

STATE OF WISCONSIN)
) ss.
MILWAUKEE COUNTY)

SUMMONS

The Licenses Committee of the Common Council of the City of Milwaukee

TO: Angel Gutierrez Garnica
7536 State Road 38
Caledonia, WI 53108

Via US Mail and personal service

Pursuant to sections 84-7 and 85-3 to 85-5, of the Code of Ordinances of the City of Milwaukee, you are hereby commanded to appear before the Licenses Committee of the Common Council of the City of Milwaukee at its meeting in Room 301-B, City Hall, 200 East Wells Street, in the City and County of Milwaukee, State of Wisconsin at 11:00 am on Friday, July 12, 2024. The hearing is being initiated because of the City of Milwaukee's receipt of a signed and sworn complaint filed by Captain Patrick Pajot. A copy of the complaint is attached hereto, as well as of sections 84-7 and 85-3 to 85-5, of the Code of Ordinances of the City of Milwaukee.

On July 12, 2024 at 11:00 am, or as soon as practical thereafter, you will be given an opportunity to speak on your own behalf, and to respond to and challenge any charges or reasons given by witnesses at the aforementioned hearing in support of a revocation or suspension of your licenses. You may present your own supporting witnesses, under oath, at this hearing, and you may also confront and cross-examine opposing witnesses. If you wish to do so, and at your own expense, you may be accompanied by an attorney or interpreter of your own choosing to represent you at this hearing.

If you, Angel Gutierrez Garnica, fail to appear before the committee, as required by the summons, the committee may proceed to consider the allegations of the complaint which shall be taken as true. Upon conclusion of the hearing, the committee will prepare a written report and recommendation to the Common Council and shall provide you with a copy of the report and recommendation. If the committee determines that the allegations are sufficient and the circumstances warrant it, the law permits your Extended Hours License to be revoked or suspended.

Dated as of the 2nd day of July, 2024



ALDERWOMAN JOCASTA ZAMARRIPA
CHAIR, LICENSES COMMITTEE



JAMES R. OWCZARSKI
CITY CLERK

In re the Class "B" Tavern extended hours license of:

El Jalapeno Restaurant, LLC whose
Registered Agent is Angel Gutierrez Garnica
as the Licensee for the licensed premises located
at 2106 W National Avenue, Milwaukee, Wisconsin 53204

SWORN CHARGES BY CHIEF OF POLICE FOR REVOCATION OF LICENSES

Pursuant to Wisconsin Statutes Section 125.12 and the Milwaukee Code of Ordinances ("MCO") sections 85-4 and 90-12, Chief of Police Jeffrey Norman, a City of Milwaukee resident and interested party, by Captain Patrick Pajot, Commander of District 2, City of Milwaukee resident and interested party, being first duly sworn and upon his oath, respectfully charges the following based upon review of official Milwaukee Police Department ("MPD") reports drafted in the ordinary course of business, including those attached as part of these sworn charges, review of documents received by MPD District 2 and communications with police, law enforcement, community members and municipal officials:

1. El Jalapeno Restaurant, LLC, by its agent, Angel Gutierrez Garnica, ("Licensee") is the holder of a Class "B" Tavern and Food Dealer license with extended hours of operation for the licensed premises known as El Jalapeno Restaurant, located at 2106 West National Avenue, Milwaukee, Wisconsin 53204 (the "Property"). Upon information and belief, the Property is owned by David Herrera, whose address is 4193 Lookout Tr., McFarland, Wisconsin 53558.

UNLAWFUL LICENSE ACTIVITY

2. El Jalapeno Restaurant has a history of repeated extended hours violations and nuisance activities. This activity has been observed by public citizens and verified through ongoing MPD investigations. This activity has been a substantial burden

to MPD as law enforcement officers have been deployed to conduct their investigations.

