conditions of the property make compliance with this subsection unreasonable. When the unpaved portion between the lot line and curb has been disturbed due to a public improvement, such lawn area and trees, if any, shall be maintained by such property owner following completion of the final grading by the contractor of said improvement. On those streets in which curbs do not exist, the area which shall be maintained as provided for in this subsection shall be the unpaved public area between the lot line and the shoulder of the roadway.
- (H) Planting of Grass. Every person shall plant and maintain adequate grass vegetation to control the erosion of soil to adjoining properties from rainfall within one year after occupancy of a building, on all lands he shall own, occupy or control including the parkway upon which lands abut.
- (I) All firewood shall be stored at least 12 inches above ground in a fashion designed to prevent the harborage of rodents. Created 7/17/01, 1802

23.39 VACANT, ABANDONED OR UNDEVELOPED LAND REQUIREMENTS. Renumbered 5/20/97, 1670.

- (A) Whenever the Public Health Administrator or Board of Health designee, Building Inspector and/or Fire Department, upon inspection of any vacated building within the City of South Milwaukee, finds that the building is in danger of vandalism and/or dilapidation by the weather elements, the Building Inspector shall order the owner thereof to make the building secure against vandalism and/or dilapidation in a workmanlike manner. Rep & Recr. 04/05/00, 1764
- (B) If the owner of a vacated building fails to comply with the provisions of this chapter, the City may proceed to make the building secure against vandalism and/or dilapidation by the weather elements, and charge the cost thereof to the owner.
- (C) No vacated building for which the owner has been given an order for compliance with this Chapter may be occupied before any Occupancy Permit has been issued by the Building Inspector. Such Occupancy Permit may be issued only upon compliance with all orders and requirements of the City, the payment of required permit fees, the costs of reinspection and any expenses incurred by the City in the enforcement of this chapter.
- (D) Whenever grass or lawn weeds on vacant properties or unoccupied premises are six inches or more in height within the City of South Milwaukee, the City is empowered to cause such grass or lawn weeds to be cut and the cost therefore shall be placed on the tax rolls as a special charge against the property.
- (E) On vacant properties of more than five acres, the duty to cut grass and weeds imposed in Section 23.204(D) of the Municipal Code of the City of South Milwaukee shall apply to those portions of the property lying within 50 feet of the lot line abutting any residential or improved property.

23.40 ORDER TO CORRECT CONDITIONS (NON-EMERGENCY).

- (1) Whenever the Public Health Administrator or Board of Health designee, Building Inspector, and/or Fire Department shall, upon inspection of any premises within the City, find that conditions of the premises constitute a violation of this Code, the Health Code or Fire Code, the Public Health Administrator or Board of Health designee, Building Inspector and/or Fire Department shall order the owner and/or occupant of the premises to correct said conditions and/or to remove therefrom and dispose of any unsafe, unsanitary, hazardous and unsightly articles or material. Enforcement of the provisions of this Property Maintenance Code shall be primarily the responsibility of the Building Inspector. Renumbered 05/20/97, 1670; Rep. & Recr. 04/05/00, 1764; Renumbered 10/17/00, 1782.
- (2) Orders to cut grass to comply with the provisions of Sec. 23.38 (D) may be issued by the Building Inspector or the Weed Commissioner or their designees. Any order to cut grass shall require that the grass be mown within 5 days of the date of the order. Cr. 10/17/00, 1782.
- (3) In the event any owner of lands fails to mow a lawn area as required by an order issued under this section, the City may proceed to mow the area and shall charge the owner the cost of such mowing at the hourly rate as determined by the Common Council by resolution. Any charge which is made under this section and remains unpaid as of November 1 of each year shall be placed assessed against the property and placed on the tax roll as a special assessment to be collected pursuant to Chapter 74 Wis. Stats. Cr. 10/17/00, 1782.

23.41 ORDER TO CORRECT CONDITIONS - CONTENTS - SERVICE. Renumbered 05/20/97, 1670.

- (A) Whenever the one of the Authorized Employees (as defined below) determines that there has been a violation, or that there are reasonable grounds to believe that there has been a violation or any provision of this article or of any rule or regulation adopted pursuant thereto, he shall give notice of such violation or allegation to the person or persons responsible therefore. Such notice shall:
- (1) Be put in writing;
 - (2) Include a description of the real estate sufficient for identification;
 - (3) Include a statement of the reason or reasons why it is being issued;
 - (4) Specify a reasonable time for the performance of any act it requires;
 - (5) The order shall be served on the owner and/or occupant of the premises found unsafe, unsanitary, hazardous and/or unsightly by first class mail. The order may contain an outline of remedial action which, if taken, will effect compliance with the provisions of this article and with the rules and regulations adopted pursuant thereto. Repealed and Recr. 8/7/01, 1803
- (B) The order shall also provide that if the owner and/or occupant is aggrieved by the order of the Authorized Employee, he/she may appeal to the Board of Appeals and request a hearing as hereinafter provided. Repealed & Recr. 8/7/01, 1803
- (C) The employees of the City authorized to issue orders requiring correction of conditions specified in this chapter, herein referred to as Authorized Employees are the following:
- i. Building Inspector
 - ii. Public Health Administrator
 - iii. Board of Health Designee
 - iv. Fire Inspector
 - v. City Engineer

