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June 17, 2008

Honorable Public Safety Committee
of the Common Council
Room 205 – City Hall

Attention: Mr. Ronald Leonhardt, City Clerk
Ms. Linda Elmer, Staff Assistant

Re: Common Council File No. 080194 (Original Version),
Amendments to Section 80-10 Milwaukee Code of Ordinances,
Chronic Nuisance Premises

Dear Committee Members:

The above-referenced matter is scheduled before the Public Safety Committee on June 19, 2008. The legislative analysis indicates that the amendments would alter the current code by (1) extending liability for police enforcement costs to any individuals or entities licensed or subject to licensure in the operation of a business upon a premises (as opposed to just the premises owner), with any unpaid cost of enforcement to be referred to the licensing authority and the City Attorney's Office for collection; and (2) amending the definition of nuisance activity to include violations of possession or use of firearms, underage alcohol activities and adults contributing, allowing or providing alcohol to underage persons.

One aspect of the proposed amendment extends liability to business operators (defined in the proposed amendment as an "other responsible party") for the payment of police services to chronic nuisance premises. As written, the proposed amendment permits the chief of police to notify the premises owner *or* other responsible party that their premise is a nuisance. Therefore, subsequent police service costs may only be assessed once; i.e. the cost for each police response to a nuisance premises may be assessed against the premises owner *or* the other responsible party (not both).

The proposed amendments also require the Chief of Police to notify the “other responsible party” of the decision to refer the cost for police services by copy of the Chief’s cost referral letter to the City Attorney for collection and to the City Clerk License Division. (Section 80-10-3-e.) The City Clerk License Division is not the only entity that issues licenses. Therefore, any reference to the City Clerk or City Clerk License Division should be amended to include other licensing agencies. Thus, sec. 80-10-3-e could be amended to read: “. . . The chief of police shall notify the responsible party of the decision to refer the cost of police services by copy of the chief’s referral letter to the city attorney for collection and *to the appropriate licensing authority.*” This language would also be inserted into sec. 80-10-3-e-2 and sec. 80-10-3-b (last sentence).

For the sake of internal consistency, please also insert “or conducting business” into the second sentence of sec. 80-10-3-b (“. . . if the premises owner or other responsible party cannot be located, the notice shall be deemed to be properly delivered if a copy is left at the premises owner’s or other responsible party’s usual place of abode or regular business in the presence of some competent member of the family at least 14 years of age or a competent adult currently residing *or conducting business* there and who shall be informed of the contents of the notice.”)

Relative to the amendment of the definition of nuisance activity, this office has no objection to the expansion of the definition of nuisance activity.

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If this office may be of additional assistance, please do not hesitate to contact Assistant City Attorney Adam B. Stephens.

Very truly yours,

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ADAM B. STEPHENS
Assistant City Attorney

ABS:dms

c: Edward A. Flynn, Chief of Police
Martin G. Collins, Commissioner of the Department of Neighborhood Services
Bevan K. Baker, Commissioner of the Health Department
Barry Zalben, Legislative Reference Bureau

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