3. On June 7, 2024, while investigating a shots fired incident outside El Jalapeno Restaurant, a citizen identified as Kyle Saffold, stated to an MPD Police Officer that he was served alcohol at approximately 3:15 AM that morning. This person also stated that when MPD Police Officers arrived the waitress removed his drinks to an unknown location and returned the money paid for the drinks.
4. A true and correct copy of the PA-33 Licensed Premise Report filed by MPD Police Officers regarding this incident is attached as Exhibit A.
5. On June 19, 2024, 2 MPD officers conducted an Undercover Plain clothes operation and went to El Jalapeno Restaurant where at 3:08 AM they ordered two alcoholic beverages and food. At 3:10 AM the officers were served beverages that they identified as alcoholic by sight and smell. When two uniformed officers approached El Jalapeno Restaurant, the undercover officers observed the owner of the restaurant open the door and tell the waitress to remove the alcoholic beverages. The waitress then removed the beverages and chips from the table.
6. A true and correct copy of the PA-33 Licensed Premise Report filed by MPD Police Officers regarding this incident is attached as Exhibit B.
7. A true and correct copy of the Supplemental Report by the undercover MPD Police Officers regarding this incident is attached as Exhibit C.

DISORDERLY PREMISE

8. On June 7, 2024, at approximately 3:30 AM, five MPD squads were dispatched to 2100 West National Avenue for a call of shots fired. Upon arrival a large crowd

was gathered outside El Jalapeno Restaurant at 2106 West National Avenue. The shots fired report was not confirmed with findings of blood or bullet casings. The caller for the shots fired report told MPD Police Officer that she heard an argument outside El Jalapeno Restaurant, someone screaming, a female stating that she was raped. The potential victim was interviewed but declined a statement. The caller also stated that she heard someone say "he just got popped" after hearing what she thought was a gunshot.

9. A true and correct copy of the PA-33 Licensed Premise Report filed by MPD Police Officers regarding this incident is attached as Exhibit A.

FIREARMS ACTIVITY

10. On June 23, 2024, two MPD squads were dispatched to 2106 West National Avenue, the address of El Jalapeno Restaurant, regarding a shooting that happened outside the restaurant. At approximately 2:45 AM shots were fired into a vehicle which was driving past El Jalapeno Restaurant, wounding two individuals. These individuals then drove themselves to St. Luke's Hospital for treatment in the Emergency Room.
11. A true and correct copy of the PA-33 Licensed Premise Report filed by MPD Police Officers regarding this incident is attached as Exhibit D.

BASED UPON the continuous unlawful licensing activity at the Property, the disorderly premise activity and the serious nature of firearm activities which has cumulatively had a substantial adverse effect upon the health, safety or convenience and prosperity of the immediate neighborhood;

THE CHIEF OF POLICE, by his designee, respectfully requests the immediate revocation of the Class "B" Tavern extended hours license relative to the above referenced Licensee and licensed premises, El Jalapeno Restaurant LLC, because:

1. Pursuant to Wis. Stat. § 125.12(2) (ag) 1, the Licensee has violated Wis. Stat. Chapter 125, and municipal ordinances;
2. Pursuant to MCO §90-15. 3.a, El Jalapeno Restaurant has allowed patrons to remain on the premises after the specified time in its approved plan of operations as well as selling intoxicating liquors and fermented malt beverages during those times when the premises should be closed;
3. Pursuant to MCO § 85-4-4-c-23 and 90-12-1-h, El Jalapeno Restaurant has operated in such a manner that it constitutes a public or private nuisance and that conduct at El Jalapeno Restaurant has had a substantial adverse effect upon the health, safety or convenience and prosperity of the immediate neighborhood; and
4. Pursuant to MCO § 85-4-4-c-22 and 90-12-1-i, there are other reasonable causes which are in the best interests, public safety, welfare and good order of the City of Milwaukee, including:

- a. Disregard for Public Safety: Licensee and employees of El Jalapeno Restaurant failed to protect public safety during disorderly premises activities leading to a shooting that occurred at 2106 West National Avenue, the address for El Jalapeno Restaurant licensee and employees

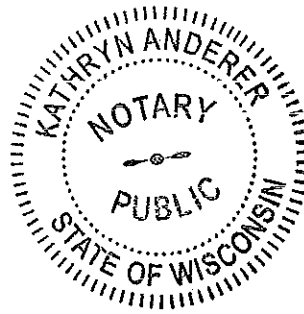
Dated at Milwaukee, Wisconsin this 2 day of July, 2024.

