



## Legislation Text

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141893

SUBSTITUTE 3

131798, 140642

ALD. DUDZIK AND MURPHY

A substitute ordinance relating to the licensing and regulation of recycling, salvaging and towing businesses and activities.

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92-2-6-c	am
92-3	rc
92-4	rp
92-6	am
92-11.5-1	am
92-11.5-2	am

92-13-1	rc
93	rc
101-23.2-1-b	am
101-23.2-1-c	cr
101-23.2-1-d	cr
101-23.2-2	am
295-201-369	am
295-203-11-c	am

Currently, the following separate licenses are required for various recycling and salvaging activities:

1. Aluminum can reclaiming machines.
2. Auto wreckers.
3. Junk collectors.
4. Junk dealers.
5. Junkers.
6. Used bicycle, tire and battery dealers.
7. Used motor vehicle dealers (parts only).
8. Waste tire generators and transporters.

This ordinance consolidates these various license types by establishing a single “recycling, salvaging or towing” license for certain premises and vehicles involved in activities relating to recycling, salvaging and towing. In addition, this ordinance reorders and revises provisions for the purposes of clarifying language, and also:

1. Establishes a requirement that a business that non-consensually tows motor vehicles obtain a city license.
2. Makes recordkeeping and reporting requirements consistent across business types.
3. Adds various items to the definition of “regulated property.”
4. Establishes regulations for non-consensual towing.

Finally, this ordinance reorders provisions of the code pertaining to secondhand motor vehicle dealers.

Whereas, On January 15, 2015, the Recycling, Salvage and Scrap Metal Task Force approved its final recommendations, which included the creation of an “umbrella” license for all recycling, salvaging and scrap metal-related businesses which would:

1. Include vehicles as well as premises.
2. Include tow truck operators handling scrap vehicles.
3. Require plans of operation from all licensees.

4. Provide a checklist for applicants to select the activities for which they will be licensed.  
; and

Whereas, The Common Council finds that members of the public and their property have been placed at risk in circumstances where their vehicles have been towed without their consent, due to unfair towing and pricing practices, inadequate notice of when vehicles are subject to towing, unreasonable prices for towing and storage, and lack of adequate recourse in the event of improper towing or storage; and

Whereas, In the interest of consumer protection and safety, it is necessary to license and regulate recycling, salvage and towing businesses in the city; now, therefore

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 80-46.5 of the code is repealed.

Part 2. Section 81-2.7 of the code is repealed.

Part 3. Section 81-9 of the code is repealed.

Part 4. Section 81-63 of the code is repealed.

Part 5. Section 81-64 of the code is repealed.

Part 6. Section 81-65 of the code is repealed.

Part 7. Section 81-102.6 of the code is created to read:

**81-102.6. Recycling, Salvaging or Towing Premises License.** 1. Each license shall be valid for 2 years from the date of issuance.

2. The fee for each license shall be \$275.

3. The fee for each additional building or other fixed place for storage, as provided in s. 93-5-3, shall be \$50.

(See ch. 93.)

Part 8. Section 81-102.8 of the code is created to read:

**81-102.8. Recycling, Salvaging or Towing Vehicle License.** 1. Each license shall be valid for 2

years from the date of issuance.

2. The fee for each license shall be \$150.

3. The fee to change the motor vehicle used in the conduct of a recycling, salvaging or towing business shall be \$25.

(See ch. 93.)

Part 9. Section 81-130 of the code is repealed.

Part 10. Section 81-131 of the code is repealed.

Part 11. Section 81-133.5 of the code is repealed.

Part 12. Section 84-48 of the code is repealed.

Part 13. Section 85-2.5-1-a to s of the code is repealed.

Part 14. Section 85-24-1-b of the code is repealed and recreated to read:

**85-24. Issuance and Transfer of License.**

**1. STATE TAX DOCUMENTATION REQUIRED.**

b. In this subsection, "business license or permit" means a license or permit for any of the following:

b-1. Alcohol beverage establishment.

b-2. Amusement machine or jukebox distributor.

b-3. Bill poster.

b-4. Cigarette and tobacco sales.

b-5. Direct seller.

b-6. Extended hours establishment.

b-7. Farmer's market.

b-8. Food dealer.

b-9. Food peddler.

b-10. Handicapped-elderly vehicle.

b-11. Home improvement contractor.

b-12. Horse and surrey livery service.

b-13. Limousine.

b-14. Parking lot.

b-15. Pawnbroker.

b-16. Precious metal and gem dealer.

- b-17. Private alarm system business.
- b-18. Private waste collector.
- b-19. Public entertainment premises.
- b-20. Recycling, salvaging or towing premises.
- b-21. Recycling, salvaging or towing vehicle.
- b-22. Secondhand dealer.
- b-23. Secondhand motor vehicle dealer.
- b-24. Shuttle vehicle.
- b-25. Snow plowing business.
- b-26. Taxicab.
- b-27. Transient merchant.

Part 15. Section 85-29-1-a to z of the code is repealed.

Part 16. Section 92-2-1-b to f of the code is renumbered to 92-2-1-c to g.

Part 17. Section 92-2-1-b of the code is created to read:

## **92-2. Secondhand Dealer's License.**

### **1. DEFINITIONS.**

b. "Bicycle" means any vehicle propelled by the feet acting upon pedals and having wheels any 2 of which are not less than 14 inches in diameter.

Part 18. Section 92-2-2-d of the code is amended to read:

### **2. LICENSE REQUIRED; EXCEPTION.**

d. This section does not apply to ~~[[parties]]~~ >>any party<< operating a business as a licensed precious metal and gem dealer, pawnbroker ~~[[, junk collector, junk dealer or auctioneer]]~~ >>or secondhand motor vehicle dealer, or any individual registered as an auctioneer under ch. 480, Wis. Stats<<.

Part 19. Section 92-3 of the code is repealed and recreated to read:

## **92-3. Secondhand Motor Vehicle Dealers.**

### **1. DEFINITIONS.** In this section:

a. "Business" means engaging in activities for the purpose of earning a livelihood or a profit therefrom on a full- or part-time basis.

b. "Motor vehicle" has the meaning given in s. 340.01(35), Wis. Stats., as amended.

c. "Retail" means the business of buying and selling, exchanging or dealing motor vehicles, including, but not exclusively, secondhand parts of motor vehicles.

d. "Secondhand" means previously owned, sold, traded or used by a member of the general public on a retail basis.

e. "Wholesale" means the business of buying and selling, exchanging or dealing motor vehicles, including, but not exclusively, secondhand parts of motor vehicles, to a licensed retailer or to another person who holds a permit or license or to the end user, but not operating a lot licensed for that purpose.

**2. LICENSE REQUIRED.** It shall be unlawful for any person, firm or corporation to engage in the business of buying, selling, exchanging or dealing in secondhand motor vehicles, including secondhand parts of motor vehicles, either retail or wholesale, without first having obtained a secondhand motor vehicle dealer's license.

**3. EXCEPTION.** Any business buying, selling, exchanging or dealing exclusively in secondhand parts of motor vehicles shall not be required to obtain a license under this section, but shall obtain a recycling, salvaging or towing license.

