

APPENDIX A



# City of Milwaukee

200 E. Wells Street  
Milwaukee, Wisconsin  
53202

## Meeting Minutes LOCAL BUSINESS ACTION TEAM

**ALD. TERRY WITKOWSKI, CO-CHAIR,**  
**ART DAHLBERG, CO-CHAIR,**  
**Ald. Jim Bohl, Ald. Jose Perez, Bevan Baker, Rocky Marcoux,**  
**Ghassan Korban, Nancy Olson, Jim Owczarski, Clifton**  
**Crump, Julio Maldonado, Eve Hall, and Jeff Tredo**  
**Staff Assistant, Jessica Celella, 286-2775**  
**Fax: 286-3456, [jlcelel@milwaukee.gov](mailto:jlcelel@milwaukee.gov)**  
**Legislative Liaison, Jeffrey Osterman, 286-2262,**  
**[joster@milwaukee.gov](mailto:joster@milwaukee.gov)**

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Wednesday, October 22, 2014

10:00 AM

Room 303, City Hall

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*Meeting convened: 10:15 A.M.*

**Present** 9 - Owczarski, Witkowski, Dahlberg, Perez, Olson, Marcoux, Maldonado, Hall and Tredo

**Excused** 4 - Bohl, Baker, Korban and Crump

### 1. Introduction of members and staff and role of staff.

*Ald. Witkowski said that one business owner purchased 3 buildings in 3 different municipalities. One was approved in a week, one in two weeks and one three months and counting, in the City of Milwaukee.*

*Members introduced themselves and Ald. Witkowski introduced the staff assistant and the Legislative Reference Bureau liaison, Jeff Osterman.*

### 2. Purpose of the Local Business Action Team and its connection to the Growing Prosperity Plan.

*A work group was going to be created, regardless of whether any resolution was created or not. Ald. Witkowski preferred Council buy-in since that would be more likely to be approved by the Council. Mr. Dahlberg will be running future meetings.*

### 3. Discussion relating to open records.

*Mr. Owczarski, City Clerk, spoke on open meetings law that this body is subject to as a public body. Members from the public participate at the discretion of the chair. Members need to be aware of a quorum of members and also a walking quorum. Records of this body are maintained by the City Clerk's Office. Roll call taken at 10:25 A.M.*

### 4. Team member perspective of what city government is doing right and wrong in supporting entrepreneurs & small businesses.

*Chair Dahlberg wanted members and the public to speak on what they have seen that is good or that is bad.*

*Ald. Perez said that the visit from Mr. Walsh raised a lot of questions relating to commercial corridors and the zoning code. He feels it is important to look at the internal communication between departments and divisions. He is particularly concerned about how zoning changes are communicated.*

*Mr. Maldonado said that with the influx of Spanish speakers the city need to translate a lot of the forms and licenses into Spanish based upon the large number of Spanish-speaking entrepreneurs. Ald. Perez finds that a number of people have signed 5-year leases and then find out that their proposed uses aren't permitted uses for those locations. The Department of Neighborhood Services (DNS) has a commercial courtesy inspection program that brings a team of city people out to the site that addresses what will need to be done at the site. Ms. Dahlberg provided members with a brochure (attached to file 141072) on that program. This, to Mr. Maldonado, was a perfect example of a brochure that needs to be translated.*

*Dr. Hall said that she has heard that the processes are often very cumbersome in terms of getting permits and certification, as well as its difficult to get access to information on resources.*

*Mr. Owczarski would like to see a better alignment of definitions used between licensing and zoning. The Licensing Division wants to be open up beyond Monday-Friday 9-5, with possibility Saturday hours and remote locations, potentially at libraries. The City Clerk's Office is also looking at ways to provide seamless service with the Development Center and would like to have the Licenses Committee and Board of Zoning Appeals meet together to see how their concerns overlap and intersect. Mr. Dahlberg mentioned having licensing staff and development staff at the same site, side-by-side to assist customers. He sees that a 6-week in licensing might be the death knell for small businesses who didn't anticipate not being in business for an additional six weeks. Ald. Perez is concerned about discretionary approvals that are pro forma, but that result in six week delays. Mr. Dahlberg suggested building those approvals into the process and have those approvals done by staff as long as there is still the ability for enforcement action against businesses that go "bad".*

*Mr. Tredo said that entrepreneurs need help in navigating the bureaucratic process and he thinks those individuals just need a reliable schedule in terms of what comes first and how long it will take. Currently there's a lot of uncertainty about how long a relatively simple plan exam will take.*

*Mr. Crump is concerned about those potential business owners who are denied at the Board of Zoning Appeals (BOZA) and just walk away, as well as those applicants who must go through the approval process for decades despite being good operators. He would like to see the BOZA caseload reduced and not have an 80-item agenda with uncontested issues. Mr. Dahlberg would like to better define minor exceptions that wouldn't need to go through BOZA, which adds a six-week wait. He would like to look at definitions and mesh some processes together.*

*Mr. Marcoux was formerly with the Housing Authority for 18 years when he was dealing with the city in obtaining permits and he served on the formation committee for the Development Center. He would like to see zoning more streamlined and was amenable to moving the Development Center from the Department of City Development (DCD) to DNS. He agrees that the city has not done a very good job of making documents available in Spanish and other languages. He thinks all of city documents and the web site should be bilingual. He would like to add more Spanish-speaking staff as well.*

*Ms. Olson would be listening to ways that the Information Technology section can help in reaching the body's goals.*

*Roll call taken at 11:00 A.M.*

*Ald. Witkowski, when he came to the city, said that each department functioned independently of each other, which is slowly changing. He said that the city may be willing to spend more money to bring in new businesses. He does sees departments working with each other more and this Team can help improve the city as well.*

*Ald. Bohl would prefer to listen rather than to speak at this point on this item. Jim Holmes, from the audience, ran a successful business for 10 years relating to fresh foods. The city was very slow in getting back to him and trying to purchase city property was very difficult. He hopes to create 450 jobs in the city of Milwaukee and he has a hard time getting an appointment with aldermen. The process is so incredibly difficult, almost to the point of sabotage. A vacant lot he was interested in purchasing was zoned commercial, but he was told that it was to be a residential project and it is still currently vacant. The inspector made him change all the doorknobs in the building "just because" he couldn't find any other issues on which to cite the building owner. He would like to see more black men on this body and also them involved in the process. For the Bloomberg prize, 4 of the 10 winners were city employees and the rotunda was full, but only 7 black individuals were there. We need to involve women, Spanish speakers, Hmong speakers and others more. Applying for a license was not a transparent process and it seemed like the applicant was told a little more once he or she paid.*

*Ald. Bohl would like to see more business people added to this body or, at a minimum, do outreach to hear from the public.*

*Mr. Dahlberg noted that later on the agenda is an item on how to get input from the public. .*

**Present** 11 - Owczarski, Bohl, Witkowski, Dahlberg, Perez, Crump, Olson, Marcoux, Maldonado, Hall and Trede

**Excused** 2 - Baker and Korban

## 5. Presentation on Development Center changes and feedback on those changes.

*Several years ago an informal work group was created among developers, builders and the DNS, DCD and the Department of Public Works which created defined development timelines. They're also tracking how often they meet those goals. That timeline document is contained in file 141072. If inspectors now see something in the field, they don't stop the work, but they talk to the Development Center the next day -- jobs can only stopped by a supervisor. Review by appointments in 2-3 weeks are no longer standard; now smaller jobs can be reviewed in 2-3 business days. The training budget was also increased and maintained at a higher level, so good decisions can be made quicker and why something is required or being changed is explained to the customer. DNS has created quality control programs. They're also working on having one construction inspector out, rather than having two additional inspectors, plumbing and electrical, come out as well. The DNS motto is to assume people are going to do a good job unless they've proven that they won't. In March, it is anticipated that a new land management system will be rolled out so customers can see what the status of their applications are and it is immediate once the final sign-off has been approved. There is also discussion about making the 6th and Howard site a major point for access for businesses. At a bare minimum, Mr. Dahlberg would like to have a true one-stop shop enterprise. Sometimes a change in state law is needed in order for the city process to improve, such as drawings required for work in buildings 50,000 cubic feet, even if the work actually being done is small.*

## 6. Presentation on Rob Walsh visit.

*Mr. Marcoux said that Rob Walsh came to the City of Milwaukee and spoke on the New York model. Mr. Marcoux gave a PowerPoint presentation on lessons from that visit, which is attached to file 141072. The picture on the cover of "Growing Prosperity" is the 30th Street Corridor, The Growing Prosperity document is found in file 140460. New York City has outperformed the rest of the country since the onset*

of the financial crisis. Robert Walsh served under Mayor Bloomberg for 12 years in economic development. Mayor Bloomberg created an agency that served small businesses and works with Business Improvement Districts (BIDs). Miniature city halls were created to provide city services locally rather than solely downtown to support small businesses in obtaining loans, marketing advice, legal advice, employee training, etc.

Ald. Perez excused from the rest of the meeting at 11:50 A.M.

Mr. Dahlberg said that the biggest enemy of entrepreneurs is time and particularly delays in operating. The city has not done a good job of advantaging minorities and women entrepreneurs and employees. There is a conscious effort to train people on how to leverage their projects and outsource city employees to assist organizations. A team was created in New York City to assist bakeries, restaurants, bars and butcher shops in opening, resulting in these businesses opening an average of two months earlier. New York City also had a website that tells you what local, county, state and federal licenses are needed, the order in which they should be applied, and estimates how long the steps will take and estimated costs of all the required licenses, as well as a link to potential funding sources. Creating this website also resulted in the city streamlining of processes because it forced the city to review its own processes as well. Mr. Dahlberg said the city of Milwaukee needs to create its own website that would function in this manner. DCD is already, in the 2015 budget, focusing more on neighborhoods.

**7. Discussion on approaches to seek input from business and organizations.**

Suggestions from members included a media release and interview, a mass E-notify, e-mail to BIDs, community newspapers, paying for ads in the community newspapers (the City Clerk had no problem with paying for that), a meeting or meetings that aren't 9-5 on a workday and an e-mail account to which to send suggestions.

Ald. Bohl recommended adding this to the next agenda for discussion.

**8. Extension of deadline to submit report of the body.**

Ald. Bohl supports not having deadlines. Any deadline would be contingent on when public input could be obtained, as well as how much is received and how it can be tabulated.

**9. Items for future agendas.**

Means of outreach to the public for its input, as well as tabulating this input

Dr. Hall suggested creating flow charts for common permits, such as a zoning permit.

Next agenda will do a flow chart for a small scale restaurant.

**10. Set next meeting date(s).**

The Staff Assistant will poll members to get the next meeting date/time.

Meeting adjourned: 12:27 P.M.