CHIEF OF POLICE JEFFREY NORMAN BY:

Pat Pajot

CAPTAIN PATRICK PAJOT
Commander, Milwaukee Police District 2

The foregoing complaint seeking revocation of the Class "B" Tavern extended hours license was subscribed and sworn to and before me this 2 day of July, 2024.



Kathryn Anderer

Notary Public, State of Wisconsin
My commission expires: April 20, 2025

Drafted by:

THERESA MONTAG
Assistant City Attorney
SBN: 1119511
1032-2024-1111:292140

Milwaukee Police Department

749 W. State Street Milwaukee, WI 53233

414-933-4444

Case #: C2406070030

OtherEvent #: 24-LP-1140

Incident

2106 W NATIONAL AV MILWAUKEE, WISCONSIN 53204

Incident Date/Time:: 06/07/2024 03:34:00
CAD Number:: P2406070183
District:: 2
Beat:: 230
Reporting Area:: 5217

Business Agent (1)

GUTIERREZ-GARNICA, ANGEL

Person Involvement: (Must choose Agent (License Holder)
AGENT from drop down):
DOB:: 06/28/1971
Sex:: MALE
Race:: WHITE
Phone 1 Number:: (414)-793-7153
Address:: 7536 N 38TH ST
City:: Milwaukee
State:: WISCONSIN
Zip Code:: 53209

Licensed Premise Data (1)

EL JALAPENO

Phone 1 Number:: (414)-383-4774
Phone 1 Type:: Phone
Address:: 2106 W NATIONAL AV
City:: MILWAUKEE
State:: WISCONSIN
Zip Code:: 53204
License Type:: Alcohol
Licensee Notification Was Made:: No
Business Was Cited For Violation:: No
Licensee was cooperative: (If not explain in narrative): No
Licensee or Manager was on premises at time of violation/incident:: No

Narrative (1)

LICENSED PREMISE REPORT

Kilwein-Jennerjohn, Diego M 022764

06/07/2024

This report is written by P.O. Diego KILWEIN-JENNERJOHN assigned to District Two, Late Shift, Squad 2390 solo.

EXHIBIT

A

Milwaukee Police Department

749 W. State Street Milwaukee, WI 53233

414-933-4444

Case #: C2406070030

OtherEvent #: 24-LP-1140

On Thursday June 7th, 2024, I was dispatched to the address of 2100 W National, which is located in the city and county of Milwaukee, for a call of shots fired.

06/07/24 03:34:47 (pct-1503) : CLR STS SHE CAN HEAR A FEMALE SCREAMING AT THE LOC.
06/07/24 03:35:06 (pct-1503) : RapidSOS -87.93941 43.02361 XY(251946136,37988218)
06/07/24 03:35:06 (pct-1503) : CALLER LOC: LL(-87:56:21.8329,43:01:24.9131): EST 740 S 21ST ST MKE
06/07/24 03:36:00 (pct-1503) : CLR STS SHE CAN SEE A HISP MALE 507 AND IT LOOKS LIKE HE IS SWINGING BUT SHE CANNOT SEE THE FEMALE
06/07/24 03:37:00 (pct-1503) : CLR STS THE FEMALE MOVED AND SHE IS H/F 502 AND LONG BLK HAIR AND THE CLR STS SEEING THE MALE HIT HER THEN CLR DISC. CLR IS ANON FEMALE.
06/07/24 03:38:13 (pct-1503) : NFI
06/07/24 03:39:06 (pd-2514) : BC ON TG2
06/07/24 03:41:22 (pct-1504) : Duplicate Event:Location = W NATIONAL AVE/S 21ST ST MKE, Cross Street 1 = W NATIONAL AVE, Cross Street 2 = S 21ST ST, Type = SHOTFIRED - SHOTS Fired, Alarm Level = 0
06/07/24 03:41:22 (pct-1504) : CLR STS THERE ARE A GROUP OF PEOPLE OUTSIDE SCREAMING, ONE SUBJ STATING SHE WAS RAPED, ANOTHER SUBJ STATING THAT SOMEONE WAS SHOT, AND THERE ARE OTHER SUBJS WHO ARE ARGUING ... CLR STS THAT THE ENTIRE SITUATION SEEMS TO BE ESCALATING
06/07/24 03:41:22 (pct-1504) : CLR STS CLR HEARD ONE OF THE SUBJS
06/07/24 03:41:22 (pct-1504) : CLR STS A GUNSHOT JUST WENT OFF
06/07/24 03:41:22 (pct-1504) : End of Duplicate Event data
06/07/24 03:41:36 (pct-1504) : CLR DOESN'T SEE ANYONE SHOT
06/07/24 03:41:46 (pct-1504) : JUST ONE SHOT
06/07/24 03:42:43 (pd-2514) : SQDS AD
06/07/24 03:42:58 (pct-1504) : CLR STS ONE SUBJ IS MALE WITH RED SWEATER, CLR BELIEVES BASED ON WHAT SUBJ WAS SAYING THAT MALE IN RED SWEATER IS THE ONE WHO FIRED THE SHOT, BUT CLR CANNOT SEE A WEAPON FROM WHERE SHE IS ... CLR IS WATCHING THROUGH WINDOW
06/07/24 03:43:57 (pct-1504) : NFI
06/07/24 03:45:05 (pd-2514) : 2311 -- \$\$ ADDTL
06/07/24 03:52:52 (pd-2503) : 2310 -- ON 22/NATIONAL THERE IS POSS MIXED MALE IN HIS 20S THREATENING PEOPLE WITH A GUN
06/07/24 03:54:14 (pd-2503) : 2310 -- SUBJ HAS DREADS PER ONE OF THE PEOPLE OUT FRONT HERE