**4. APPLICATION.** Application for a license shall be filed with the city clerk on forms provided therefor and shall contain, in addition to the information specified in s. 85-12, the following information:

a. Whether the application is for wholesale or retail business operations.

b. Whether the applicant has ever had a license or permit relating to the activities licensed in this section denied, not renewed, suspended or revoked, with a brief statement of the circumstances associated with the event, and the jurisdiction in which the event occurred. This information shall also include a record of any actions from the state departments of transportation and financial institutions relating to suspensions, revocations, forfeitures and warnings imposed by these departments relating to the operation of any automotive sales business by the applicant.

c. A completed plan of operation on a form provided by the city clerk. The plan of operation shall require:

c-1. The planned hours of operation of the premises.

c-2. What plans, if any, the applicant has to ensure that all motor vehicles associated with the

business will be stored on the licensed premises, that all maintenance and repair work related to these vehicles will be confined to the licensed premises, and that the business will not violate any code provisions relating to littering of the public right-of-way.

**5. FEE.** Each license application shall be accompanied by the fee specified in s. 81-104.6.

**6. FINGERPRINTING.** All applicants for secondhand motor vehicle dealers licenses shall be exempt from the fingerprinting requirement provided in s. 85-21-1.

**7. TRUTH OF STATEMENTS AND AFFIDAVITS.** See s. 85-34 for matters relating to truth of statements and affidavits.

**8. INVESTIGATION; HEARING.** a. Every license application shall be referred to the chief of police and the commissioner of neighborhood services, both of whom shall cause an investigation to be made and report their findings to the licensing committee in accordance with s. 85-21-2.

b. No license shall be granted to any applicant who is not of good professional character or who has been convicted of any felony, misdemeanor or other offense the circumstances of which substantially relate to the circumstances of being a secondhand motor vehicle dealer. In this paragraph "applicant" includes any individual or partner, and any officer, director or agent of any corporate applicant.

c. Each application for a new license shall be referred to the licensing committee for a hearing in accordance with s. 85-2.7.

**9. RENEWAL, NONRENEWAL, REVOCATION OR SUSPENSION.** a. Application for the renewal of a secondhand motor vehicle dealer's license shall be made to the city clerk. The clerk shall refer the application to the chief of police and the commissioner of neighborhood services for review.

b. If the chief of police and the commissioner of neighborhood services indicate that the applicant still meets the licensing qualifications, the application shall be referred to the common council for approval unless a written objection has been filed with the city clerk at least 45 days prior to the date on which the license expires.

c. Any interested person may file an objection. If an objection is filed, or if a determination is made that the applicant no longer meets the licensing qualifications, the application shall be forwarded to the licensing committee for a hearing on whether the application should be recommended to the common council for renewal or nonrenewal.

d. Any license issued under this chapter may be not renewed, suspended or revoked for cause by the common council after notice to the licensee and a hearing. If there is a possibility that the licensing committee will not recommend renewal of the license, or if suspension or revocation proceedings are



initiated, the procedures for notice and committee hearing and for the committee report, recommendations and common council consideration provided in ss. 85-3 to 85-5 shall apply.

e. Suspension or revocation proceedings may be initiated by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police or upon a sworn written complaint filed with the city clerk by any interested party.

**10. DISQUALIFICATION; CHANGE OF CIRCUMSTANCES.** Whenever any application is denied, or license not renewed, revoked or surrendered, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

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

b. Plan of Operation. If, after the license has been issued, the licensee wishes to deviate from the plan of operation that was submitted with the original application, the licensee shall file a written request with the city clerk which states the nature of the change. No change shall take place until the request is approved through issuance of a new license.

c. See s. 85-19 for provisions relating to the transfer of licenses and change of licensee names.

**12. RECORD TO BE KEPT ON TRADE-INS.** Any person, firm or corporation licensed under this section shall, whenever a secondhand motor vehicle is taken in trade as part of a transaction, maintain records of the transaction in accordance with ch. Trans 138, Wis. Adm. Code, as amended.

**13. RECORD TO BE KEPT ON SALES.** Any person, firm or corporation licensed under this section to buy, sell or exchange or trade in secondhand motor vehicles shall furnish, upon the sale of a secondhand motor vehicle, the information required under ch. Trans 139, Wis. Adm. Code, as amended.

**14. ELIGIBILITY FOR SALE CERTIFICATES.** No secondhand motor vehicle dealer licensed under this chapter may apply for a certificate issued pursuant to s. 101-29 to leave a vehicle that is for sale on public property.

**15. NO SALE ON SUNDAYS.** It shall be unlawful for any license holder to sell, barter, exchange, demonstrate or loan any motor vehicle, whether new or secondhand, on Sunday.

**16. EXCEPTION.** This section shall not apply to any premises used for retail sales for a period of 30 days or less.

**17. PENALTY.** a. Any person violating this section shall, upon conviction for a first offense, forfeit not less than \$50 nor more than \$1,000, together with the costs of prosecution and, in default of payment, may be imprisoned as provided by law.

b. Any person violating this section shall, upon conviction for a second or subsequent offense, forfeit not less than \$500 nor more than \$2,000, together with the costs of prosecution, and, in default of payment, may be imprisoned as provided by law.

Part 20. Section 92-4 of the code is repealed.

Part 21. Section 92-6 of the code is amended to read:

**92-6. Bicycle Records.** Pawnbrokers ~~[[,]]~~ >>and<< secondhand dealers ~~[[, junk collectors and junk dealers]]~~ shall record, as part of each dealer's required transaction description record, the serial number of any bicycle, bicycle frame or part of a bicycle that is received in the course of business to the extent that all or a portion of the serial number remains visible.

Part 22. Section 92-11.5-1 of the code is amended to read:

#### **92-11.5. Transaction Involving Article Not Owned.**

**1. PROHIBITION.** No person shall pawn, pledge, sell, consign, leave or deposit any article of property with or to a licensed pawnbroker, secondhand dealer, ~~[[junk collector, junk dealer]]~~ >>secondhand motor vehicle dealer<< or precious metal and gem dealer if one or more of the following is true:

Part 23. Section 92-11.5-2 of the code is amended to read:

**2. EXCEPTION.** Subsection 1 shall not apply to any person pledging, selling, consigning, leaving or depositing any article of property with or to a licensed pawnbroker, secondhand dealer, ~~[[junk collector, junk dealer]]~~ >>secondhand motor vehicle dealer<< or precious metal and gem dealer if the person is any of the following:

Part 24. Section 92-13-1 of the code is repealed and recreated to read:

#### **92-13. Transaction Description Records Reporting.**

**1. WEBSITE REPORTING.** a. All transaction description records, except for signed declarations of ownership and patron signatures on transaction description records, shall be reported not later than the close of each business day by posting and uploading all transaction description records to the Internet website approved by the chief of police, or the chief's designee, according to the protocols of

the website. All transaction description record postings and uploads shall be complete and accurate.

b. Each licensee shall display a sign, provided by the police department, of sufficient size and in a conspicuous place on the premises informing patrons all transactions are reported to the police department daily through website postings.

Part 25. Chapter 93 of the code is repealed and recreated to read:

**CHAPTER 93**  
**RECYCLING, SALVAGING AND TOWING REGULATIONS**

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## SUBCHAPTER 1 GENERAL PROVISIONS

**93-1. Purpose.** For the purpose of promoting and protecting the public health, safety and welfare, and for the purpose of protecting consumers from hazardous conditions, unlawful practices and the risk of harm or injury to persons or property, it is declared to be in the public interest and necessary to regulate and license the establishment, operation and maintenance of recycling, salvaging and towing businesses within the city. It is further determined and declared that regulations in this chapter relating to recording of sales are specified for purposes of suppression and prevention of crime. It is further declared and determined that the provisions of this chapter are supplemental to statutory provisions applicable to businesses licensed in this chapter.