Linda M. Elmer

Staff Assistant



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**joster@milwaukee.gov**

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Friday, November 21, 2014

10:30 AM

Room 303, City Hall

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**Present** 13 - Owczarski, Bohl, Witkowski, Baker, Dahlberg, Korban, Perez, Crump, Olson, Marcoux, Maldonado, Hall and Tredo

**1. Roll call and approval of previous meeting minutes.**

*Meeting convened at 10:40 AM.*

*Mr. Owczarski moved, seconded by Ms. Olson, approval of the meeting minutes from October 22, 2014. There were no objections.*

**2. Review of past meeting results.**

**3. Review of sample work flow.**

*Chair Dahlberg presented a flow chart with an overview of the process of opening a restaurant.*

*Mr. Owczarski confirmed that the example is for an alcohol establishment, as the process without alcohol is less complicated.*

*Ald. Bohl stated that license process is more complex and the flow chart is not accurate for renewal applications. The Common Council would likely not hold an application, but refer it back to committee.*

*Chair Dahlberg stated the flow chart is meant to be a followup to the conversation at the previous meeting. It is meant as an introduction to depict how individuals from the outside of the city may become confused.*

**4. Discussion and development of an outreach plan for the Local Business Action Team.**

*Chair Dahlberg reiterated the desire to hear input from the public to see what works and what doesn't work. Various business groups and chambers of commerce could give feedback to the body.*

*Mr. Marcoux stated that he could relay information about the body to an upcoming BID council meeting that he is attending. He indicated that members are welcome to attend, but the session is primarily directed at DCD and he would like the meeting attendees to feel comfortable.*

*Dr. Hall states she is a member of the Small Business Entrepreneurship Infinity Group and could serve as a liaison. She stated that individuals could speak before the body or members could relay the message of the team to various community groups.*

*Chair Dahlberg suggested offering an online survey and hosting a listening session.*

*Mr. Maldonado stated he attending the BID council meeting and will serve as a listener. He has already started asking some BID directors for feedback. Some members have expressed concern regarding feedback being anonymous.*

*Ald. Bohl recommended ensuring outside developers are also given an opportunity to give input. He would like to hear their views on the Milwaukee permit process compared to experiences in other cities. He wants to make the process as best as it can be, but states there might unfortunately always be requirements that businesses aren't happy with.*

*Chair Dahlberg suggested having licensing staff interview people from other communities to help understand their process. A short list of businesses to engage in the process could be compiled.*

*Mr. Owczarski offered assistance from the Legislative Reference Bureau to research other communities. A succinct list on what the body wants to know would need to be developed.*

*Ald. Perez stated he wants to ensure cultural differences are taken into consideration with the process. Language barriers could affect the process.*

*Mr. Owczarski suggested a separate survey could be developed to ensure cultural differences are examined.*

*Mr. Maldonado stated he has assisted several start-ups in other municipalities and his clients have had difficulties there compared to Milwaukee.*

*Chair Dahlberg and Mr. Owczarski agreed to work together to develop an initial survey with the LRB.*

*Ms. Olson requested that the survey help find out how other communities share the business processes with their development communities.*

*Mr. Tredo suggested the group should be trying to help people who haven't done this before. New start-ups are often confused by the big process. Bigger developers are often prepared for a long process and can afford to have firms represent them.*

*Mr. Marcoux cited New York as a great example. The city has a more complicated process but they have found a way to make the process easier for the community.*

*Ald. Perez stated Chicago has put together a good program to invite and embrace the immigrant community.*

*Mr. Tredo stated Chicago has some kind of facilitator who is assigned to applicants and takes them through the entire process. The language barrier can become a big issue when calling city departments in Milwaukee.*

*Mr. Marcoux stated Milwaukee has had facilitation for large projects and it's worked well, but it has not been addressed for smaller projects*

*Ald. Perez recommended having a mapping tool for entities that help map the business process.*

*Chair Dahlberg suggested reaching out to the community and hosting a listening session in January.*

**5. Set next meeting date.**

*Chair Dahlberg requested that the staff assistant poll members regarding a meeting date.*

*Meeting adjourned at 11:40 AM.*

*Staff Assistant  
Jessica Celella*

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Thursday, February 5, 2015

9:00 AM

Room 303, City Hall

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*Meeting convened at 9:10 AM*

*Present: Dahlberg, Witkowski, Crump, Olson, Bohl, Marcoux, Maldonado, Perez, Angela Hagy in place of Bevan Baker, Richard Pfaff in place of Jim Owczarski*

*Excused: Korban, Hall, Tredo*

*Also present:*

*Jeff Osterman - Legislative Reference Bureau*

*Ken Gales - Department of City Development*

*Martha Brown - Department of City Development*

*Ed Richardson - Department of City Development*

### 1. Approval of previous meeting minutes

*Ald. Perez moved approval, seconded by Mr. Pfaff, approval of the previous meeting minutes.*

### 2. Update from the City Clerk's Office regarding survey of other jurisdiction's processes and timelines

*Mr. Pfaff stated the Legislative Reference Bureau has begun the project of mapping out processes. Mr. Osterman stated they have begun looking at four project development business scenarios with a flow chart for each. Flow charts for Milwaukee's processes should be completed before questioning other communities. Drafts for two of the four processes are complete and have been sent to city staff for review and feedback.*

*Chair Dahlberg stated as a reminder, that the goal is to get a benchmark for other municipalities.*

*Mr. Osterman stated they would be comparing against Madison, Green Bay, Greenfield, and West Allis.*

*Ald. Bohl suggested using another suburb outside of Milwaukee County. Ms. Hagy*

*suggested using a municipality outside of Wisconsin. Chair Dahlberg stated he would like start with Wisconsin municipalities.*

**3. Update from the Department of City Development on the development of an online survey tool**

*Items #3 and #4 were discussed together.*

*Mr. Gales stated the Local Business Action Team was briefly discussed at the last BID council meeting. It is also on the agenda for a more in depth conversation at the upcoming meeting. The Department of City Development is in the process of contracting with a firm to provide an online survey. They are looking for opportunities to have people participate.*

*Ald. Perez asked to get input from the BID council to ensure broad feedback. Before launching the online survey, he would also like to ensure the translation is accurate and makes sense to engage the community.*

*Chair Dahlberg asked about the timeline for the survey. Ms. Brown stated they are looking at existing platforms, developing questions, and will also work with the City Clerk's Office to develop a Hmong translation. They estimate a two-month timeline and could review some of the questions with members.*

*Chair Dahlberg, Ms. Hagy, And Mr. Pfaff indicated each of their departments, the Department of Neighborhood Services, Health Department, and City Clerk's Office, currently have online surveys. Ms. Brown suggested combining surveys. Ms. Olson requested to be included in the development or purchase of online survey tools.*

**4. Update from the Department of City Development on outreach efforts to date**

**5. Discussion on process to perform review of zoning ordinance**

*Mr. Richardson stated that Ald. Perez had contacted the department to streamline the zoning process. He stated the department is constantly trying to find ways to improve the code and handle new businesses like food trucks. The staff suggestion handout lists some ideas and the department has an intern researching zoning codes around the country. There is a long list of ideas and he welcomes all to give input.*

*Chair Dahlberg suggested reviewing the Board of Zoning Appeals agenda for consent agenda items. This may give an idea of regulations that should be altered. Ald. Perez stated he would like the BOZA process to be examined and he would like to be included. Chair Dahlberg suggested members contact Mr. Richardson to have a meeting to develop ideas.*

*Mr. Marcoux stated some neighborhoods have requested changes to zoning and these neighborhoods would be a good place to start.*

**6. Discussion on process to review overlap of enforcement strategies and streamlining opportunities**

*Chair Dahlberg stated that in addition to examining zoning regulations, enforcement policies should also be looked at for duplication of efforts. He has spoken with Mr. Owczarski about mapping out all types of operations that require licenses and look at commonality for BOZA approval. The question should be asked if separate*

*approvals speak to the same issues or two different issues.*

*Ald. Bohl cited a recent example of a fast food restaurant that was reorganizing, but keeping the same ownership. Due to confusion, the business was temporarily closed down. Chair Dahlberg stated Chapter 200, where occupancy regulations are located, is constantly added to. It needs to be examined more closely to see how occupancy and licensing fit together better.*

*Ms. Hagy stated that changing state codes to allow transfers may help. Ald. Bohl stated he would check with the Legislative Reference Bureau about the license fingerprinting requirement. Mr. Pfaff stated that in the example of home improvement contractors, the city is looking more at criminal backgrounds and the impacts on neighborhoods, while the state is looking at workmanship credentials.*

*Chair Dahlberg acknowledged that there still needs to be regulation, but the city needs to work on preventing duplicate efforts. Mr. Crump stated any over-regulation should be investigated. Mr. Pfaff stated that lower risk occupations could be investigated. Previous issues that caused regulations may not still exist or license periods could be expanded.*

*Ms. Hagy recommended looking at code references from 50-60 years ago to see if they are still relevant. Chair Dahlberg would like to work together to have zoning and licensing look at regulations. Ald. Bohl suggested the Licenses Committee might be the best place to examine issues as a fuller hearing is given compared to other boards. Chair Dahlberg would like to have an analysis done by the next meeting.*

*Mr. Maldonado was excused at 10:30 AM.*

## **7. Sharing of some staff suggestions for process improvements**

*Chair Dahlberg asked members to read through staff suggestions and give feedback.*

## **8. Establish dates for public input sessions**

*Ald. Perez suggested starting with commercial corridors and starting to track calls to bring people with issues to the table. Ms. Hagy offered to extend an invitation to various groups that the Health Department works with. Ald. Bohl suggested having a systemic effort to reach out to different groups in addition to business papers to get the word out.*

*Mr. Pfaff recommended a social media campaign to get digital feedback. Ald. Bohl stated he would like in-person and online feedback. He suggested possibly having a Saturday morning meeting to encourage a high turnout. Ald. Witkowski suggested having sessions in different areas and different times. There could be one downtown with the full body and then smaller listening sessions. The City Clerk's Office could do publicity and individual departments and members could do outreach.*

*Mr. Pfaff confirmed there could be three dates and locations within the next thirty days. Ald. Bohl suggested having a listening session downtown immediately before the next meeting.*

*Ald. Witkowski stated it could be held in a committee room on March 13th at 9:00 AM.*

## **9. Team member input**

*Mr. Crump suggested members review the state's New Opportunities for Milwaukee, as it is a timely topic.*

*Ald. Bohl stated he will get together with the Legislative Reference Bureau so fingerprinting could be discussed on the next agenda.*

*Meeting adjourned at 10:51 AM.*

*Staff Assistant  
Jessica Celella*

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Friday, March 13, 2015

9:00 AM

Room 301-B, Third Floor, City Hall

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### 9:00 AM - Public Forum

#### 1. Roll call and approval of previous meeting minutes

*Meeting convened at 9:42 AM*

*Mr. Owczarski moved approval of the previous meeting minutes. There were no objections.*