Upon my arrival I observed a large crowd gathered outside the Business EL JALAPENO. The squads that responded were 2390, 2310, 2311, 2351 and 2340. A sheriff's deputy also arrived and helped secure the area. The sheriff's deputy was not identified and left the scene before he could be identified. I spoke to the patrons on scene who stated that nothing had occurred and there were shots fired a few blocks south of the Business. Some patrons then stated there were gunshots heard in the middle of the block between Pierce and National on 21st street. Squad 2351 and I searched the area and observed no blood, casings or anything suspicious. Nothing was struck and no cries for help.

While searching I made contact with a caller who wishes to remain anonymous who stated she was in her residence at 733 S 21st Street and heard an argument and a woman state she was raped. Shortly after the resident stated she heard what sounded like a gunshot and screaming and a woman who stated "he just got popped" and she described a white Subaru forester leaving the area in an unknown

Milwaukee Police Department

749 W. State Street Milwaukee, WI 53233

414-933-4444

Case #: C2406070030

OtherEvent #: 24-LP-1140

direction. Squad 2311 then advised that there was a woman stating she had a weapon pointed at her on the northeast corner of S 22nd Street and W National Ave. P.O. SANTIAGO was interviewing the potential victim, JANET ALEJANDRA VALEZ, (H/F 08/20/1993). ALEJANDRA VALEZ stated she did not want to be a Victim and stated "she was too drunk" and left the scene. ALEJANDRA VALEZ stated this all occurred after exiting EL JALAPENO.

As I gathered information, I was approached by SAFFOLD, KYLE L. (B/M 1989) who stated he wanted to make a complaint about the establishment EL JALAPENO, located at 2106 W National avenue. SAFFOLD stated he arrived at EL JALAPENO at approximately 3:15 A.M. SAFFOLD stated he owns a bar on the northside and closed at the appropriate time but expressed wishes to continue drinking, his patrons answered they knew of a restaurant that served alcohol "after hours". SAFFOLD stated he received the information of where to find EL JALAPENO and arrived and ordered 7 shots of alcohol and paid an unknown amount in cash.

SAFFOLD stated that when the police arrived a short time later with lights and sirens in marked squad cars the waitress came over and grabbed the shots and threw his cash down on the table. The waitress took the alcohol to an unknown location presumably to hide it. SAFFOLD stated he did not like how the restaurant was run including the food service and stated he would help in any way possible and to reach out for any more information. 262 282 0058 is the cell phone number SAFFOLD provided to me. SAFFOLD also stated he did not like how "schemy" the restaurant acted

I spoke to licensed premise owner GUTIERREZ-GARNICA ANGEL who stated that nothing had occurred and that the patrons were outside of the business and that none of them had been inside.