**93-3. Definitions.** In this chapter:

**1. ADEQUATE IDENTIFICATION** means any one of the following current and unexpired forms of identification:

- a. A Milwaukee county identification card.
- b. A state identification card, containing a photograph, issued by the state of Wisconsin or another state.
- c. A motor vehicle operator's license, containing a photograph, issued by the state of Wisconsin or another state.
- d. A military identification card.
- e. A passport.
- f. An alien registration card.
- g. A non-photograph identification document issued by a state or the federal government, if the licensee also obtains a clear imprint of the seller's right index finger.
- h. A senior citizen's identification card containing a photograph.

**2. APPLICANT** means any individual or partner, and any officer, director or agent of any corporate applicant.

**3. APPLICATION** means a formal written request filed with the city clerk for the issuance of a license, supported by a verified statement of facts.

**4. BICYCLE** means any vehicle propelled by the feet acting upon pedals and having wheels any 2 of which are not less than 14 inches in diameter.

**5. BUSINESS** means engaging in activities over time for the purpose of sustained financial gain. This definition does not include environmental clean-up activities organized by individuals or sponsored by nonprofit organizations. Also excluded from this definition are individuals engaged exclusively in the collection of aluminum cans.

**6. CONSENSUAL TOWING** means the towing of a motor vehicle initiated by the owner or authorized operator of the vehicle or by a person who has lawful possession, custody or control of the vehicle. This definition does not include the towing of a motor vehicle owned by the business performing the tow, but includes the towing of a motor vehicle at the direction of a law enforcement officer in an emergency.

**7. COMMERCIAL MOTOR VEHICLE** has the meaning given in s. 340.01(8), Wis. Stats., as amended.

**8. DROP FEE** means a payment charged to the owner or authorized operator of a motor vehicle for disconnecting a tow truck under the provisions of s. 93-47-3.

**9. FERROUS METAL** means any metal containing a significant quantity of iron or steel.

**10. FULLY HOOKED UP** means a vehicle to be towed by a licensed tow truck operator is fully prepared for transport by attachment to a tow truck, lifted in tow position, with tow lights and safety chains attached and, if required, placed on a dolly in a raised position, and the only action remaining is for the tow truck operator to drive away.

**11. JUNK** means any secondhand materials or products recovered or diverted from solid waste, as defined in s. 79-1-12, that may be reused or converted to new materials or products, including materials or products made of wood, paper, glass, plastic, fabric, earthenware or rubber. This definition does not include valuable metal, as defined in sub. 30; recyclable material, as defined in s. 79-23-23; or secondhand articles of personal property for resale that are subject to the provisions of s. 92-2.

**12. LICENSE** means the document embodying formal permission from the city to carry on a certain

activity, the conduct of which would otherwise be illegal.

**13. MOTOR VEHICLE** has the meaning given in s. 340.01(35), Wis. Stats., as amended.

**14. NON-CONSENSUAL TOWING** means the towing of a repossessed vehicle or the towing of an illegally-parked motor vehicle at the request of the property owner, the property owner's authorized agent or a parking or law enforcement officer, without the prior consent or authorization of the owner or authorized operator of the vehicle.

**15. NON-FERROUS METAL** means metal not containing a significant quantity of iron or steel, including copper, brass, aluminum, bronze, lead, zinc, nickel and alloys thereof.

**16. OBJECTION** means any information that could form the basis of a license denial, non-renewal, suspension or revocation. An objection may result from probative information provided by any resident or from the written reports summarizing the arrests and convictions of an applicant filed by the chief of police under this chapter.

**17. OPERATOR** means any person engaged in the activities of owning or operating any recycling, salvaging or towing business.

**18. PERSON** means any individual, firm, corporation, limited liability company, partnership or association acting in a fiduciary capacity.

**19. PREMISES** means any portion of a platted or unplatted lot, parcel or plot of land either occupied or unoccupied by any building or structure, equipment or property of any kind.

**20. RECYCLING, SALVAGING OR TOWING PREMISES** means any premises which is used in the business of recycling, salvaging or towing.

**21. RECYCLING, SALVAGING OR TOWING VEHICLE** means any motor vehicle used in the business of recycling, salvaging or towing.

**22. REGULATED PROPERTY** means any of the following:

a. Valuable metals stamped, engraved, stenciled or otherwise marked to identify the metal as the property of a government entity, telecommunications provider, public utility, cable operator or an entity

that produces, transmits, delivers or furnishes electricity, transportation, shipbuilding or mining.

- b. Copper, including conductors, bus bars, cables or wires, whether stranded or solid.
- c. Aluminum conductors, cables or wires, whether stranded or solid, and aluminum or copper siding, gutters, downspouts, screens, windows, window frames and doors.
- d. Metal beer kegs.
- e. Manhole covers, including lids, grates and frames.
- f. Metal bathtubs, sinks, water heaters and non-plastic or copper pipes.
- g. Metal grave markers, sculptures, plaques, vases and other cemetery monuments.
- h. Fixtures from houses of worship, including stained glass.
- i. Rails, switch components, spikes, angle bars, tie plates or bolts used to construct rail tracks.
- j. Non-ferrous metal items other than aluminum cans.
- k. Traffic signs, guardrails and aluminum light poles.
- L. Water meters.
- m. Condensing or evaporator coils from heating or air conditioning units.
- n. Catalytic converters.
- o. Bicycles and bicycle frames.
- p. Any coated metal wire that has been smelted, burned or melted, thereby removing the manufacturer's or owner's identifying marks.
- q. Small engines or motors used to power home tools or equipment, including generators and lawn mowers.

**23. SALVAGE VEHICLE** has the meaning given in s. 340.01(55g), Wis. Stats., as amended.

**24. SECONDHAND** means previously owned by a member of the general public on a retail basis.

**25. TIRE DISPOSER** means any person who, in compliance with all applicable state, federal and local laws, rules and regulations disposes of or converts tires to another purpose including, without limitation, any person who is engaged in any of the following activities:

- a. Incinerating or disposing of tires as waste or fuel.
- b. Reducing tires into basic components for oil, steel, carbon black, rubber, road paving or other marketable salvage materials by shredding, grinding, chemical treatment or other means.
- c. Converting tires into other useful items such as, but not limited to, doormats, pads and shoe soles.

**26. TIRE REPROCESSOR** means any person who regrooves, recaps, retreads or otherwise remanufactures waste tires.

**27. TOWING** means pulling, pushing, hauling, lifting or transporting motor vehicles from one location to another using another motor vehicle.

**28. TOW TRUCK** means any motor vehicle equipped with mechanical, hydraulic or other lifting devices or winches used for the recovery or transport of motor vehicles.

**29. VALUABLE METAL** means any ferrous or non-ferrous material or product made of metal that readily may be resold. This definition shall include motor vehicles and bicycles, or the parts thereof, but shall not include precious metals or articles of personal property for resale that are subject to the provisions of chapter 92.