23.42 ORDER TO CORRECT CONDITIONS - APPEAL. Renumbered 05/20/97, 1670.

- (A) If the owner and/or occupant feels aggrieved by an order issued pursuant to Section 23.41 of this chapter, the owner may file a letter of appeal with the Board of Appeals upon payment of the appeal fee established by resolution of the Common Council within five days after service of the order upon him. In the letter of appeal, the owner and/or occupant shall state the reasons why he is appealing the order and shall request the Board to provide him a hearing date. Rep. & Recr. 04/21/98, 1705
- (B) The Board of Appeals shall conduct a hearing in connection therewith within 20 days after request for an appeal is submitted and shall notify the applicant, Public Health Administrative Assistant, Building Inspector and/or Fire Department and any other persons interested in the matter to be present. The Board of Appeals is empowered to grant variances where compliance with this code would not be reasonable and where the condition which is the subject of the order is not a hazardous, unsafe or unsanitary condition. The Board of Appeals is further authorized to grant additional time for compliance as well as to modify or retract any orders the Board finds unreasonable.
- (C) After the hearing, the Board of Appeals shall submit its findings and order within five days thereafter and serve copies on all persons who appeared at the hearing.

23.43 EMERGENCY ORDERS. Whenever an Authorized Employee, acting in the enforcement of this Property Maintenance Code, the Fire Code or the Health Code, find that an emergency exists which requires immediate action to protect the public health, he/she may, without notice of hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he/she deems necessary to meet such emergency. Notwithstanding other provisions of this code, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith, and after compliance, upon petition to the Board of Appeals, shall be afforded a hearing as prescribed in this Code. Renumbered 05/20/97, 1670; Rep. & Recr. 04/05/00, 1764, Rep. & Recr. 8/7/01, 1803

23.44 FAILURE TO COMPLY. Renumbered 05/20/97, 1670. Upon failure to timely comply with an order issued by an Authorized Employee, or the Board of Appeals, which requires that any building, premise, structure or property be cleaned or repaired, or conditioned abated or improved in accordance with this chapter, in cases of hardship due to indigence, or absence of the responsible party, the Authorized Employee may cause such cleaning, repair, abatement or removal of the offending structure or substance upon approval by the Common Council. Such approval shall not exceed five percent (5%) of the equalized improved value. Such cleaning, repair or removal shall be deemed as special benefit to such premises and the costs for the same shall be charged against the owners of the property. If the costs of the same are not paid within sixty (60) days, it shall be levied as a special charge against the premises as authorized by Section 66.60(16) of the Wisconsin Statutes. Rep & Recr. 8/7/01, 1803

23.45 PENALTY FOR VIOLATIONS. Renumbered 05/20/97, 1670. Any person, firm or corporation who fails to comply with the order of an Authorized Employee and/or the Board of Appeals, if an appeal is taken, shall be subject to a forfeiture of not less than \$10.00 and not more than \$200.00 per day for each day the condition ordered corrected continues uncorrected after the expiration of the time period stated in the order, together with the costs of the action. Rep. & Recr. 8/7/01, 1803

- (a) Any person who fails to comply with a quarantine order or directive issued pursuant to Sec. 23.19 of these ordinances shall be fined not less than \$500.00 nor more than \$1000.00 for each day the person fails to quarantine the animal. Cr. 10/19/04, 1867

23.46 BOAT PARKING ON PUBLIC STREETS AND PROPERTY. – Renumbered to 28.18 11/15/2005, 1897

23.47 CHRONIC NUISANCE PREMISES

- (A) FINDINGS. The common council finds that any premises that has generated 3 or more calls for police and/or fire department service for nuisance activities has received more than the level of general and adequate police service and has placed an undue and inappropriate burden on the taxpayers of the city. The common council therefore directs the Chief of Police as provided in this section, to charge the owners of such premises the costs associated with abating the violations at premises at which nuisance activities chronically occur.
- (B) DEFINITIONS. For purposes of this section a Nuisance activity@ means any of the following activities, behaviors or conduct whenever engaged in by premises owners, operators, occupants or persons associated with a premises:
 1. Any act of harassment as defined in s. 947.013, Wis. Stats.
 2. Disorderly conduct as defined in s. 947.01, Wis. Stats.
 3. Battery, substantial battery or aggravated battery as defined in s. 940.19, Wis. Stats.
 4. Lewd and Lascivious behavior as defined in s. 944.20(1)(b) Wis. Stats.