While on scene, I observed the licenses posted and they were up to date. During my investigation for shots fired I did not observe any violations in the licensed premise.

Officer (2)

Reporting Officer:	Kilwein-Jenner John, Diego M (022764)	06/07/2024 06:39:00
Section: (Work Location):	23	
Approving Officer:	Velasquez, Guadalupe (018673)	07/02/2024 08:32:30
Section: (Work Location):	04	

Milwaukee Police Department

749 W. State Street Milwaukee, WI 53233
414-933-4444

Case #: C2406190025

OtherEvent #: 24-LP-1105

Incident

2106 W NATIONAL AV MILWAUKEE, WISCONSIN 53204

Incident Date/Time:: 06/19/2024 03:00:00
CAD Number:: P2406190125
District:: 2
Beat:: 230
Reporting Area:: 5217

Business Agent (1)

GUTIERREZ-GARNICA, ANGEL

Person Involvement: (Must choose Agent
AGENT from drop down):
DOB:: 06/28/1971
Sex:: MALE
Race:: WHITE
Phone 1 Number:: (414)-793-7153
Phone 1 Type:: Phone
Address:: 7536 HIGHWAY 38
City:: CALEDONIA
State:: WISCONSIN
Zip Code:: 53108

Licensed Premise Data (1)

EL JALAPENO RESTAURANT

Phone 1 Number:: (414)-383-4774
Phone 1 Type:: Phone
Address:: 2016 W NATIONAL AV
City:: MILWAUKEE
State:: WISCONSIN
Zip Code:: 53204
License Type:: Alcohol
Licensee Notification Was Made:: No
Business Was Cited For Violation:: Yes
Licensee was cooperative: (If not explain in narrative): Yes
Licensee or Manager was on premises at time of violation/incident:: Yes

Narrative (1)

LICENSED PREMISE REPORT

Lomeli, Vidal 027125

06/20/2024

This report is being written by PO Vidal LOMELI, assigned to District Two, Late Power Shift, and Squad 2453, with PO MERRITT on squad 2425. Officers were in full Milwaukee Police Department Uniform and

EXHIBIT

B

Milwaukee Police Department

749 W. State Street Milwaukee, WI 53233

414-933-4444

Case #: C2406190025

OtherEvent #: 24-LP-1105

operating body worn camera in marked squad car #546.

On June 19th, 2024, at 3:13 AM, PO MERRITT and I (PO LOMELI) conducted a license premise check at 2106 W National Ave (El Jalapeno Restaurant), which is in the City and County of Milwaukee.

It should be noted District Two Police Officers conducted an Undercover Plain clothes operation and went into the restaurant undercover, which they ordered two alcoholic beverages and food at 3:07 AM on 06/19/2024. Officers stated they were served alcohol from a waitress later identified as Mariela MARTINEZ-FERNANDEZ (W/F 11/03/2001) at 3:12 AM. Undercover Officers stated they were served alcohol in two gray plastic cups by Mariela the waitress. Undercover Officers stated once officers in uniform were walking up to the restaurant the Owner of the restaurant who was initially outside of the business opened the door and informed the waitress Mariela to remove the alcoholic beverages. Undercover Officers stated Mariela walked over to their table and removed the alcoholic beverages and stated to them they are closed.

Upon our arrival we observed the Restaurant still open and with eleven people inside the restaurant. I (PO LOMELI) interviewed the owner of the restaurant identified as Angel GUTIERREZ-GARNICA (W/M 06/28/1971) and advised him he had to be close, which he then replied he has an extended hour's permit that allows him to be open until 4:00 AM. I (PO LOMELI) then advised him his permit for extended hour is until 3:00 AM and advised him to review his license at the wall, which he then said he assumed it was until 4:00 AM every day. I (PO LOMELI) also interviewed a waitress identified as Brenda RAMOS VASQUEZ (W/F 07/15/2004) who was cleaning the restaurant as we arrived. RAMOS VASQUEZ stated she has only been working at EL Jalapeno for five days and is only a waitress, which she then stated she does not serve alcohol. I (PO LOMELI) did observe security but once officers were inside, they had left the location.

This business was cooperative during this investigation.