**30. WASTE TIRE** means any tire which is worn (less than 2/32 inch tread depth anywhere along a major tread groove), defective, damaged (cut or snagged tread, exposed body cords, bumps, knots, bulges or separated sidewall) or is not fit for use upon a public way, or any new or secondhand tire that is destined for a tire disposer or tire reprocessor.

**31. WASTE TIRE GENERATOR** means any person who, in the course of normal business activities, generates or removes 25 or more waste tires per calendar year, including:

- a. Any person engaged in the sale or mounting of new, secondhand or remanufactured automobile, truck or equipment tires, who receives waste tires in the exchange process associated therewith.
- b. Any person who requires or allows customers to take waste tires.



c. Fleet owners.

**32. WASTE TIRE TRANSPORTER** means any person who does any of the following:

- a. Engages in the business of transporting waste tires on a public way.
- b. At any one time transports more than 5 waste tires on a public way.
- c. Transports waste tires for a waste tire generator, irrespective of the number of tires being transported.

**33. WHOLESALE AND BULK PURCHASES** means the purchase of property by weight, or in quantity, without unloading or closely inspecting individual items or property when purchased. Truckload and bulk purchases shall be at least 6 discrete items if purchased in quantity and not less than 200 pounds if purchased by weight.

**93-5. License Required. 1. GENERAL REQUIREMENT.** It shall be unlawful for any person, without first obtaining a city license, to engage in the business of recycling, salvaging or towing, including any of the following activities:

- a. Buying, selling, exchanging, storing, transporting or otherwise dealing in junk or valuable metal.
- b. Buying, selling, exchanging, storing, transporting or otherwise dealing in motor vehicles for the purpose of dismantling or dealing in the parts thereof, including secondhand tires or batteries.
- c. Transporting, generating or otherwise disposing of waste tires.
- d. Towing, whether consensual, non-consensual or for the purpose of repossession, salvaging or recycling.

**2. SEPARATE LICENSE REQUIRED.** a. A separate license shall be required for each recycling, salvaging or towing premises and for each vehicle, except that if a valid premises license is held by a recycling, salvaging or towing premises, no separate or additional license shall be required for any motor vehicle owned and operated by the premises license holder as part of the authorized business activities for the licensed premises.

**3. ADDITIONAL STORAGE YARD.** A licensed recycling, salvaging or towing premises shall make separate application for any extension of the operation of the original recycling, salvaging or towing premises license beyond the business premises identified in the original application to an additional building or other fixed place, whether contiguous or non-contiguous with the licensed premises, provided that the additional building or other fixed place is only used for storage of junk, motor

vehicles, valuable metal or other recycled, salvaged or towed materials.

**4. EXCEPTIONS.** a. Any business licensed and operating as a private waste collector, as provided in s. 79-9, shall not be required to obtain a license under this chapter.

b. Any business exclusively performing consensual towing shall not be required to obtain a license under this chapter.

c. Any person selling any junk, valuable metal or waste tires on 4 or fewer occasions during a 30-day period shall not be required to obtain a license under this chapter. This shall not permit the collection of junk, valuable metal or waste tires without a license.

d. Any person holding a valid license or permit to operate a business dealing in junk, valuable metal or waste tires in a Wisconsin municipality and solely selling junk, valuable metal or waste tires shall not be required to obtain a license under this chapter. This shall not permit the collection of junk, valuable metal or waste tires without a license.

e. Any business located outside the city and buying, selling, exchanging or transporting any junk, valuable metal or waste tires exclusively through the use of commercial motor vehicles shall not be required to obtain a license under this chapter. This shall not permit the collection of junk, valuable metal or waste tires without a license.

**93-7. Penalty. 1. GENERAL.** Unless otherwise provided, any person violating this chapter shall upon conviction be subject to the following forfeitures together with the costs of prosecution, and, in default of payment, may be imprisoned as provided by law:

a. A forfeiture not less than \$50 nor more than \$1,000, upon conviction for a first offense.

b. A forfeiture not less than \$500 nor more than \$2,000, upon conviction for a second or subsequent offense.

**2. LICENSURE, NON-CONSENSUAL TOWING.** Any person who violates any provision of s. 93-5 or s. 93-47-2-e or f shall upon conviction be subject to the following forfeitures together with the costs of prosecution, and, in default of payment, may be imprisoned as provided by law:

a. A forfeiture not less than \$1,500 nor more than \$2,500 if the person has not committed a previous violation within 24 months of the violation.

b. A forfeiture not less than \$2,500 nor more than \$4,000 if the person has committed a previous violation within 24 months of the violation.

c. A forfeiture not less than \$4,000 nor more than \$5,000 if the person has committed 2 or more previous violations within 24 months of the violation.

**3. WASTE TIRES.** a. Any person violating any provision of s. 93-49 or failing to comply with an order issued under s. 93-49 shall, upon conviction, be subject to a Class J penalty as provided in s. 61-16.

b. A citation may be issued for any violation of s. 94-49, with or without prior notice. The stipulation, forfeiture and court procedure set forth in s. 50-25 shall apply.

**4. MULTIPLE VIOLATIONS.** Multiple violations for the same offense, though occurring on the same date, may be treated as separate violations under this section.

## SUBCHAPTER 2 LICENSING

**93-21. Licensing, General. 1. APPLICATION.** Application for a license shall be filed with the city clerk on forms provided therefor and shall contain, in addition to the information specified in s. 85-12, the following information:

a. The number of recycling, salvaging and towing vehicles owned, operated or controlled by the applicant to be used in the conduct of recycling, salvaging or towing, including each vehicle's identification number, make, model, year, license plate number and, if applicable, towing weight capacity, U.S. DOT number or Wisconsin DOT operating authority.

b. Whether the applicant has the capability to provide information to the police department relative to the recordkeeping, reporting and other business regulations set forth in subch. 3.

c. Whether the applicant has ever had a license, permit or authority relating to the activities licensed in this chapter denied, not renewed, suspended or revoked, with a brief statement of the circumstances associated with this event, and the jurisdiction in which this event occurred.

d. For recycling, salvaging or towing premises, a completed plan of operation on a form provided by the city clerk. The plan of operation shall require each of the following:

d-1. The planned hours of operation of the premises.

d-2. What plans, if any, the applicant has to ensure the orderly appearance and operation of premises with respect to litter and noise, including plans the applicant has to ensure that all motor vehicles associated with the business will be stored on the licensed premises and that all maintenance and repair work related to these vehicles will be confined to the licensed premises and will not violate any code provisions relating to littering of the public right-of-way.

d-3. What plans, if any, the applicant has to provide security for the premise with respect to the theft of valuable metal and other articles of personal property.

d-4. Any other types of licenses or permits planned or currently held by the applicant or issued for the premises.

d-5. Any other types of business enterprises planned or currently conducted at the premises.

e. For recycling, salvaging or towing vehicles, what plans, if any, the applicant has to ensure that all vehicles owned, operated or controlled by the applicant, including all junk, motor vehicles, valuable metals or other materials attached to or located within these vehicles, will be stored in a secured lot or facility, and the exact location of this lot or facility.

**2. FEE.** a. Premises. Each application for a recycling, salvaging or towing premises license shall be accompanied by the fee specified in s. 81-102.6.

b. Vehicle. Each application for a recycling, salvaging or towing vehicle license shall be accompanied by the fee specified in s. 81-102.8.