**Present** 11 - Owczarski, Bohl, Witkowski, Baker, Dahlberg, Korban, Perez, Crump, Olson, Marcoux and Tredo

**Excused** 2 - Maldonado and Hall

#### 2. Update on survey of other jurisdiction's processes and timelines

*Richard Pfaff, Legislative Reference Bureau, stated flow charts have been completed and they are now working on surveying other cities. A presentation should be ready for the next meeting.*

#### 3. Update on the development of an online survey tool

*Ken Gales, Department of City Development, stated they have just received the final project on the survey and are reviewing recommendations. A tool should be available in the next month or two.*

#### 4. Update on the workgroup efforts on the review of zoning ordinance

*Ed Richardson, Department of City Development, has held a meeting to identify zoning issues. The goal is to make the code more user friendly. The group will*

*reconvene in the next week or two to review the list of ideas that have been developed.*

## **5. Communication from the Legislative Reference Bureau related to fingerprinting**

*Andrew VanNetta, Legislative Reference Bureau, submitted a report on fingerprinting. They have investigated several other municipalities and state and federal regulations. Databases at the state level are generally more thorough than municipalities.*

*Chair Witkowski asked if a comparison can be made between the types of licenses that require fingerprinting in Milwaukee and other municipalities. Chair Dahlberg requested an investigation regarding the fingerprinting requirement for home improvement contractors. Ms. Olson posed the question of whether social security numbers would be needed if the fingerprinting requirement were removed. Mr. Owczarski stated that the City Attorney's office has recommended standardizing licenses, but some exceptions may need to be made. Input is still needed from the Milwaukee Police Department. Mr. Baker expressed concerns with staying current with technology to address security issues.*

## **6. Discussion of staff suggestions for process improvements shared at last meeting**

*Chair Dahlberg requested that members review the staff suggestions to be discussed at the next meeting.*

*Mr. Baker expressed the importance of staff suggestions as they address front-line issues. Positive input should be recognized as well. Chair Dahlberg asked members to solicit further recommendations from staff.*

*Angie Hagy, Health Department, stated she has heard public requests to have a city staff member navigate them through the business process. Lindsey St Arnold, Board of Zoning Appeals, stated she has heard similar thoughts from the public. The city will need to find new ways to deal with current issues, connect people with resources, and examine ordinances to remove any possible unnecessary regulation. Mr. Owczarski stated he can assemble a work group to investigate overlap in licensing and zoning definitions in the ordinances. Jason Schunk, License Division, stated the importance of working with other departments to get a dialogue started about issues.*

## **7. Review of public input to date**

*Chair Witkowski suggested waiting until all input from public forums is available before reviewing public input.*

## **8. Team member input**

*Ald. Bohl suggested investigating a mobile app for businesses. Chair Dahlberg stated an idea has been suggested for a "Business 211" to disseminate resources. Mr. Owczarski submitted a handbook that the City of Philadelphia has assembled for business owners. Mr. Marcoux referred members to the City of New York's business website. Chair Witkowski asked department heads to begin reviewing ordinances to ensure obsolete information is removed. Mr. Tredo stated he has been talking with various stakeholders and is compiling a report. Mr. Crump stated he heard positive feedback at the previous public forum regarding the Department of City Development and local aldermen.*

*Chair Dahlberg requested the staff assistant poll members about the next meeting date.*

*Meeting adjourned 10:43 AM*

*Staff Assistant - Jessica Celella*







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Friday, April 24, 2015

1:00 PM

City Hall, Room 301-B

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*Meeting convened: 1:07 P.M.*

*Members not present: Mr. Baker, Mr. Korban and Dr. Hall*

### **1. Review and approval of the minutes of the March 13, 2015 meeting.**

*Ald. Bohl moved, seconded by Ms. Olson, for approval of the minutes. There were no objections.*

### **2. Discussion relating to the four scenarios created by the Legislative Reference Bureau relative to opening new businesses.**

*Jeff Osterman, Legislative Reference Bureau, created a flow chart showing all the city approvals required for 4 processes, contained in file 141072. There is also a table contained in the same file. Creating it was challenging as there were a lot of variables and unknowns, so a simple straight-forward case was assumed. The time and cost basis are both ranges and there could be additional time and costs needed if more city approvals are needed.*

*Mr. Osterman is in the process of getting results from six municipalities - the deadline for responses is May 6th. One jurisdiction did not respond, but the other five indicated that they will complete the form (contained in file 141072). Mr. Osterman will follow up with Wauwatosa, the jurisdiction which did not respond, and if he is unsuccessful, Ald. Bohl lives only 1.5 blocks away from the Wauwatosa City Manager.*

### **3. Update by the Legislative Reference Bureau on the survey of other jurisdictions' processes and timelines**

*This was discussed as part of item #2.*

### **4. Update by the Dept. of City Development on the development of an online survey. tool**

*Work still needs to be done this item, so it will be on the next agenda.*

## 5. Update on the workgroup efforts on the review of the zoning code.

*Ed Richardson, Dept. of City Development, said that the zoning subcommittee met and looked at 16 land uses and there are some that could be done fairly easily. He provided a report contained in file 141072. One possible scenario is to do the easy ones first and the other scenario is to do all of them in one lump sum. The group also suggested making the zoning code easier for the public to read and also to change the landscaping requirements so there are more options. Ald. Bohl noted that changing the zoning code is very complex and discussion leads to more dialog and more discussion. Ald. Perez asked that if they are looking at reducing caseloads of the Board of Zoning Appeals, what is the number goal to shoot for? The subcommittee also identified additional, newer land uses, such as microbreweries and distilleries. Board of Zoning Appeals caseloads could be reviewed over a set time period in terms of workload reduction (or increase) and the types of cases heard. Board of Zoning Appeals (BOZA) staff could look at the cases pre- and post-2002 (2002 began the creation of limited-use standards), per Lindsey St. Arnold Bell. She anticipates it would take approximately 3 weeks to do that kind of study. Ms. St. Arnold Bell will look at this data over the past 5 years to look at the trends and the caseload. Mr. Crump asked if the Information Technology Management Division (ITMD) could add a "box" to check for a limited-use appeal. Ms. Olson noted that any change would be pretty short-lived, but that provision could be done in the Land Management System (LMS) moving forward. Ms. St. Arnold Bell does believe this is tracked at the Permit Center. With the new LMS, BOZA staff will be able to do more analysis of its caseload. ITMD and BOZA will look at creation of a check box in the LMS.*

*Mr. Richardson said that the easy changes can be turned over to the Legislative Reference Bureau (LRB) in a couple of weeks with an initial estimate of four months for major changes.*

*Ald. Witkowski is okay with extending the deadline, but would also like to come in with a preliminary report by the July deadline. Ald. Bohl would like to be thorough and noted that with the August recess, nothing will be scheduled before the Council until September.*

*Ald. Bohl suggested doing the easy changes and have LRB start drafting those as part of the recommendations from this team. The more complex ones will be presented as part of this body's final report.*

## 6. Communication from the Legislative Reference Bureau related to fingerprinting or other alternative means of identification of applicants and licensees.

*Ted Medhin, Legislative Reference Bureau, said that the drafter of the fingerprinting report could not be present today. He summarized the report sections briefly. Ald. Bohl said that table 1 shows that the City of Milwaukee fingerprints 4-5 times more than other comparable cities do. He thinks that there are a number of business licenses that would not need to require fingerprinting and he has already spoken to LRB about changing some of these. He thinks the fingerprinting should come in with those individuals who deal directly with the public in an unsupervised manner, such as ice cream vendors. Mr. Owczarski said that the body could either recommend specific licenses for which fingerprinting is not required or could recommend that the requirement be reviewed and the justification as to why it is required. Ald. Bohl wanted to retain it for those individuals working in the neighborhoods or with kids, but not for food dealer licenses and for applicants for extended hour licenses who are out-of-state. He definitely wants them for direct sellers going door to door. Ald. Bohl will ask LRB to draft some legislation for this body.*

## 7. Discussion of public, staff and member suggestions for process improvements.

*Mr. Jim Owczarski presented a PowerPoint, which is contained in file 141072. There were many recommendations, one of which was to not require that applicants physically come to City Hall, but that services be provided elsewhere as well, such as at libraries, and using technology, including live chats and online videos to assist people. Language translation needs to be provided, but it also needs to be provided at the education-level of the customers and every day language that is understandable to the customer. The city clerk's office is also looking at eliminating little-used licenses (one of which is currently being eliminated - the photographer's license) and also the creation of umbrella licenses in lieu of numerous, specific licenses which overlap.*

*The city clerk's office is still looking at having some of its staff at the Development Center, in addition to possibly other city departments' staff, such as the Health Department.*

*Angie Hagy, said that they have operating plans for restaurants and people are providing the same information to different departments, which is frustrating for them, and sometimes they provide different information, which results in confusion and delay. Per Ms. Olson, LMS will eliminate a lot of this duplication*

*Mr. Dahlberg would like to give applicants the ability to go down parallel paths, such as licensing and BOZA, knowing what risks those include in terms of denial of one of the applications.*

*Atty. Michael Maistelman came to the table representing Always Towing - 400 junk dealers are being noticed for proposed legislation. This legislation will now be heard in a month from now rather than have it heard on Tuesday. He thought that this legislation should be heard by LBAT in terms of how new legislation will affect small businesses. He would like to have the LRB staff hold a meeting with the licensees and answer questions and then report back to the Licenses Committee.*

*Meeting adjourned: 2:38 P.M.*

*Linda M. Elmer  
Staff Assistant*





# City of Milwaukee

200 E. Wells Street  
Milwaukee, Wisconsin  
53202

## Meeting Minutes LOCAL BUSINESS ACTION TEAM

**ALD. TERRY WITKOWSKI, CO-CHAIR,**  
**ART DAHLBERG, CO-CHAIR,**  
**Ald. Jim Bohl, Ald. Jose Perez, Bevan Baker, Rocky Marcoux,**  
**Ghassan Korban, Nancy Olson, Jim Owczarski, Clifton**  
**Crump, Julio Maldonado, Eve Hall, and Jeff Tredo**  
**Staff Assistant, Linda Elmer, 286-2231;**  
**Fax: 286-3456, lelmer@milwaukee.gov**  
**Legislative Liaison, Jeffrey Osterman, 286-2262,**  
**joster@milwaukee.gov**

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Thursday, May 28, 2015

3:15 PM

City Hall, Room 301-A

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*Meeting convened: 3:26 P.M.*

*Members present: Jim Bohl, Art Dahlberg, Nancy Olson, Jim Owczarski, Eve Hall, Jose Perez, Jeff Tredo and Clifton Crump*

*Members excused: Julio Maldonado, Rocky Marcoux, Bevan Baker, Terry Witkowski and Ghassan Korban*

**1. Review and approval of the minutes of the April 24, 2015 meeting.**

*Ms. Hall moved, seconded by Mr. Owcaarski, for approval of the minutes. There were no objections.*

**2. Update from Legislative Reference Bureau regarding survey of project approval requirements and processes in other municipalities.**

*Mr. Jeff Osterman said that two municipalities responded to the entire survey and six cities gave partial responses. Mr. Osterman provided a color graph of the results he could compile from the survey and the municipalities' web sites (contained in file 141072). In summary, these municipalities do things differently than Milwaukee, such as others emphasize site plan review more than the city does and send more design-type plans to their Common Council than we do. Milwaukee tends to be on the high end for length of approval, but not abnormally, except for food licenses. Mr. Osterman will provide the detailed survey results to the staff assistant, who will refer them to members. Mr. Osterman will follow up one more time with Madison; he thinks the other municipalities won't be responding any more than they already have. Mr. Osterman thinks the length-of-time is longer in Milwaukee due to the higher number of steps, rather than the steps themselves taking longer.*

**3. Update by the Dept. of City Development on the development of an online survey tool.**

*Ken Gales, Dept. of City Development, said that the department is recommending that one survey be produced for the entire city. There is a meeting scheduled for next week to discuss how to best do it -- currently four departments are doing surveys and it's also a matter of defining "customer". They are currently in the process of getting representatives from all the departments. No deadline has currently been set for creation of the citywide business customer survey. The work*

group will be assembled from employees of the various departments. Ald. Perez wants to ensure that the Small Business Enterprise Office is part of that work group. Martha Brown also said that the Assessor's Office and Treasurer's Office need to be part of the work group. Mr. Tredo recommended Historic Preservation Commission staff. The other departments will be Dept. of Neighborhood Services, Board of Zoning Appeals, Dept. of City Development, Health Department, Licenses Committee, Dept of Public Works and the Police Department. The staff assistant will e-mail these departments to request any current surveys they have as well as a contact person for the survey.