5. Keeping a place of prostitution as in 944.34, Wis. Stats. or leasing a building for the purposes of prostitution.
6. Littering of premises.
7. Theft as defined in s.943.20, Wis. Stats.
8. Arson as defined in s.934.02, Wis. Stats.
9. Possession, manufacture or delivery of a controlled substance or related offenses as defined in ch. 961, Wis. Stats.
10. Gambling as defined in s. 945.02, Wis. Stats.
11. Keeping a prohibited dangerous animal.
12. Trespass to land as defined in s.943.13, Wis. Stats. or criminal trespass to dwelling as defined in s. 943.14, Wis. Stats.
13. Any act of aiding and abetting any of the activities, behaviors or conduct enumerated herein.
14. Graffiti as defined in s. 943.017, Wis. Stats.
15. Harboring a runaway as prohibited by this code.
16. Truancy related calls, as prohibited by this code.
17. Personal assistance or health calls, which relate to non life threatening situations and which are normally and ought be addressed by private care providers or otherwise tended to without engaging city resources.
18. Any conspiracy to commit, as defined in s. 939.31, Wis. Stats., or attempt to commit, as defined in s. 939.32, Wis. Stats., any of the activities, behaviors or conduct enumerated herein.
19. Discharge of a firearm.
20. The production or creation of excessive noise.
21. Loitering.
22. Public drinking.
23. Owning, keeping, having or harboring any bird or animal that causes a disturbance of the peace.
24. Misuse of emergency telephone numbers.
25. APersons associated with@ means any person who, whenever engaged in a nuisance activity, enters, patronizes, visits or attempts to enter, patronize or visit, or waits to enter, patronize or visit, a premises or person present on a premises, including any officer, director, customer, agent, employee or independent contractor of a premises owner.

(C) PROCEDURE

Whenever the Chief of Police determines 3 or more nuisance activities have occurred at a premises on separate days during a 30-day period or that repeated nuisances of the types defined in this chapter have occurred at a premises, the chief may notify the premises owner in writing that the premise is in danger of becoming a chronic nuisance. This notice shall be deemed to be properly delivered if sent either by first class mail to the premises owner=s last known address or if delivered in person to the premises owner. If the premises owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the premises owner=s usual place of abode in the presence of some competent member of the family at least 14 years of age or a competent adult currently residing there and who shall be informed of the contents of the notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the notice is sent by first class mail to the last known address of the owner as identified by the records of the City Assessor. This notice shall contain:

- a. The street address or legal description sufficient for identification of the premises.
 - b. A statement that the chief of police has referred the cost of enforcement to the Common Council with a concise description of the nuisance activities, the relevant sections of the code, dates of prior notices, copies of such notices, the amount the chief has determined as the cost of enforcement to be assessed, and any further relevant comments.
 - c. A notice of the premises owner=s right to appeal and be heard by the Council on the issues. Each subsequent incident or nuisance activity shall be deemed a separate violation.
2. Whenever the Chief of Police determines that an additional nuisance activity has occurred at a premises for which notice has been issued pursuant to above and either this nuisance activity has occurred not less that 13 days after notice has been issued or a corrective course of action submitted by the owner to the Chief=s approval has not been completed, the Chief of Police may calculate the cost of enforcement for this and any subsequent nuisance activities and may refer such cost to the Common Council. The chief of police shall notify the premises owner of the decision to refer the cost of enforcement. Delivery of this notice, along with a copy of the Chief=s referral letter to the Common Council shall be made as set forth in above. The notice shall contain:
- a. The street address or legal description sufficient for identification of the premises.
 - b. A statement that the Chief of Police has referred the cost of enforcement to the Common Council with a concise description of the nuisance activities, the relevant sections of the code, dates of prior notices, copies of such notices, the amount the chief has determined as the cost of enforcement to be assessed, and any further relevant comments.
 - c. A notice of the premises owner=s rights to appeal and be heard by the Council on the issues. Each subsequent incident of nuisance activity shall be deemed a separate violation.
3. Violation. Each subsequent incident of nuisance activity shall be deemed a separate violation.

(D) COST RECOVERY

Upon receipt of a notice from the Chief of Police issued pursuant to the above process, the Common Council may charge any premises owner found to be in violation of this section the costs of enforcement, including administrative cost, in full or in part. All costs so charged are a lien upon such premises and may be assessed and collected as a special charge. The Common Council shall establish a reasonable charge for the costs of administration and enforcement of this section. Such charge for procedural purposes shall be deemed a forfeiture enforceable as such, as well as a special assessment against the premises but the City may not collect more than the determined amount on every such assessment.

(E) APPEAL

The owner of the City may appeal any assessment/forfeiture imposed herein by the Council by giving written notice of appeal to the City Clerk within 30 days of the Council's determination. The appeal shall be to South Milwaukee Municipal Court, the Council's determination of assessment serving as a municipal complaint and the amount determined due from the owner serving as a forfeiture bond deposit. The Municipal court shall hear the matter de novo and otherwise process it as a municipal forfeiture matter with all attenuating rules and appeal rights. Either the city or owner may at any time submit such additional procedural documentation and/or amendments or additions to the municipal court to effect the intent hereof. In the alternative, the Common Council may authorize prosecution of an action under Wis. Stats. s. 823.04 and s. 74.53.

(F) CHIEF OF POLICE DESIGNEE:

Whenever in this ordinance reference is to the Chief of Police, the Chief may designate any officer within the department to perform such services.

23.99 The penalty for violations of provisions of the chapter for which no specific penalty is provided shall be a forfeiture of not less than \$50.00 and not more than \$1000.00
Created 8/1/2006, 1912

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