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

**93-23. New License. 1. INVESTIGATION.** a. Every application for a new license shall be referred to the chief of police and the commissioner of neighborhood services, both of whom shall cause an investigation to be made and report their findings to the licensing committee in accordance with s. 85-21-2.

b. No license shall be granted to any applicant who is not of good professional character or who has been convicted of any felony, misdemeanor or other offense, the circumstances of which substantially relate to the circumstances of being a recycling, salvaging or towing business.

**2. HEARING.** Each application for a new license shall be referred to the licensing committee for a hearing in accordance with s. 85-2.7.

**93-25. Renewal, Nonrenewal, Revocation or Suspension. 1. RENEWAL; INVESTIGATION.** a. Application for the renewal of a recycling, salvaging or towing license shall be made to the city clerk. The clerk shall refer the application to the chief of police and the commissioner of neighborhood services for review.

b. If the chief of police and the commissioner of neighborhood services indicate that the applicant still meets the licensing qualifications, the application shall be referred to the common council for

approval unless a written objection has been filed with the city clerk at least 45 days prior to the date on which the license expires.

c. If the city clerk determines that there is cause to question the renewal of the license on the basis of one or more written complaints related to operation of the licensee during the current license period, or if the chief of police objects on the basis of police reports of incidents and activities on or related to the licensed premises or vehicle not previously considered by the licensing committee establishing cause to question whether renewal of the license may have an adverse impact on the health, safety and welfare of the public and the neighborhood, or if the applicant has been issued a warning letter or been subject to administrative sanctions by the Wisconsin department of agriculture, trade and consumer protection, the city clerk shall cause the application to be scheduled for hearing. A written objection shall meet the definition in s.85-2-4 and shall comply with the requirements of s. 85-3-3.

**2. SUSPENSION; REVOCATION.** Suspension or revocation proceedings may be initiated by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police or upon a sworn written complaint filed with the city clerk by any interested party.

**3. HEARING.** Any license issued under this chapter may be not renewed, suspended or revoked for cause by the common council after notice to the licensee and a hearing. If there is a possibility that the licensing committee will not recommend renewal of the license, or if suspension or revocation proceedings are initiated, the procedures for notice and committee hearing and for the committee report, recommendations and common council consideration provided in ss. 85-3 to 85-5 shall apply.

**4. PROBATIVE EVIDENCE.** The recommendation of the committee regarding the licensee shall be based on evidence presented at the hearing. Probative evidence concerning non-renewal, suspension or revocation may include evidence of:

a. Failure of the licensee to meet the statutory and municipal requirements.

b. Pending charges against or the conviction of a felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the circumstances of the particular licensed activity, by the licensee, his or her employees, or subcontractors.

c. The licensee, or any employee or lessee of the licensee, having violated any of the regulations or prohibitions set forth in this chapter.

d. Whether the applicant has been issued a warning letter or been subject to administrative sanctions by the Wisconsin department of agriculture, trade and consumer protection.

e. Any other factors which reasonably relate to the public health, safety and welfare.

**93-27. Additional Storage.** The application for, and issuance of, a premises license shall be conducted in accordance with ss. 93-21 to 93-25, except that for an application for additional storage, the report to the licensing committee by the commissioner of neighborhood services shall include information related to the zoning district in which the principal place of business, or additional fixed place of storage, of the recycling, salvaging or towing business is to be located and shall be made within 14 days.

**93-29. Changes to be Reported. 1. CHANGE IN INFORMATION.** A licensee shall notify the city clerk whenever there is a change in any information that is reported in the application form or renewal application form. The licensee shall make this notification in writing within 10 calendar days after the change occurs.

**2. TRANSFER OF LICENSES; CHANGE OF NAMES.** See s. 85-19 for provisions relating to the transfer of licenses and change of licensee names.

**93-31. Change of Vehicle.** A licensee may change the motor vehicles used in the conduct of the recycling, salvaging or towing business if the licensee files with the city clerk the information required on the form provided by the city clerk and pays the applicable fee specified in s. 81-102.8. Every motor vehicle involved in the recycling, salvaging or towing business as of [city clerk to insert effective date of this ordinance] shall comply with the sticker, signage and other applicable requirements of subch. 3.

**93-33. Disqualification; Change of Circumstances.** Whenever any application is denied, or license not renewed, revoked or surrendered, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

### SUBCHAPTER 3 OPERATING REGULATIONS

**93-41. Purpose.** The purpose of this subchapter is to regulate the operation of the various kinds of recycling, salvaging and towing businesses licensed by the city.

**93-43. Operating Regulations for all Recycling, Salvaging or Towing Premises. 1. IDENTIFICATION.** No licensee shall purchase any junk, valuable metals, or salvage motor vehicles without first obtaining adequate identification from the seller.

**2. TRANSACTIONS INVOLVING PROPERTY NOT OWNED.** No licensee shall purchase any property if any of the following is true:

a. The article of property is not owned by the person offering to sell the property.

b. The article of property is the property of a person other than the person offering to sell it, regardless of whether the transaction is occurring with the permission of the owner.

c. Another person, other than the person offering to sell the property, has a security interest in the article of property.

**3. EXCEPTION.** Subsection 2 shall not apply to any person selling, consigning, leaving or depositing any article of property with or to a licensed recycling, salvaging or towing premises if the person is any of the following:

a. A duly executed power of attorney for the owner of the property.

b. A personal representative of the estate to which the property belongs.

c. The recipient of a lawful written authorization to pledge, sell, consign, leave or deposit the property issued by the owner of the property prior to the time of the transaction.

**4. ALTERED OR OBLITERATED SERIAL NUMBER.** No licensee shall receive any regulated property with an altered or obliterated serial number, or from which a serial number has been removed.

**5. REGULATED PROPERTY, DOCUMENTATION.** No licensee shall purchase any regulated property unless the licensee receives from the seller documentation, such as a bill of sale, receipt, letter of authorization or similar evidence, which establishes that the seller lawfully possesses the regulated property. This documentation shall be retained for one year. Licensees may forego the documentation requirements of this subsection if either of the following is true:

a. The licensee documents that he or she has made a diligent inquiry into whether the person selling the regulated property has the legal right to do so, and, not later than one business day after purchasing the regulated property, submits a report to the chief of police describing the regulated property and submits a copy of the seller's or deliverer's adequate identification.

b. The licensee takes a color photograph or color video recording of the regulated property, as provided in sub. 8.

**6. PURCHASE FROM MINORS PROHIBITED.** No licensee shall purchase or accept any material or article from any individual less than 18 years of age without the written consent of the individual's parent or guardian.

**7. RECORDKEEPING, GENERAL.** Every licensee shall keep on his or her premises a transaction

description record, in a form approved by the chief of police or the chief's designee, for any valuable metal purchased or received. The transaction description record shall be numbered consecutively at the time of the purchase and shall be maintained and open for inspection by the chief of police, or the chief's designee, at any reasonable time for one year after the date of purchased or receipt. The transaction description record shall include each of the following:

- a. A transaction number.
- b. The date and time of the transaction.
- c. The printed name and permanent address of the person from whom the article was purchased or received, a copy of that person's adequate identification and a color photograph or color video recording of the person that meets the standards of sub. 11.
- d. The seller's vehicle license plate number and state of issuance, if applicable.
- e. A description of the individual property purchased or received, to be consistent with guidelines promulgated by a national recycling industry trade organization and to be approved by the chief of police.
- f. A signed, written declaration of ownership from the seller, separate and apart from any computerized records maintained, in a form approved by the chief of police.
- g. The seller's signature.