**4. Update on the workgroup efforts on the review of the zoning code.**

Ed Richardson, Dept. of City Development, said that the work group is working on making those uses which are "low hanging fruit" to incorporate them into a code to speed up the process for them. Once that is completed, he'll move on to Phase II and go after uses that are a little more problematic. He listed specific businesses, such as kidney dialysis, as a "low hanging fruit". Members did not have any other businesses to add to the "low hanging fruit" or Phase II list. Mr. Richardson will work with staff and elected officials in terms of explaining the proposed changes. He does not intend to re-convene the committee, although it might re-convene in the future. Mr. Owczarski suggested that the separate workgroups from this body need to create lists of their suggested changes so this body can accept, or not accept them, as part of its recommendations.

**5. Communication from the Legislative Reference Bureau related to fingerprinting or other alternative means of identification of applicants and licensees.**

Andrew VanNatta said that social security numbers are not required for federal background checks and people cannot be compelled to give that number. The LRB did not find any instances of the use of biometric technology such as facial recognition or palm prints, although this is occurring somewhat on the federal level. Of 14 different, similar sized cities and Milwaukee is unique in requiring fingerprints for all of its licenses and permits. Ald. Bohl thinks that the investigative potential online is light years ahead of where it was 15 years ago and specific license types should be targeted for fingerprints, rather than all of them. Those individuals who have involvement with children probably still need to be fingerprinted. He feels that at least half of the licenses could no longer require fingerprinting. Fast food restaurants probably don't need fingerprinting and, Mr. Dahlberg noted that home improvement contractors, who are also licensed by the state, do not need to be fingerprinted. Ald. Bohl definitely supports not having these individuals fingerprinted. He and Mr. Dahlberg will speak offline and include this as part of the recommendations.

**6. Report from the Board of Zoning Appeals staff relating to its caseload and type of appeals.**

Lindsey St. Arnold Bell provided members with a report, contained in file 141072. The BOZA reorganization and codification happened in 2002; BOZA hears about 600-700 cases per year, which hasn't reduced substantially since the recodification, although the number of new cases has decreased since the recodification. What is currently driving the caseload is renewal of special use permits. Staff is discussing lengthening the renewal period. She also looked at the effectiveness of limited use standards which will take a bit longer as she needs to cross-reference across a couple of databases. After that is completed, she thinks that will be helpful in finding if analyzing the data on the permits that were issued will decrease the BOZA workload (those that BOZA never sees as they meet the 5 standards and don't need

to go before BOZA).

A change in operators for a business may or may not need to go before BOZA each time that change occurs. That may need to go back to the workgroup.

Mr. Crump wondered if there has been any thought given to how renewals can be reduced, rather than simply extending the renewal period. Ms. St. Arnold Bell said that there was a legal opinion that a term had to be defined or the use would go with the land, not with an operator. Ald. Bohl said that one possibility might be automatic renewals as long as there are no or a defined number of complaints. Good operators could then be put on the consent agenda, with a lower fee. Mr. Richardson suggested that the city attorney could be part of this discussion, as it was fairly complex to set up a consent agenda for BOZA. Mr. Owczarski said that the city attorney's office doesn't like to provide theoretical opinions, but that an ordinance be drafted accomplishing what the city wishes and then they will react to that ordinance. Ald. Bohl will meet with Ms. Lindsey St. Bell, Mr. Crump, Mr. Owczarski and the city attorney to work on drafting proposed legislation. Mr. Richardson is always looking for suggestions for changes to the zoning code, which Mr. Tredo will meet with Mr. Richardson, Ms. Lindsey St. Bell and Mr. Dahlberg.

## 7. Topics for next agenda.

Mr. Dahlberg provided a document which will be discussed at the next meeting. The BOZA item from this agenda will be rescheduled. Recommendations from members.

Meeting adjourned: 4:20 P.M.  
Linda M. Elmer  
Staff Assistant







# City of Milwaukee

200 E. Wells Street  
Milwaukee, Wisconsin  
53202

## Meeting Minutes LOCAL BUSINESS ACTION TEAM

**ALD. TERRY WITKOWSKI, CO-CHAIR,  
ART DAHLBERG, CO-CHAIR,**  
*Ald. Jim Bohl, Ald. Jose Perez, Bevan Baker, Rocky Marcoux,  
Ghassan Korban, Nancy Olson, Jim Owczarski, Clifton  
Crump, Julio Maldonado, Eve Hall, and Jeff Tredo*  
**Staff Assistant, Linda Elmer, 286-2231;  
Fax: 286-3456, lelmer@milwaukee.gov  
Legislative Liaison, Jeffrey Osterman, 286-2262,  
joster@milwaukee.gov**

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Friday, June 26, 2015

1:30 PM

City Hall, Room 301-B

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*Meeting convened: 1:36 P.M.*

*Members present: Art Dahlberg, Jim Owczarski, Clifton Crump, Julio Maldonado,  
Nancy Olson, Terry Witkowski, Jose Perez, Jim Bohl, Jeff Tredo and Rocky Marcoux*

*Members excused: Eve Hall, Ghassan Korban and Bevan Baker*

**1. Review and approval of the minutes from the May 28, 2015 meeting.**

*Ms. Olson moved, seconded by Ald. Bohl, for approval of the minutes. There were no objections.*

**2. Discussion on Wisconsin Senate Bill 81, limiting the authority of a city, village, town, or county to create new occupational licenses or fees or to continue to regulate certain professions.**

*Ms. Paulina de Haan came to the table on this item and reviewed the legislative history of the bill, which the city testified in opposition to. One amendment requires that the city cannot pass more stringent requirements on contractors than those imposed by the state. One concern is how this would impact the city's licensing of home improvement contractors. A second requirement is that if any state board imposes any regulations on any previously unlicensed contractors, then the city cannot pass any legislation. Some of the state representatives are open to amendments to this legislation that would permit the city to have some restrictions and the vote on this proposed legislation won't occur prior to October.*

*Ald. Bohl said that it would be prudent to have a couple alternatives that the city can offer and work with the Institute for Justice on this as that organization was key in the changes to the city's public passenger vehicle regulations. The city needs to retain as much local control as possible on these matters.*

*Mike Maistelman came to the table and said that he was instrumental in getting the state to hold off until October on this legislation.*

*Ms. de Haan will schedule a meeting with key members to draft some alternatives to offer at the state level.*

*Mr. Owczarski said that many of the problematic regulations are state regulations, not city regulations, and that having LBAT shows that the city is trying to solve its own problems.*

**3. Report from the Board of Zoning Appeals staff relating to its caseload and type of appeals.**

*Lindsey St. Arnold Bell said that there were two items she was to work on. She has 50,000 permit records to review and this may not produce a fruitful comparison of limited-use appeals. This does show the need to consistently track these appeals both through permit records and BOZA records. She met with Ald. Bohl and Jim Owczarski to pursue reduction of the caseloads for renewals. One suggestion was to shorten the application for renewals, to basically an affidavit that renewal applications will comply with all plans on file. The fee schedule might also be reduced for renewals. She is working with the board chair to create a plan for the longer-term reduction of renewals by adding some conditions to the approvals which would permit longer renewals based on periodic inspections. She hopes to have a report for the next meeting.*

**4. Discussion relating to the document titled, Recommendations for Service Delivery Improvements, handed out at the May 28th meeting and contained in file 141072.**

*The report was a compilation created by co-chair Art Dahlberg and covers a number of departments. Mr. Crump did forward the document to the budget office which wanted specifics on a customer service team (whether that would be a new team or use existing staff). The team would use existing staff, per Martha Brown from the Department of City Development, and would exist to help new business owners (assisted by employees within each department) whose jobs it is to walk people through the process and link them up with others who do so in other departments as well.*

*Angie Hagy came and spoke on the Health Department area - the suggestion was to have someone from the Department of Neighborhood Services (DNS) present in that office so work would be coordinated. Ald. Bohl thought that having cross-trained employees would be more useful (able to handle DNS, Health Dept and License Division issues) rather than re-assigning staff. Ms. Hagy thought it would be hard to find one person able to handle all three competencies and the staff person assigned to work with clients that day could do office work when not assisting clients. Ald. Bohl doesn't like the segmentation of the city staff into departments - residents just want to get the assistance they need in an easy, concise, coherent manner. Mr. Dahlberg thinks the cross-training can be arrived at, but it can't be there from the get-go as there is too much depth of knowledge needed. That is similar to how the Development Center currently operates -- a lot of questions can be answered by cross-trained employees, but then the really in-depth questions (which an employee must recognize that these are) need to be referred to professional staff in that specific area. Ms. Hagy noted that employees would have more than enough work to do if not assisting a customer and any referrals for problem behavior on the part of the employee would be to the department for action.*

*Ald. Perez thinks that business operations are often radically different after hours, such as food vendors, that are preparing food outside of the food trucks at night. The Health Department is reorganizing its enforcement arm and is aware that after-hours is an issue. Mr. Dahlberg would like to encourage environmental health to become part of the community prosecution team. Mr. Dahlberg will forward Ms. Hagy an invite so she can become a standing member of that group.*

*Chris Rute, Dept. of City Development, said the Development Center was created to merge numerous department actions into one convenient location for customers. He sees that these recommendations are working towards being able to pull together many specialists as needed for a specific project, which is what the Development Center is working towards at this time.*