While on scene, I observed the licenses posted and they were up to date. During my investigation I did observe violations in the licensed premise, which were Serving liquor After Bar close and Operating outside the extended hours plan. Citations will be issued, and Officer Victor TORRES took photos of this incident.

It should be noted Officers who were undercover in plain clothes will be writing a supplemental report. Citations issued were 0681PTJNOL and 0681PJWD74.

Officer (2)		
Reporting Officer:	Lomeli, Vidal (027125)	06/20/2024 04:37:00
Section: (Work Location):	24	
Approving Officer:	Stachowiak, Daniel W (017600)	06/27/2024 00:34:11
Section: (Work Location):	24	



Milwaukee Police Department
 749 W. State Street Milwaukee, WI 53233
 414-933-4444
 POLICE REPORT
 Case Number: C2406190025.002

Report Type: **Supplemental Report**
 Nature of Incident:

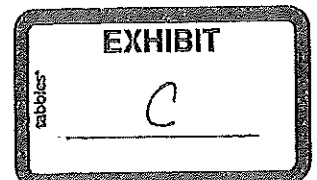
Narrative	
Title	Under cover operation

This report was typed by P.O. Antwan POWELL assigned to District 2, Late Power.

On June 19, 2024 at approximately 3:05PM myself and officers April KOERNER were conducting an under cover operation at the location of 2106 W. National Ave, (El Jalapeno Restaurant) restaurant which is located in the city and county of Milwaukee, WI.

During this operating myself and P.O. KOERNER were on duty and dressed in plain clothes investigating recent complaint that the business of El Jalapeno had been operating after hours serving food and alcohol. At approximately 3:03AM we arrived at the location and in an undercover vehicle and walked into the location. We were seated along the way to the eastern portion of the business. At approximately 3:08PM we were approached by a waiter and ordered several tacos along with a two coronas. At approximately 3:10PM the waitress brought us chips and two grey cups that contained the coronas that we ordered. I confirmed that this was a fermented alcoholic beverage via my sight and smell. Shortly after that uniformed officers began approaching the business and one of the waitresses quickly approached our table and removed the previously served chips and beverages.

We then went back to our vehicle and returned to District 2 regarding this incident.



Milwaukee Police Department

749 W. State Street Milwaukee, WI 53233

414-933-4444

Case #: C2406230024

OtherEvent #: 24-LP-1102

Incident

2106 W NATIONAL AV MILWAUKEE, WISCONSIN 53204

Incident Date/Time:: 06/23/2024 03:00:00
CAD Number:: P2406230189
District:: 2
Beat:: 230
Reporting Area:: 5217

Business Agent (1)

GUTIERREZ-GARNICA, ANGEL

Person Involvement: (Must choose Agent
AGENT from drop down):
DOB:: 06/28/1971
Sex:: MALE
Race:: WHITE
Phone 1 Number:: (414)-793-7153
Phone 1 Type:: Phone
Address:: 7536 HIGHWAY 38
City:: CALEDONIA
State:: WISCONSIN
Zip Code:: 53108

Licensed Persons Involved (1)

GUTIERREZ, EMILIANO

Person Involvement:: Employee
DOB:: 01/27/1997
Sex:: MALE
Race:: WHITE
Phone 1 Number:: 4144583929
Phone 1 Type:: CELL
Address:: 2126 S 29TH ST
City:: MILWAUKEE
State:: WISCONSIN
Zip Code:: 53215

Licensed Premise Data (1)

EL JALAPENO RESTAURANT

Phone 1 Number:: (414)-383-4774
Phone 1 Type:: Phone
Address:: 2016 W NATIONAL AV
City:: MILWAUKEE
State:: WISCONSIN
Zip Code:: 53204
License Type:: Alcohol
Licensee Notification Was Made:: No
Business Was Cited For Violation:: No

EXHIBIT

D

Milwaukee Police Department

749 W. State Street Milwaukee, WI 53233
414-933-4444

Case #: C2406230024

OtherEvent #: 24-LP-1102

Licensee was cooperative: (If not explain in narrative): Yes
Licensee or Manager was on premises at time of violation/incident: Yes

Narrative (1)

LICENSED PREMISE REPORT

Lomeli, Vidal 027125

06/24/2024

This report is being typed by PO Vidal LOMELI, assigned to District Two, Late Power Shift, Squad 2453, with PO April KOERNER. Officers were in full Milwaukee Police Department Uniform and operating body worn camera in marked squad car #546.