**8. RECORDKEEPING, REGULATED PROPERTY.** For regulated property, in addition to the information required in sub. 7, the transaction description record shall include a full and accurate description of each article purchased or received, including identifying letters or marks written, inscribed or otherwise included on the article and the name and maker of the article, if known. A color photograph or color video recording of the regulated property, taken at the time of purchase or receipt and meeting the standards of sub. 11, shall fulfill this requirement.

**9. RECORDKEEPING, VEHICLE SALVAGE.** a. Records kept under the provisions of s. Trans 136.03, Wis. Adm. Code, as amended, shall be satisfactory compliance with the transaction description requirements of sub. 7, and shall at reasonable times be open to the inspection of the chief of police, or any member of the police department designated by the chief of police for this purpose.

b. The purchase, receipt or sale of any motor vehicle parts or pieces thereof previously attached to a salvaged vehicle shall not be exempt from the recordkeeping requirements provided in this section.



**10. RECORDKEEPING, WHOLESALE AND BULK PURCHASES.** a. A licensee may choose to limit the transaction description record for wholesale and bulk purchases to a listing of the quantity or the weight purchased according to the guidelines provided in sub. 7-e, and not of individual items, provided that either of the following is true:

a-1. A color video recording meeting the standards of sub. 11 is taken of the individual items purchased, as they are being unloaded.

a-2. The seller is a regularly established foundry, mill, manufacturer, licensed home improvement contractor, as defined in s. 95-14, licensed recycling, salvaging or towing premises, or educational, governmental or medical institution, and is in compliance with all other applicable requirements of this subsection, provided that the record of the purchase states the seller's license number or other identifying information.

b. A licensee presented or finding any undisclosed regulated property in any wholesale or bulk purchase, or any property which is reasonably believed to be stolen, shall immediately report this property to the police.

**11. PHOTOGRAPHS.** Photographs required as part of this subchapter shall be at least 2 inches square. Photographs and video recordings shall be time and date-stamped and maintained so they can be readily matched and correlated with all other records of a transaction. All photographs and video recordings shall be available to the chief of police, or the chief's designee, upon request. The major portion of a photograph or a video recording of a person shall include an identifiable facial image. Property photographed or video-recorded shall be accurately depicted, of sufficient quality and from a clear and unobstructed perspective, as determined by the chief of police. The licensee shall inform the person that he or she is being photographed or video-recorded by displaying a sign of sufficient size in a conspicuous place on the premises. The licensee shall keep the photograph or video recording for 90 days.

**12. REPORTS.** a. All transaction description records for regulated property, except for signed declarations of ownership and patron signatures on transaction description records, shall be reported not later than the close of each business day by posting and uploading all transaction description records to an electronic reporting database approved by the chief of police, according to the protocols of the chief of police.

b. Protocols for submitting batch data shall reasonably accommodate various mainstream data processing systems used by licensees, to the extent possible.

c. The police department may delay, reduce or forego daily reporting requirements as the chief of police, or the chief's designee, sees fit without cause.

**13. CUSTOMER IDENTIFICATION NUMBERS.** The police chief may permit a licensee to substitute a customer identification number, or other seller identifier assigned by the licensee, for a seller's name, address, date of birth, and all identification obtained from the seller as specified in sub. 7, provided the licensee maintains a file containing this information for police inspection.

**14. GOODS HELD FOR IDENTIFICATION.** The chief of police may, at his or her discretion, cause any items which he or she has reason to believe were sold or exchanged by a person other than the lawful owner to be held, for identification by its lawful owner, for such reasonable length of time as the chief deems necessary.

**15. INSPECTION.** Every article purchased by a recycling, salvaging or towing premises, and every computerized file, written document and invoice of transaction description records shall be available for inspection by the chief of police, or the chief's designee, at any reasonable time.

**16. FALSE INFORMATION.** No person selling any property to any licensee shall:

a. Give a false or fictitious name, present false or altered identification documents, give a false date of birth or give a false address of residence or telephone number to the licensee gathering information for a transaction description record.

b. Knowingly conceal or fail to disclose any regulated property contained within a wholesale or bulk purchase.

c. Pawn, pledge, sell, consign, leave or deposit any article of property with or to a business licensed under this chapter if one or more of the following is true:

c-1. The article of property is not owned by the person.

c-2. The article of property is the property of another, regardless of whether the transaction is occurring with the permission of the owner.

c-3. Another person has a security interest in the article of property.

**17. SIGNAGE.** Every licensee shall display a sign, in a form approved by the chief of police or the chief's designee, of sufficient size and in a conspicuous place on the premises, informing patrons that all transactions are reported electronically to the police department. The sign shall include the premises' license number. Identifying signs that satisfy state statutory or regulatory requirements for signage shall be deemed to satisfy the requirements of this subsection.

**18. NOT TO CREATE NUISANCE.** a. No goods or materials associated with a recycling, salvaging or towing premises shall be stored, sorted, assembled, disassembled, displayed or otherwise kept on any public right-of-way, public street, alley, sidewalk, or public parking area. All goods and materials

shall be kept within a building, enclosure or site approved on a licensee's application.

b. All lights used to illuminate premises shall be shielded and directed away from public streets and residential properties in such a way as not to create a glare into the public street or surrounding premises used for residential purposes, or to disturb the comfort of persons living across therefrom or on adjacent property.

**93-45. Operating Regulations for Recycling, Salvaging or Towing Vehicles.** 1. LICENSE STICKERS AND SIGNAGE. a. Each motor vehicle used by a licensed recycling, salvaging or towing business shall have affixed to it, in a prominent place, a sticker issued by the city clerk with the words "recycling, salvaging or towing" stamped on it. Whenever a sticker has been defaced, lost, stolen or destroyed, the licensee shall immediately apply to the city clerk for a duplicate sticker. A request for a duplicate sticker shall be accompanied by the fee specified in s. 81-1-4.

b. Each motor vehicle used for business purposes by a licensed recycling, salvaging or towing business shall bear identifying signs printed or affixed to both sides of the vehicle. Identifying signs shall include the name of the business or person operating the vehicle, a valid telephone number for the business or person operating the vehicle, and the phrase, "City of Milwaukee Recycling, Salvaging or Towing License No." together with the number of the license, all located in a prominent position in letters not less than 2 inches in height. Except for a tow truck, a commercial motor vehicle bearing a U.S. department of transportation number filed and registered with the federal motor carrier safety administration shall be exempt from the signage requirements of this paragraph.

c. Photographs of vehicles and signage shall be submitted to the city clerk in the following manner:

c-1. One or more photographs of each motor vehicle used in the business of recycling, salvaging or towing shall be submitted to the city clerk in a form and manner acceptable to the city clerk prior to issuance of a new or renewal license.

c-2. Photographs submitted to the city clerk under this paragraph shall clearly display all elements of signage required under par. b.

c-3. Changes in signage and replacement photographs shall be subject to reporting as provided in s. 93-29, and failure to provide required photographs may be considered upon application for renewal or in suspension or revocation proceedings, as provided in s. 93-25-4.

**2. CARRYING BY OPERATORS.** An operator of a vehicle licensed under this chapter shall at all times carry the license on his or her person or post the license in the vehicle while engaged in activities related to recycling, salvaging or towing, and shall present the license for inspection upon request made by any person.