*Ald. Witkowski liked the "immediately" aspect in the Dept. of Public Works write-up and it does address a need, even if the change isn't an easy one in terms of changing the public's perception.*

*Martha Brown, Dept. of City Development, said that they didn't just focus on the Development Center, but looked at the city's own contracting requirements in the hiring of contractors. The city has very stringent insurance and bonding requirements, which, at times, are more than are needed. They also want to establish a Milwaukee Business 211 web site. The state has a successful model of this as well as a number of other cities. There is federal money available for this, which is a competitive process. They are also looking at creating a citywide customer satisfaction survey and a business customer team to assist individual business owners. The department also wants to create online "roadmaps" for common businesses to assist new operators in these businesses. The department would also like to listen property for sale with a listing of uses and then give the interested owner 60-90 days to act, and if they fail to do so, the property gets re-listed. There would be no RFP program for city properties and the city would act more like the market as often the city properties are not the most desirable. Some Council members are supportive and some are not. The department would also like to create a landscape pattern book that would be of use to BOZA special use permits or variance. Any landscaping requirement would be eliminated if the applicant agreed to follow a landscape pattern in the book. Ald. Bohl likes the ability to have the neighborhood meetings and public hearings on permitted uses - they may be permitted uses, but not what the residents want. The local alderman will be consulted in terms of what uses the local alderman does not want at a location.*

*Jay Holmes, Milwaukee citizen, said that the Finney Library is an example of a project that there are buyers for, but the process throws people off. He sees a lot of people doing very good jobs, but the devil is in the details and he found city employees were very discouraging of his attempts to open a business. The aldermen need to be out in the neighborhoods hustling.*

*Mr. Crump noted that from 2008-2012 the Dept. of City Development saw a lot of changes, which are still occurring. The policy is catching up with the reality on the street, an example being urban agriculture. Ald. Bohl said that he tells those owners who want low-end businesses, such as pawnshops, that they are free to run against him in April on the policy of opening more pawnshops. Ms. Brown thinks there is a middle ground here - still maintaining the standards while moving more quickly on the sales.*

*Mr. Holmes said that he doesn't think it's the role of government to squelch legal businesses as the market will do that or the citizenry will oppose these projects.*

*Ald. Perez thinks the department seems to be targeting small and large businesses, but not mid-size businesses. Ms. Brown thinks that if the small businesses are targeted, with owners doing all the work, these will also work for mid-size businesses. The department will put a Project Manager on a project that has more complexity. The department both administers regulations, but it also administers grants and loans, which is a different beast.*

*Ald. Bohl excused from the rest of the meeting at 2:50 P.M.*

*Jerrel Kruschke, Dept. of Public Works, said that the Department does certified survey maps, which are coordinated with various departments. They are working with the Dept. of City Development on streamlining this process. The Council cannot vote*

*until the fees are paid for the street vacations, which hadn't been done up until this point for a specific map in question. The fees have never been waived and are set by ordinance.*

*The recommendations from the License Division were distributed to members yesterday and are contained in file 141072. There remains the perennial problem of getting the use permit or the Licensing Committee approval first. The Division will work on the details as they come. A lot of time is spent on pulling information out of applicants and they may have to return multiple times with additional information, which is frustrating for both the resident and the city.*

**5. Recommendations from members for the Report from the Team.**

*The Team is ready to have a preliminary report drafted for its review at the next meeting. That will be on the agenda for the next meeting. Mr. Crump thinks that there are action items that are being worked on. Mr. Dahlberg said that fingerprinting also needs to be added as part of the recommendations. Ms. Olson would recommend breaking the recommendations into low-hanging fruit with short-term and long-term. Any recommendations with budget ramifications should be sent to the budget office and the Mayor's Office. DCD will also submit its proposed zoning changes.*

*Meeting adjourned: 3:10 P.M.  
Linda M. Elmer  
Staff Assistant*



# City of Milwaukee

200 E. Wells Street  
Milwaukee, Wisconsin  
53202

## Meeting Minutes LOCAL BUSINESS ACTION TEAM

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**ART DAHLBERG, CO-CHAIR,**  
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*Staff Assistant, Linda Elmer, 286-2231;*  
*Fax: 286-3456, lelmer@milwaukee.gov*  
*Legislative Liaison, Jeffrey Osterman, 286-2262,*  
*joster@milwaukee.gov*

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Thursday, July 30, 2015

1:30 PM

City Hall, Room 301-B

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*Meeting convened: 1:39 P.M.*

*Members present: Nancy Olson, Art Dahlberg, Clifton Crump, Ald. Terry Witkowski, Ald. Jim Bohl, Rocky Marcoux (Martha Brown present for him), Jim Owczarski, (Martha Brown present for him)*

*Members excused: Ald. Jose Perez, Bevan Baker, Ghassan Korban, Julio Maldonado, Jeff Tredo and Eve Hall*

**1. Review and approval of the minutes of the June 26th meeting.**

*Ald. Bohl moved for approval. There were no objections.*

**2. Communication from the Dept. of City Development relating to Startup in a Day grant application.**

*Ms. Brown said that the U.S. Small Business Administration contacted the city about the "Start Up in a Day" challenge to create a portal to help new business owners navigate the city bureaucracy. The Dept. of City Development (DCD) believes that this portal can be created using this grant, if the city wins it, the portal would include short videos. The city will find out the end of August if it will get the money. DCD thinks that the city has a good chance of getting the grant due to its high rate of poverty, the lack of women-run businesses and the low rate of entrepreneurship in the city and the state. Mr. Pfaff said that this portal will be activity-based, rather than license-based, so that people don't need to know what type of licenses they need to get, but rather what activities they want to do and will include both city and state requirements and how to fulfill these requirements. DCD found that 1/3 of licenses are issued to new licensees and 3/5 most popular license applications are in the food and beverage venue. The portal will also be accessible from a mobile phone.*

**3. Discussion and approval of the report of the body.**

*Ald. Witkowski commended everyone for their work on this body.*

*Ms. Brown had three suggestions (contained in file 141072) relating to organization of the report. Two of them removed them from the DCD area and into the more general citywide arena. The third, relating to Business 211 status be changed to "underway"*

due to the pending grant as well as change the name from "211" to "Milwaukee Business Navigator Website". Ald. Witkowski moved, seconded by Ald. Bohl., for change in the naming of the portal.

Ms. Brown moved for acceptance of all three suggestions. Seconded by Ald. Witkowski. There were no objections.

Mr. Pfaff, part B, on page 7 said that there were three public forums, not two. There were no objections to this correction.

Mr. Dahlberg moved that on page 15, item B-1, should also include "that within the building permit process". Seconded by Ms. Brown. There were no objections.

Mr. Dahlberg moved to bring into the report a number of improvements that will be incorporated as part of the new land management software, which will include one-inspector approvals, rather than approval by 3 separate inspectors; development of online access of the status of permit approvals; the online submission of drawings and online approval of these drawings; the ability to apply for occupancy permits online and all development activity will be managed and tracked through a common database that will be accessible to the public (these 5 suggestions are attached file 141072). Seconded by Ald. Bohl. There were no objections.

Ald. Witkowski questioned the citywide survey and how that would function. Ms. Brown said that a multidepartment task force has already been created to create this online survey tool. Mr. Dahlberg said that the Dept. of Neighborhood Services survey tool has few respondents and it's hoped that a citywide survey that isn't as in-depth will get more respondents and Ms. Brown mentioned possible incentives (such as a free poster) for responding.

Ald. Bohl moved to approve the final report as amended. Seconded by Ms. Brown. There were no objections.

The changes will be made, then the final report distributed to all members, for comments. If there are no comments, the report will be approved as amended.

Meeting adjourned: 2:14 P.M.

Linda M. Elmer  
Staff Assistant

APPENDIX B





# Fingerprinting, Background Checks and Municipal Licenses

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Prepared by the Legislative Reference Bureau

**Final Issue Briefing**

**April 2015**

Briefing by the Legislative Reference Bureau reviewing the issue of fingerprinting and background checks for applicants of occupational licenses issued by the City, including information on federal, state and local laws; a brief legislative history of fingerprinting in Milwaukee; and a description of the pros and cons of fingerprinting.

**Prepared by:**  
Legislative Reference Bureau  
City of Milwaukee  
Room 307, City Hall  
200 E. Wells Street  
Milwaukee, WI 53202  
[www.milwaukee.gov/lrb](http://www.milwaukee.gov/lrb)

# INTRODUCTION

This issue briefing, developed at the request of the City of Milwaukee's Local Business Action Team, examines the issue of fingerprinting and background checks for applicants of occupational licenses issued by the City.

**Section I** of the report looks at federal regulation, and **Section II** examines the role of state governments in regulating fingerprinting and background checks – specifically those involving occupational licenses. In general, federal laws provide broad authority to states and municipalities to conduct background investigations, and state regulations vary greatly in both scope and accuracy.

Regardless, all states have established policies, practices, and standards for performing state and national criminal history record checks for noncriminal justice purposes, and Wisconsin is no exception. **Section III** briefly and broadly examines Wisconsin's regulations concerning fingerprinting. Under Wisconsin law, for instance, anyone convicted of a felony is permanently barred from obtaining over 100 different professional licenses.

**Section IV** provides a summary of selected U.S. municipalities with some form of fingerprinting requirements for occupational licenses, and **Section V** examines regulations in effect in Wisconsin's major cities. This section also includes an historical summary of Milwaukee's regulation.

The report concludes in **Section VI** with a brief presentation of the main arguments for and against requiring fingerprinting for occupational licenses.

# I. FEDERAL REGULATION

## Criminal Background Checks

The first federal criminal history database was created in 1924. According to a recent report<sup>1</sup> by the National Employment Law Project (NELP),<sup>2</sup> “*the initial database contained 810,000 fingerprint records. Since that time, both the database content and its usage have greatly expanded. Today, the FBI maintains criminal history records on more than 75 million individuals, and rap sheets are used for both criminal and noncriminal justice purposes, including employment background checks.*”

Specifically, the FBI’s Criminal Justice Information Services (CJIS) Division was established in 1992 “*to serve as the focal point and central repository for criminal justice information services.*”<sup>3</sup> The CJIS administers several crime information databases, including the Integrated Automated Fingerprint Identification System, the National Crime Information Center and the National Instant Criminal Background Check System.

There are over a dozen federal laws permitting or requiring criminal background checks for certain civil (employment and licensing) purposes, many established in the last several decades. For instance, according to a 2006 article in the University of St. Thomas Law Journal:<sup>4</sup>

The September 11<sup>th</sup> attacks led to legislation mandating criminal background checks for persons with access to controlled areas in maritime facilities (Port and Marine Security Act of 2002), for persons seeking access to biological agents (the Bioterrorism Preparedness Act of 2002), for persons who work as airport security personnel, airport and airline employees, and for air marshal and other transportation personnel (the Aviation and Transportation Security Act of 2001), and for certain individuals seeking entry to the U.S. and for persons applying for hazardous materials licenses (U.S. Patriot Act).