**3. NOT TO CREATE NUISANCE.** a. No goods or materials associated with recycling, salvaging or towing vehicles shall be stored, sorted, assembled, disassembled, displayed or otherwise kept on any public right-of-way, public street, alley, sidewalk, or public parking area. All goods and materials shall be kept within a building, enclosure or site approved on a licensee's application.

b. No person shall store salvage materials on any residential premises or vacant lot in a residential zoning district.

**93-47. Motor Vehicle Towing. 1. OBLITERATED IDENTIFICATION NUMBER.** No licensee shall tow any motor vehicle with an altered or obliterated vehicle identification number, unless directed by the police department.

**2. NON-CONSENSUAL TOWING.** All of the following requirements shall be met for a towing business to perform a non-consensual tow:

a. The licensee shall have in his or her possession an authorized service order form before hooking up the vehicle to be serviced. Authorized service order forms shall include the name of the licensee's business, the address and telephone number of the licensee's storage lot, the licensee's tow truck license number, the name of the driver or operator of the tow truck, the name and signature of the person authorizing the service, the time the service was ordered and a description of the vehicle to be towed, including the make, model and license plate number. In addition:

a-1. A copy of the authorized service order form shall be retained for 90 days and provided to the police department upon request.

a-2. This paragraph shall not be applicable to any licensee operating a tow truck under the terms of this chapter where the licensee is under a written contract for a specific period of time with any person, firm or corporation to tow illegally parked or repossessed vehicles to a specific location as set forth in the contract. Contracts shall be kept at a licensee's premises for review by the police department.

b. The person, firm or corporation authorizing the tow shall be the owner of the private property from which the vehicle will be towed, a duly authorized agent of the owner, a traffic officer or parking enforcer, as provided in s. 349.13(3m)2(d), Wis. Stats.

c. Except for a vehicle issued a repossession judgment or a citation for illegal parking, as provided in s. 349.13(3m)2(b), Wis. Stats., the lot from which any motor vehicle is non-consensually towed shall be properly posted, as provided in Trans 319.04, Wis. Admin. Code.

d. The towing business shall take, and retain unaltered for 90 days, color photographs of the motor vehicle to be towed, including:

- d-1. At least one color photograph each from the front, rear, and each side of the vehicle.
  - d-2. At least one color photograph of the sign indicating the property was properly posted, including, to the extent possible, the vehicle to be towed.
  - d-3. If applicable, at least one color photograph of any parking citations and any parking permits, placards, stickers or other parking-related signage visible on or in the vehicle.
  - e. Prior to the towing of a vehicle, the towing business shall report, by approved electronic notification, to the police department, in the manner designated by the police department, the following:
    - e-1. The address or an accurate, specific description of the location from which the vehicle is being removed.
    - e-2. The location to which the vehicle will be removed, including a telephone number for the location.
    - e-3. A description of the vehicle, including make, model, license plate number and vehicle identification number.
    - e-4. Any other information required by the police department.
  - f. Prior to the towing of a vehicle, the towing business shall receive and record in the operator's log book a tow reference number from the city confirming that the city has received electronic notification of the tow and that the vehicle to be towed is not stolen. If a system of electronic notification is temporarily unavailable, the police department, or the police department's designee, shall provide notification of the granting or denial of a tow reference number by voice within 10 minutes of the time the request for a tow reference number was received.
  - g. For every vehicle non-consensually towed for which the towing business receives a tow reference number, the towing business shall remit a fee to the city, as established by the commissioner of public works and as provided in s. Trans 319.03(3), Wis. Admin. Code. The commissioner may waive or reduce this fee if a tow truck operator releases a motor vehicle to the owner or authorized operator of the motor vehicle under the provisions of s. 93-47-3.
- 3. DROP FEE.** a. Except for a vehicle issued a repossession judgment and unless otherwise directed by a police officer, if the owner or authorized operator of any motor vehicle to be towed is present and offers to remove the vehicle from the property or correct the violation before the vehicle is attached in any way to the tow truck, no fee shall be charged the vehicle owner.

b. If a tow truck operator has attached equipment for towing to the vehicle to be towed, but is not yet fully hooked up, as defined in s. 93-3-9, and the tow truck has not entered a public roadway, the vehicle shall not be towed upon request of the vehicle owner or authorized operator. The owner or authorized operator shall be liable for a drop fee in an amount not to exceed \$50, in lieu of towing, provided the vehicle owner or authorized operator is willing and able to pay the drop fee and remove the vehicle or otherwise correct the violation.

c. If an owner or authorized operator of a motor vehicle is present before a tow truck enters a public roadway, the tow truck operator shall advise the owner or authorized operator of the motor vehicle that he or she may offer payment of the towing drop fee and shall provide the owner or authorized operator of the motor vehicle 5 minutes to make payment of the towing drop fee. The tow truck operator shall concurrently advise the owner or authorized operator of the motor vehicle of acceptable forms of payment, as provided in par. d.

d. For purposes of this subsection, a towing business shall accept payment by cash, credit card or debit card for the drop charge, and shall issue the person requesting the drop a receipt of payment of the drop fee.

e. If a tow truck operator advises the owner or authorized operator of a motor vehicle that he or she may offer payment of the towing drop fee and the owner or authorized operator declines to pay the drop fee, the owner or authorized operator shall sign in duplicate a drop fee waiver form provided by the tow truck operator and in a form approved by the chief of police.

#### **4. RESTRICTIONS ON ACTIONS OF TOW TRUCK OPERATORS.** No operator of a tow truck shall:

a. Except in the case of a repossession, non-consensually tow any motor vehicle to a location outside the city.

b. Solicit or attempt to divert prospective patrons of another tow truck.

c. Tow a vehicle without first obtaining adequate identification from the owner or authorized operator of the vehicle or from the person authorizing the tow from private property.

d. Refuse to release or charge a fee to release personal property from within a towed vehicle to the owner or authorized operator of the towed vehicle during regular business hours upon presentation by the owner or authorized operator of proper identification.

e. Remove any item or material from a towed vehicle, whether on the inside or outside of the vehicle.

f. If performing a non-consensual tow, charge a sum in excess of that authorized by s. Trans 319.03, Wis. Admin. Code.

g. Refuse to release a vehicle after the presentation of sufficient proof of ownership and the payment of authorized charges.

h. Charge the owner or authorized operator of any non-consensually towed motor vehicle any storage fee for any 24-hour period during which the business is not open and the vehicle not available for recovery for at least a 4-hour period between 8 a.m. and 5 p.m.

i. Refuse payment for towing services by cash or by debit, credit or charge card.

j. Store a non-consensually towed vehicle at any location not on file with the city, unless directed otherwise by the police department.

k. Subcontract any non-consensual towing work to any person, firm or corporation not licensed to perform non-consensual towing in the city.

**5. OWNER'S RIGHT TO INSPECT.** No towing business shall solicit, demand or receive any payment for services provided or waiver of the right to contest damages prior to allowing the owner or authorized operator of a towed vehicle a reasonable opportunity to inspect the vehicle for damages or loss of contents.

**6. POSTING OF FEE SCHEDULE.** a. Prior to performing any tow, a tow truck operator shall disclose to the owner or authorized operator of the motor vehicle all rates and charges to be assessed. This rule does not apply to a non-consensual tow or a tow ordered by a law enforcement officer.

b. The schedule of minimum fees for non-consensual towing, as provided in s. Trans 319.03, Wis. Admin. Code, shall be posted at the business location or locations in a conspicuous place near the main entrance and inside each vehicle owned, operated or controlled by the business to be used in the conduct of the towing business.