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<sup>1</sup>Neighly, Madeline, and Maurice Emsellem. 2013. *Wanted: Accurate FBI Background Checks for Employment*. The National Employment Law Project. <http://www.nelp.org/page/-/SCLP/2013/Report-Wanted-Accurate-FBI-Background-Checks-Employment.pdf?nocdn=1>.

<sup>2</sup> The NELP is “*a non-partisan, not-for-profit organization that conducts research and advocates on issues affecting low-wage and unemployed workers... Through its Second Chance Labor Project, NELP promotes the employment rights of people with criminal records [and] seek[s] to ensure fairer and more accurate criminal background checks and to reduce unnecessary and unfair barriers to employment.*”

<sup>3</sup> ‘Criminal Justice Information Services Division’. 2015. FBI. Accessed February 25. <http://www.fbi.gov/about-us/ten-years-after-the-fbi-since-9-11/just-the-facts-1/criminal-justice-information-services-division>.

<sup>4</sup> Jacobs, James B. 2006. ‘Mass Incarceration and the Proliferation of Criminal Records’. *University of St. Thomas Law Journal*. Vol. 3: Iss. 3, Article 2. <http://ir.stthomas.edu/cgi/viewcontent.cgi?article=1090&context=ustlj>.

Dozens of private companies also compile their own databases, procured from publically-available information (such as court records) and provide this information to employers, landlords and others. According to the above article, for instance, “*National Online Data claims that it draws on statewide criminal history databases from thirty-eight states, encompassing more than 75 percent of the U.S. population, to maintain its National Background Directory.*”

Such companies must abide by the Fair Credit Reporting Act, but are able to report all non-expunged convictions within the United States, including, in some instances, arrests not leading to conviction within the previous 7 years. Individual applicants must consent to private background checks, and if they are not hired based on their background checks, they must be notified about which service providers performed the checks.

In all cases, fingerprints are required to be submitted for federal criminal background checks. Given that fingerprinting has become ubiquitous in the criminal justice system, the expansion of background checks for civil purposes may not be surprising, but it is certainly a recent phenomenon. As the NELP notes:

When FBI background checks were first authorized for employment purposes during the Cold War, the authorization was limited to federal government workers. Today, FBI background checks are authorized for occupations ranging from port workers and truck drivers to health care workers and school employees.

**Figure 1. Fingerprints taken c.1859-60 by William James Herschel.<sup>5</sup>**



<sup>5</sup> William James Herschel is often credited as one of the first Europeans to note the value of fingerprints for identification. In the 1850s, as a British officer working in India, he used fingerprints for identification on contracts.

## Regulations Relating to Social Security Numbers

According to a 2010 report by the National Conference of State Legislatures:<sup>6</sup>

Established in 1936 by the Social Security Administration, Social Security numbers (SSNs) were originally used to track earnings and eligibility for Social Security benefits. Recognizing the universal nature of SSNs, Congress enacted several laws that require the use of SSNs for purposes other than Social Security, such as food stamps, Temporary Assistance for Needy Families, and child support enforcement, as well as the Commercial Driver's License Information System and the Internal Revenue Service.

The Privacy Act of 1974 addressed some of the concerns relating to the use of personal information by private and public entities. It provides that, *"it shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number."*

The Privacy Act of 1974 also provides that *"any Federal, State or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it."* Although this law provides some limits on how public agencies may require their divulgence, certain exceptions have resulted in only minimal restrictions on governmental use of the SSN. For instance, according to a 2012 Congressional Research Service report:<sup>7</sup>

Today, an individual needs an SSN to pay taxes, obtain a driver's license, and open a bank account, among other things. The continued use of, and reliance on, SSNs by public and private sector entities and the potential for SSN misuse, including identity theft concerns, has led to increasing efforts by governmental entities to limit the use and disclosure of SSNs. However, no single federal law comprehensively regulates SSN collection and confidentiality.

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<sup>6</sup> National Conference of State Legislatures, and Heather Morton. 2015. 'Social Security Number 2010 Legislation.' Accessed April 21. <http://www.ncsl.org/research/financial-services-and-commerce/social-security-number-2010-legislation.aspx>.

<sup>7</sup> Swendiman, Kathleen S. 2012. The Social Security Number: Legal Developments Affecting Its Collection, Disclosure, and Confidentiality. Congressional Research Service RL30318. [http://www.law.umaryland.edu/marshall/crsreports/crsdocuments/RL30318\\_02082012.pdf](http://www.law.umaryland.edu/marshall/crsreports/crsdocuments/RL30318_02082012.pdf).

Regarding private sector use of SSNs, this report further notes that:

Private sector use of the SSN is widespread, including activities such as using SSNs for data exchanges to assess credit risk, tracking patient care among multiple providers, locating bankruptcy assets, and providing background checks on new employees. One may be asked to provide one's SSN for such diverse activities as taking out an insurance policy, checking into a hospital, applying for a store charge account, buying a car, setting up a utility account, or joining a club.

Section 7 of the Privacy Act 1974 and related federal statutes do not impose restrictions on private sector use of the SSN. Thus, private businesses and organizations may, in most circumstances, request an individual's SSN in exchange for goods or services, and no general Federal law regulates such transactions. Although an individual can refuse to give his or her SSN to a company or organization, the business can also refuse to provide the goods or services unless the SSN is provided.

SSNs are not required to perform federal background checks. Private or other name-based background checks, likewise, do not require SSNs, but they may be used to verify a person's identify or to more easily and accurately identify past addresses to initiate checks in specific counties. SSNs are not typically used in researching criminal records themselves.

### Emerging Technologies

The FBI's Next Generation Identification (NGI) Biometrics Database expands the federal government's criminal and civil fingerprint database to include various emerging biometric identifiers, including iris scans, palm prints and voice data. In addition to this data, all 50 states currently collect and share DNA records through the FBI's Combined DNA Index System database.

Several states have also signed memorandums of understanding with the FBI to share and access facial-recognition data through the NGI database, and various standard-setting bodies (including the National Institute for Standards and Technology) have developed standards for the exchange of biometric data.

However, although the collection and use of biometric data has greatly increased in recent years, their widespread application in local licensing or permitting appears to be limited. The LRB was unable to find any codified references to biometric data in any of the cities listed in Table 1 on page 15.

## II. STATE REGULATION

In general, state regulations regarding background check requirements for certain licenses vary, but all states have the capability to require and perform such checks. For instance, according to a 2009 U.S. Department of Justice (USDOJ) report<sup>8</sup> (using federal, state and local data on fingerprint processing provided by the CJIS):

- **All states have established policies, practices, and standards** for performing state and national criminal history record checks for noncriminal justice purposes. In FY 2009, the CJIS Division received over 9.3 million civil fingerprint submissions from the 50 states and the District of Columbia.
- **Forty-nine states and the District of Columbia have enacted statutes** authorizing national fingerprint-based criminal history background checks on one or more categories of employees, licensees or volunteers who work for organizations that provide care to children.<sup>9</sup>
- **The average processing time** for a live-scan submission is one day. The average processing time for a manual mail-in submission is five days. The average processing time for a card-scan submission is 10 days.
- **FBI charges** for fingerprint-based submissions vary between \$18 and \$24.
- **State costs** vary for name-based checks and fingerprint-based checks.

Regarding this last point and according to a July 2012 white paper,<sup>10</sup> Child Care Aware of America conducted a phone survey of states in the spring of 2012, which found an average cost of \$20.31 for fingerprint checks against state records.

Finally, regarding state laws in general, a July 2011 report by the National Conference of State Legislatures<sup>11</sup> notes that, “*state laws generally allow denial of employment if the conviction is*

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<sup>8</sup> U.S. Department of Justice. 2009. *Interim Report on the Feasibility of Performing Fingerprint-Based Criminal History Background Checks on Individuals That Participate in National Service Programs*. <http://www.justice.gov/sites/default/files/oip/legacy/2014/07/23/interim-report-nsp.pdf>.

<sup>9</sup> In January 2014, Wisconsin began requiring fingerprint-based (FBI) background checks for child care providers, their employers and household members. The fee is \$31.50.

<sup>10</sup> *Child Care Aware of America. 2012. Background Checks: It Is Time to Protect Children in Child Care (White Paper)*. [http://www.naccrra.org/sites/default/files/default\\_site\\_pages/2012/background\\_checks\\_white\\_paper\\_final\\_july\\_6.pdf](http://www.naccrra.org/sites/default/files/default_site_pages/2012/background_checks_white_paper_final_july_6.pdf).

<sup>11</sup> Kincaid, Erin, and Alison Lawrence. 2011. *Ex-Offender Employment Opportunities*. National Conference of State Legislatures. <http://www.ncsl.org/documents/cj/pew/ex-offenderreport.pdf>.



*job-related or otherwise justified. In North Dakota, for example, a professional license can be denied if the conviction has a 'direct bearing upon a person's ability to serve the public' or if it is determined the individual has not been sufficiently rehabilitated."*

The 2009 USDOJ report further concludes that:

In the absence of state statutes, many states use federal laws, such as the NCPA [National Child Protection Act], as amended by the VCA [Volunteers for Children Act] and the Adam Walsh Child Protection and Safety Act of 2006, to perform state and national criminal history record checks on individuals who work with children, the elderly, or individuals with disabilities.

The FBI acknowledges that the state repository is the most complete and accurate source of criminal history record information within the state. Furthermore, since states maintain records that are not available at the national level, e.g. sex offender records that do not qualify for entry into the National Sex Offender Registry file and arrests and dispositions not reported to the FBI, they have more information to identify individuals who may be unsuitable to work in a particular job.

**Figure 3. Clerical employees of the L.A. Police Department being fingerprinted, c. 1928.**



### III. WISCONSIN, SPECIFICALLY

According to the Wisconsin Department of Justice (WDOJ) website,<sup>12</sup> the department's Crime Information Bureau (CIB) manages Wisconsin's fingerprint-based criminal history database. Specifically, the WDOJ notes that "*the centralized criminal history (CCH) database contains detailed information of arrests, arrest charges, prosecution, court findings, sentences, and state correctional system admissions and releases. The database is an accumulation of information submitted by Wisconsin law enforcement agencies, prosecutors, courts, and the Wisconsin Department of Corrections as required by applicable statutes.*"

The Wisconsin DOJ further notes that:

Fingerprint-supported records can be used to confirm whether or not a criminal record in the file belongs to a particular individual. Arrests without supporting fingerprints or related dispositions are not included in the criminal history database.

Because name-based checks are quicker, cheaper, and easier than fingerprint-based searches, most background checks required in Wisconsin are name-based. In many instances they are the only type of checks available to employers, landlords, and other individuals requesting a background check. Because name-based checks use non-unique identifying data, such as name and date of birth, they are less reliable than fingerprint-based checks. It is possible for multiple persons to share a name and date of birth. In some cases, a name-based check may pull up a criminal record that does not belong to the subject of the search.

Like many states, Wisconsin requires some professions to submit fingerprints for federal background checks. For instance, the Wisconsin Department of Public Instruction (DPI), according to its website,<sup>13</sup> is required by law to conduct background checks on every applicant for a Wisconsin educator license. "*The primary purpose of a background check is to determine if the applicant has engaged in any behavior that endangers the health, welfare, safety or education of pupils,*" the DPI notes. This background check includes the submission of fingerprints.

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<sup>12</sup> 'Wisconsin Department of Justice - Background Check & Criminal History Information'. 2015. Accessed February 25. <http://www.doj.state.wi.us/dles/cib/background-check-criminal-history-information>.

<sup>13</sup> 'Wisconsin Department of Public Instruction - Teacher Education, Professional Development & Licensing'. 2015. Accessed February 25. <http://tepd.dpi.wi.gov/backgroundcheck/background-checks-licensure>.

The LRB did not further examine specific professions which may require by Wisconsin law the submission of fingerprints for background checks, but Wisconsin law does make people convicted of a felony ineligible for more than 100 professional licenses, according to the National Inventory of the Collateral Consequences of Conviction.<sup>14</sup>

This practice does not appear to be altogether uncommon. For instance, according to an article in the Atlantic,<sup>15</sup> *“the Texas Medical Board requires fingerprints for medical licenses and the Texas Nursing Board requires them for nursing licenses. Same goes for every job type governed by the Texas Racing Commission (ranging from assistant farrier to race announcer to jockey), as well as real estate agents, lawyers, and speech language pathologists.”*

Finally, although the Wisconsin Fair Employment Act expressly bars discrimination in employment and licensing decisions on the basis of an individual’s criminal record, according to a recent white paper by the National Association of Criminal Defense Lawyers:<sup>16</sup>

It is not unlawful to discriminate against those previously convicted of a crime if the circumstances of the particular criminal offense “substantially relate to the circumstances of the particular job or licensed activity,” or if the person is not bondable. § 111.335(1)(c). It is also not employment discrimination for an educational agency to refuse to employ, or to terminate the employment of, an individual who has been convicted of a felony, whether or not the circumstances of the crime relate to the job. § 111.335(d)(2).

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<sup>14</sup> Staff, CCRC. 2014. ‘Sexting Prosecutions Derailed by Concerns about Collateral Consequences - Collateral Consequences Resource Center’, November. Collateral Consequences Resource Center. <http://ccresourcecenter.org/2014/11/20/sexting-prosecutions-derailed-by-concern-over-employment-consequences/>.

<sup>15</sup> ‘Texas Architects Will Soon Have to Be Fingerprinted’. 2015. CityLab. Accessed March 10. <http://www.citylab.com/work/2013/12/texas-architects-will-soon-have-be-fingerprinted/7825/>.

<sup>16</sup> Colgate Love, Margaret. 2014. *NACDL Restoration of Rights Resource Project: Wisconsin*. National Association of Criminal Defense Lawyers. [https://www.nacdl.org/uploadedFiles/files/resource\\_center/2012\\_restoration\\_project/state\\_narr\\_wi.pdf](https://www.nacdl.org/uploadedFiles/files/resource_center/2012_restoration_project/state_narr_wi.pdf).

## IV. MAJOR U.S. CITIES

### Boston, MA

In 2011, Boston passed an ordinance authorizing the Boston Police Department (BPD) to “*obtain fingerprints from individuals who apply for certain licenses that the department issues.*” Prior to this change, the BPD could only conduct background investigations using an individual’s name and only in the state of Massachusetts. After the passage of the ordinance, BPD could conduct background checks using fingerprint records in all 50 states.

The authority for the BPD to obtain civilian fingerprints as part of certain city-issued applications was derived from a 2010 change in Massachusetts state law. Boston’s ordinance only applies to licenses for taxicab drivers, commercial bike messengers, hawkers and peddlers, pawnbrokers, sight-seeing vehicle operators, and certain members and appointments of the police force.

### Chicago, IL

Like Boston, the City of Chicago only requires fingerprinting for certain businesses. According to the City’s website, “*some business license applications require a fingerprint-based criminal history investigation for every owner, corporate officer, member or any person with a 25% or more interest in the business, as well as every on-site manager.*”

These businesses include: adult family care centers, expediter companies, expeditors of natural persons, children’s services facilities, certain weapons dealers, shooting range facilities, public places of amusement, public chauffeurs, horse-drawn carriages, pedicabs, taxicabs, public passenger vehicles other than taxicabs and transportation network providers.

### New York, NY

According to the New York City Department of Education (NYCDE) website, “*to keep our school communities safe, we require all employees to be fingerprinted and undergo a background check before beginning work...Before you begin working, your fingerprints must be cleared by the state and federal government, as well as our Office of Personnel Investigations.*” The NYCDE charges a fee of \$130 for the background check.

The LRB did not examine additional City of New York licensing regulations in-depth, but it appears such regulations are not uncommon at the state level. For instance, according to a March 2014 report by the Rochester Institute of Technology’s Center for Public Safety

Initiatives,<sup>17</sup> *“there are over one hundred occupations from which people with criminal records are restricted by New York [state] licensing laws, including barbering, massage therapy, health care, teaching, social work, counseling, notary public, plumbing, and funeral directing.”*

#### Olympia, WA

According to its website, the City of Olympia *“regulates certain occupations that, by the nature of their work, present a heightened safety risk to the public. The City requires that these occupations obtain an Occupational Permit to ensure that those who are engaged in the regulated occupations meet certain background criteria.”*

The City notes that its occupational license is different from and in addition to any required business licenses. Businesses required to obtain an occupational permit in Olympia include door-to-door solicitors, for-hire drivers and locksmiths. The permit costs \$70, \$40 of which is required for the fingerprinting and background check. Background checks are required to be completed every 3 years and permits renewed annually.

#### Reno, NV

The City of Reno requires that, *“every person submitting an application for a privileged business license [be] subject to...an FBI fingerprint-based investigation.”* This provision applies to all of the following business licenses: Adult interactive cabaret; alcohol service and sales; pawnbrokers and secondhand dealers; auctions and auctioneers; escort and outcall services; peddlers, solicitors and temporary merchants; sidewalk vendors; towing and booting companies; vehicles for hire; and tobacco paraphernalia retailers.

#### Others

Many additional municipalities require fingerprinting for certain and specific business licensees. For instance, Boise, ID, requires child care facilities, alarm services, taxicab drivers, auctions and auctioneers, massage establishments, pawn brokers, non-consent towing companies and precious metal dealers to submit fingerprints with license applications. Other notable businesses in other U.S. cities include ice cream truck vendors (Tucson); ticket brokers (Indianapolis); and auto wreckers, salesmen and dealers (Houston). A summary of fingerprinting requirements in cities similar in size to Milwaukee is provided in tables 1 and 2 on page 14 and 15, respectively.

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<sup>17</sup> Dougherty, Jamie, and John Klofas. 2014. 'Banning the Box' to Increase Ex-Offender Employment: Related Issues and a Policy Research Proposal for Rochester, NY. Center for Public Safety Initiatives, Rochester Institute of Technology. <https://www.rit.edu/cja/criminaljustice/sites/rit.edu.cja.criminaljustice/files/docs/WorkingPapers/2014/Ban%20the%20Box.pdf>.

**Table 1. Comparison of Licenses or Permits Requiring Fingerprints in Milwaukee, Similar-sized U.S. Cities.**

City	Alarm Businesses	Amusement Machine Distributors	Auto Wreckers	B&B Establishments	Certified Providers	Direct Sellers	Escort Services	Extended Hours Establishments	Filling Stations	Food Dealers/ Peddlers	Home Improvement Salespersons	Ice Cream Peddlers	Junk Collectors & Dealers	Pawnbrokers	Precious Metal and Gems Dealers	Professional Photographers	Public Entertainment Premises	Public Passenger Vehicles	Secondhand Dealers	Tattooing & Body Piercing	Used Bike, Tire & Battery Dealers	Used Car Dealers	Used Car Dealers - Parts Only	Various Liquor Licenses	
Austin																	Y							Y	
Cleveland																	Y								
Columbus													Y				Y	Y							
Fresno		Y												Y			Y	Y	Y						
Indianapolis														Y				Y	Y						
Jacksonville		Y					Y										Y								
Kansas City																	Y	Y						Y	
Las Vegas	Y									Y				Y			Y		Y					Y	
Memphis	Y																	Y							
Milwaukee	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
New Orleans							Y											Y					Y	Y	
Oklahoma City		Y				Y				Y					Y		Y								
Raleigh																		Y							
Tucson	Y	Y					Y			Y							Y								
Virginia Beach						Y							Y	Y	Y				Y						

**Table 2. Additional Licenses or Permits Requiring Fingerprinting, Similar-sized U.S. Cities.**

City	Licensed Activity
<b>Austin</b>	Special event temporary chauffeur.
<b>Cleveland</b>	Armed security guards, massage establishments.
<b>Columbus</b>	Massage or bath establishments, peer-to-peer transportation network drivers, billiard rooms.
<b>Fresno</b>	Billiard rooms, auctioneers, massage businesses, card rooms, tow trucks.
<b>Indianapolis</b>	Ticket brokers, flea market dealers.
<b>Jacksonville</b>	Electronic game promotions, adult entertainment and services, dancing entertainment establishments.
<b>Kansas City</b>	Airport taxicabs, surety recovery agents, massage shops, nude modeling studios, body painting artists.
<b>Las Vegas</b>	<p>“Work cards” (which require fingerprints) are required for employees at: casinos; child care facilities; adult businesses; carnivals; traveling shows; and restaurant, bar and convenience stores where alcohol is handled.</p> <p>The following must also obtain work cards: security guards; locksmiths; pawnbrokers; mobile food vendors; peddlers and temporary merchants; property managers; entertainers; commercial dance studio workers; and martial arts instructors.</p> <p>Fingerprints are also required for "privileged businesses", including: adult nightclub establishments; alcoholic beverage establishments; burglar alarm services; erotic dance establishments; gaming; ice cream trucks; locksmiths and safe mechanics; massage establishments; medical marijuana establishments; pawnbrokers; psychic arts establishments; reflexology businesses; secondhand dealers; and teenage dancehalls or nightclubs.</p>
<b>Memphis</b>	Horse-drawn carriages, vehicles for hire, special police officers, alarm businesses not licensed by the state
<b>New Orleans</b>	Booting service businesses, teen clubs, massage establishments.
<b>Oklahoma City</b>	Youth dance halls, barterers, auctioneers, peddlers/solicitors.
<b>Raleigh</b>	None.
<b>Tuscon</b>	Fortunetellers, massage establishments/therapists, youth dance halls.
<b>Virginia Beach</b>	Solicitors.

## V. MAJOR WISCONSIN CITIES

Of the 5 largest municipalities in Wisconsin (after Milwaukee), 4 require fingerprinting for at least one type of license or permit, with Kenosha being the lone exception in that no fingerprinting requirements appear in its code. Specific fingerprinting requirements are provided below.