**7. RECORDKEEPING.** Each tow truck operator shall at all times maintain a current transport sheet approved as to type and form by the chief of police containing the information required in sub. 2-e. Transaction description records shall be either computer files or written documents approved by the chief of police, or the chief's designee. Written document transaction description records shall be legible and in ink, and no entry made shall be erased, obliterated or defaced. Written-document and computerized transaction description records shall be open for inspection by the chief of police, or the chief's designee, at any reasonable time. Written documents shall be retained and computerized files shall be maintained for one year.

**8. VEHICLE STANDARDS.** Every vehicle used in the conduct of a towing business shall meet all safety standards required by state and federal law and, as adjudged by the police department, be

kept in good operating condition and appearance. Every towing business shall keep records of daily vehicle inspection reports for inspection by the police department and shall submit to the police department copies of annual inspections for all tow trucks owned, operated or controlled by the business to be used in the conduct of the towing business in the city.

**9. MINORS.** No towing business shall conduct any transaction with any person less than 18 years of age unless that person is with his or her parent or guardian, or the business obtains or has on file a written consent signed in a tow truck operator's presence by the parent or guardian granting permission for the minor to transact business with the dealer.

**10. STOLEN VEHICLES.** A tow truck operator shall report to the police any item presented to a licensed towing business during the course of business that the tow truck operator has reason to believe was stolen, either by the person presenting the item or another party.

**11. REGULATIONS TO BE POSTED.** Each towing business shall post a copy of these regulations in a conspicuous place on its licensed premises.

**12. RESPONSIBILITY FOR PERSONNEL.** Each towing business obtaining a license shall be responsible for the acts of its employees, agents and subcontractors, and shall be subject to all applicable penalties if those employees, agents or subcontractors violate this section, including nonrenewal, suspension or revocation of its license.

**13. APPLICABILITY.** This section shall not apply when the motor vehicle being towed has originated outside the city and is either in the process of being delivered to a location in the city or is being towed through the city to be delivered elsewhere.

**93-49. Waste Tires. 1. STORAGE.** a. Each waste tire shall be stored and secured in a manner approved by the commissioner of neighborhood services to eliminate theft and potential nuisances of litter as described in ss.79-11 and 79-12, rat harborage as described in s. 80-48, fly breeding as described in s. 80-31 and fire hazard as described in s. 214-9.

b. No person may store or permit the storage of more than 24 waste tires upon any premises within the city unless the premises is a licensed recycling, salvaging or towing premises.

**2. DISPOSAL.** No licensed recycling, salvaging or towing premises or vehicle may knowingly dispose of any waste tires other than to a tire disposer or tire reprocessor.

**3. RECORDKEEPING.** Each waste tire generator shall maintain for 3 years all records and receipts relating to waste tires handled by the business. The record for each transaction shall include:

a. For a waste tire generator, the number of waste tires generated, the name of the waste tire transporter, the date of pickup and the transporter's recycling, salvaging or towing license number.



b. For a waste tire transporter, the date of pickup, number of waste tires, name and address of the waste tire generator, the name and address of the waste tire disposer or reprocessor, and the date of delivery of the waste tires to the waste tire disposer or reprocessor.

**4. REPORTING.** Each waste tire transporter shall submit to the city clerk a semi-annual report of waste tire collections. The city clerk shall determine the type of information required in the report and shall specify the date by which each semi-annual report shall be submitted.

**5. NUISANCE ABATEMENT.** a. Any violation of this section or disposal of waste tires in violation of ss. 79-9 to 79-12 may be ordered corrected by the police department or the department of neighborhood services. If the property owner or licensee fails to comply with the order to correct the conditions which are in violation, the city may correct the conditions. The property owner or licensee, or both, shall be personally liable for any expenses to the city for correcting the conditions of the violation, except for a licensee described in par. b.

b. A waste tire transporter or waste tire generator whose tires have been disposed of in violation of this section or ss. 79-9 to 79-12 shall not be personally liable under par. a if the transporter or generator did not know in advance about, participate in, or otherwise assist the illegal disposal and if the transporter or generator is properly licensed and otherwise in compliance with this section.

**6. EXCEPTIONS.** a. A recycling, salvaging or towing license shall be required for each premises and each vehicle dealing in waste tires, except that the licensing requirements of this chapter shall not apply to the following:

a. Any vehicle containing 5 or fewer waste tires unless the transporter is hauling waste tires for a waste tire generator.

b. Any vehicle which originates outside of the city and is designated for transport outside of the city, provided that no waste tires are loaded or unloaded within the city.

c. A fleet owner that takes its vehicles to an outside tire vendor's facility for service, provided the facility is within the city of Milwaukee. In this situation, the tire vendor shall be considered the waste tire generator.

**7. PENALTY.** Any person violating this section shall be subject to the penalty provided in s. 93-7-3.

Part 26. Section 101-23.2-1-b of the code is amended to read:

### **101-23.2. Vehicles Prohibited from Parking or Standing.**

#### **1. DEFINITIONS.**

b. "Junk" has the meaning provided in ~~[[s. 92-3-2-a]]~~ >>s. 93-3-10<<.

Part 27. Section 101-23.2-1-c and d of the code is created to read:

c. "Valuable metal" has the meaning provided in s. 93-3-30.

d. "Waste tire" has the meaning provided in s. 93-3-31.

Part 28. Section 101-23.2-2 of the code is amended to read:

**2. PROHIBITED.** Vehicles used in activities subject to licensure under ~~[[s. 92-3 as junk collectors or junk dealers]]~~ >>ch. 93<< and in which junk>>, valuable metal, waste tires or other material regulated under ch. 93<< is collected or stored shall not be parked or left standing on the highways of the city.

Part 29. Section 295-201-369 of the code is amended to read:

**295-201. Definitions.**

**369. MATERIAL RECLAMATION FACILITY** means an establishment engaged in processing and wholesaling scrap from automobiles, concrete, asphalt or industrial or other non-consumer recyclable materials. This term includes, but is not limited to, ~~[[an auto wrecker]]~~ >>any recycling, salvaging or towing premises, as defined in s. 93-3-21,<< primarily engaged in dismantling motor vehicles for the purpose of wholesaling scrap.

Part 30. Section 295-203-11-c of the code is amended to read:

**295-203. Use Definitions.**

**11. STORAGE, RECYCLING AND WHOLESALE TRADE USES.**

c. "Material reclamation facility" means an establishment engaged in processing and wholesaling scrap from automobiles, concrete, asphalt or industrial or other non-consumer recyclable materials. This term includes, but is not limited to, ~~[[an auto wrecker]]~~ >>any recycling, salvaging or towing premises, as defined in s. 93-3-21,<< primarily engaged in dismantling motor vehicles for the purpose of wholesaling scrap.

APPROVED AS TO FORM

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Legislative Reference Bureau

Date: \_\_\_\_\_

IT IS OUR OPINION THAT THE ORDINANCE  
IS LEGAL AND ENFORCEABLE

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Office of the City Attorney

Date: \_\_\_\_\_

LRB157302-6

Andrew R. VanNatta: jdo

09/21/2015