### Appleton

According to Appleton's code, "*all operators or employees working for any escort service and independent contractors*" are required to provide photographs and fingerprints to the Appleton Police Department. This appears to be the only license requiring the submission of fingerprints.

### Green Bay

Anyone applying for a sexually-oriented adult-entertainment establishment license or an escort service license (including all escorts), according to Green Bay's code, is required to submit to fingerprinting. No other licenses established by the City of Green Bay require fingerprinting.

### Kenosha

Kenosha's code does not specifically require fingerprinting for any license or permit application, but it does require criminal background investigations for staff of any licensed refuge centers whose clientele include minors; for certain liquor licenses; and for all cabaret, peddler, pawnbroker, secondhand article, and jewelry dealer licenses.

### Madison

The City of Madison requires fingerprints only for certain licenses and permits. These include secondhand dealers, hawkers, peddlers, truckers, massage establishments, and massage technician's and manager's licenses, and solicitor's and canvasser's permits.

### Racine

All persons applying for massage establishment, non-registrant massage therapist and private security person permits in Racine are required to submit fingerprints. Further, according to Racine's code, any "*person possessing a valid secondhand article or jewelry dealer license issued by a county or another municipality of the State of Wisconsin...may operate a business in the city of Racine as a secondhand article or jewelry dealer...without obtaining a license*" if the person submits to an investigation, to include fingerprinting.

Fingerprinting does not appear to be a requirement for secondhand article or jewelry dealer



licenses granted by the City of Racine, but the City's code does note that applicants are to be investigated by the Police Department *"in order to determine whether the applicant has been convicted within the preceding ten years of a felony or within the preceding ten years of a misdemeanor, statutory violation punishable by forfeiture or county or municipal ordinance violation, including any violations of state or local permitting or licensing laws."*

### Milwaukee

Fingerprinting requirements in Milwaukee date back to at least 1942, when references appear in the text of a newly-created section of the code (s. 90-57.1 – "Qualifications of Class 'D' Licensees"). The reasoning behind the creation of this section is not provided in City records.

Fingerprinting requirements continued to be implemented for individual licenses or permits until April 11, 2012, when the Council adopted Ordinance File Number 110991, which standardized fingerprinting requirements for all license and permit applicants. Specifically, s. 85-21-1 of the code, now states that *"each applicant for a license or permit subject to review by a licensing committee of the common council shall be fingerprinted in a manner directed by the chief of police unless otherwise provided in this code."* This ordinance exempts persons already licensed by the city when that person is renewing a license.

The code was further amended on January 15, 2013, by Ordinance File Number 120948, which established fees of \$10 (city residents) and \$15 (non-city residents) for fingerprinting by the Police Department (when requested by the person being fingerprinted). Currently, the City requires fingerprints for the following categories of licenses and permits:

- Alarm Businesses
- Amusement Machine/Jukebox Distributors
- Auto Wreckers
- Bed & Breakfast Establishments
- Certified Providers (emergency medical)
- Direct Sellers
- Escort Services
- Extended Hours Establishments
- Filling Stations
- Home Improvement Salespersons
- Ice Cream Peddlers/Food Dealers
- Junk Collectors & Junk Dealers
- Pawnbrokers
- Precious Metal and Gem Dealers
- Professional Photographers
- Public Entertainment Premises
- Public Passenger Vehicles & Drivers
- Secondhand Dealers
- Secondhand Vehicle & Parts Dealers
- Tattooing & Body Piercing Businesses
- Used Bike, Tire & Battery Dealers
- Various Liquor Retailers.

## VI. PROS AND CONS

### Pros

Proponents of fingerprinting-based background checks contend that such checks are more comprehensive and more accurate than name-only background checks, and that it is in the interest of the health, safety and welfare of the public to perform these checks. The California Department of Justice, for instance, puts it this way:<sup>18</sup>

Securing a criminal background check prior to employment, licensure, or certification provides a hiring or licensing authority an important resource, which aids in the evaluation of the applicant. These applicants are often candidates for positions that place them in a position of trust for some of California's most vulnerable citizenry, elderly, and dependent adults and children. As such, it is vital for the hiring or licensing authority to be aware of specified active arrests or convictions. Entrusting applicants with the responsibility of the position prior to a criminal background check potentially jeopardizes the safety and integrity of the workplace and may leave some individuals exposed to unnecessary harm. Employment and licensing authorities may also face legal liability if applicants with specified active arrests or convictions are employed or licensed when statute prohibits such action based on the successful completion of a criminal background check.

Regarding thoroughness, specifically, fingerprint-based background checks may help hiring or licensing authorities identify applicants making false claims relating to applicable criminal activity which occurred in another state. Crimes committed under an alias or in another state may be missed if using a name-only background check.

Fingerprint-based background checks generally include criminal records going back to the beginning of an applicant's history and may include arrest records, convictions, warrants, juvenile records (if provided by the state), dismissed charges and not-guilty verdicts, sex offender registry information, physical characteristics (height, weight, tattoos, etc.), aliases, and – in some cases – misdemeanors and case dispositions.

Name-based background checks, on the other hand, are typically quicker, cheaper and easier to administer than fingerprint-based searches, but may be less reliable and limited to a specific jurisdiction (typically the state). Some private vendors have created proprietary databases from

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<sup>18</sup> 'Fingerprint Background Checks'. 2015. State of California, Department of Justice. Accessed March 11. <http://oag.ca.gov/fingerprints>.

public court records, correctional facilities and criminal history record repositories from many states, allowing employment and licensing authorities to perform name-based background checks for fees.

However, state laws vary on what data is publicly available, commercial databases may not have important disposition information, and these types of background checks can generally only provide 7 years of information, in accordance with the Fair Credit Reporting Act. For instance, state laws generally dictate if sex offenses are made public, so it may be possible for a person found guilty of a “lower-level” sex offense to show up under a fingerprint check, but not be listed on a public website due to the requirements of the state.

### Cons

Opponents of fingerprint-based background checks (and, often, background checks, in general) often contend that they are an invasion of personal liberty and lead to discrimination. For instance, according to a 2006 article in the University of St. Thomas Law Journal:<sup>19</sup>

The criminal justice system feeds on itself. The more people who are arrested, prosecuted, convicted, and especially incarcerated, the larger is the criminally stigmatized underclass screened out of legitimate opportunities, steered toward criminal careers and further incarceration. Wider dissemination of criminal history records through modern information technology and greater acceptance of de jure and de facto discrimination against individuals with criminal records reinforce the cycle.

Further, according to a July 2011 report by the National Conference of State Legislatures:<sup>20</sup>

One of the first requirements for an offender who is released from prison is to obtain a job. Employment increases an ex-offender’s opportunities to obtain housing and health care, comply with court-ordered debts such as restitution and child-support, and support himself or herself and family. Having a criminal record usually makes it more difficult for an ex-offender to find a job, especially a well-paying one.

This report also notes that “*at least 27 states limit or prohibit the use of criminal records in public or private employment and for licensing eligibility.*” In Arkansas, Minnesota, Montana and New

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<sup>19</sup> Jacobs, James B. 2006. ‘Mass Incarceration and the Proliferation of Criminal Records’. *University of St. Thomas Law Journal*. Vol. 3: Iss. 3, Article 2. <http://ir.stthomas.edu/cgi/viewcontent.cgi?article=1090&context=ustlj>.

<sup>20</sup> Kincaid, Erin, and Alison Lawrence. 2011. *Ex-Offender Employment Opportunities*. National Conference of State Legislatures. <http://www.ncsl.org/documents/cj/pew/ex-offenderreport.pdf>.

Mexico, for example, ex-offenders are deemed rehabilitated (for the purpose of occupational licensing) after a certain time.

In reaction to these and other issues with background checks, many jurisdictions have adopted “ban the box” and other fair chance hiring measures. As of February 2015, for instance, at least 13 states and 96 cities and counties have adopted such measures, according to the NELP. Those jurisdiction identified by the NELP with ordinances applying to licensing, specifically, include Indianapolis (February 2014), Newark (September 2012), Seattle (April 2009)

**Figure 4. FBI Fingerprinting Experts, Undated.**



## VII. Conclusion

The topic of background checks, in general, is not without contention, and the issue is perhaps best summarized by the Wisconsin Supreme Court, in a 1987 case<sup>21</sup>

On the one hand, society has an interest in rehabilitating one who has been convicted of crime and protecting him or her from being discriminated against in the area of employment. Employment is an integral part of the rehabilitation process. . . . On the other hand, society has an interest in protecting its citizens. There is a concern that individuals, and the community at large, not bear an unreasonable risk that a convicted person, being placed in an employment situation offering temptations or opportunities for criminal activity similar to those present in the crimes for which he had been previously convicted, will commit another similar crime. This concern is legitimate since it is necessarily based on the well-documented phenomenon of recidivism.

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<sup>21</sup> *County of Milwaukee v. LIRC*, 407 N.W.2d 908, 916 (Wis. 1987)

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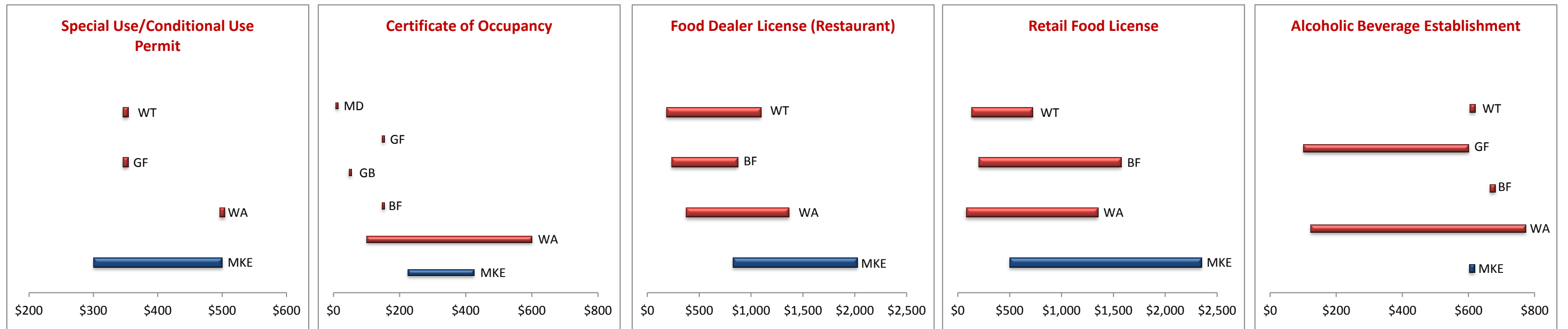
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## Costs to Obtain Various Types of Development Approvals



MKE – Milwaukee    BF – Brookfield    GB – Green Bay    GF – Greenfield    MD – Madison    WA – West Allis    WT - Wauwatosa

## Days Needed to Obtain Various Types of Development Approvals