PO KOERNER and I were dispatched to 2106 W National Ave (El Jalapeno Restaurant) to assist squad 2330 regarding a Shooting that happened outside the restaurant.

On Sunday, June 23rd, 2024, at approximately 2:45 AM, Reginald GONZALEZ (w/m 1-25-1993) was driving westbound on the 2100 block of W. National Ave in his Black 2013 Ram 1500 bearing Wisconsin License plates UN5021, with his friend Roberto Carlos PEREZ CORTES (w/m 4-1-2002) in the front passenger seat. While driving past El Jalapeno shots were fired into his vehicle and PEREZ CORTES had been shot. GONZALEZ stated he noticed that he was bleeding from his hand and had been shot himself. GONZALEZ drives himself, along with PEREZ CORTES to St. Luke's Hospital and checks into the ER Room. PEREZ CORTES stated that they were going to El Jalapeno for food and then was shot at by an unknown actor as they were driving by.

PO Julius TORRES interviewed the owner's son of the restaurant who was identified as Emiliano GUTIERREZ (W/M 1/27/97) who stated he did not hear a commotion outside the restaurant but did hear a few gunshots outside.

Emiliano stated he does not know how to work the cameras and allowed Detectives to remove the systems in order to obtain the video.

I (PO LOMELI) interviewed a waitress identified as Brenda RAMOS-VASQUEZ (W/F 07/15/2004) who stated she did not hear or see anything.

I did not observe any violations during this incident and all the workers were cooperative. While on scene, I observed the licenses posted and they were up to date.

End of report.

Officer (2)

Reporting Officer:

Lomeli, Vidal (027125)

06/20/2024 04:37:00

Milwaukee Police Department

749 W. State Street Milwaukee, WI 53233

414-933-4444

Case #: C2406230024

OtherEvent #: 24-LP-1102

Section: (Work Location): 24

Approving Officer:

Stachowiak, Daniel W (017600)

06/24/2024 19:55:25

Section: (Work Location): 24

CHAPTER 84
MISCELLANEOUS LICENSES

TABLE

84-7	Extended Hours Establishments
84-10	Bill Posting Business
84-20	Parking Lots or Places
84-43	Cigarette and Tobacco License
84-45	Filling Stations
84-49	Distribution of Printed Materials in City Hall Complex
84-55	Security Personnel License

84-7. Extended Hours Establishments.

1. FINDINGS. The common council finds that certain businesses, when open in the early morning hours, have a tendency to become attractive nuisances, generating noise, congregations of people, traffic congestion and litter, and may provide an environment in which other offenses can occur. Moreover, it is the experience of the city of Milwaukee that these businesses - convenience stores, filling stations, personal service establishments, recording studios and restaurants - when open between the hours of 12 a.m. and 5 a.m., if unregulated, threaten to place an inordinate burden on the public safety resources of the city and its taxpayers. This section is enacted pursuant to the common council's authority to provide for the health, safety and welfare of the residents of the city of Milwaukee.

2. DEFINITIONS. In this section:

a. "Convenience store" shall have the meaning set forth in s. 68-1-6-a.

b. "Extended hours establishment" shall mean any convenience store, filling station, personal service establishment, recording studio or restaurant open at any time between the hours of 12 a.m. and 5 a.m.

c. "Filling station" shall have the meaning set forth in s. 295-201-189.

d. "Personal service establishment" shall have the meaning set forth in s. 295-201-451, but for the purposes of this section shall not include licensed massage establishments licensed pursuant to s. 75-21.

e. "Recording studio" means an establishment containing one or more studios for the audio or video recording or filming of musical performances, radio or television programs or motion pictures, but not containing broadcasting

studios for over-the-air, cable or satellite delivery of regularly-scheduled radio or television programs.

f. "Restaurant" shall have the meaning set forth in both s. 295-201-499 and 501. It shall not apply to the provision of room service by a hotel or to the preparation and service of food inside a hospital.

3. LICENSE REQUIRED. No convenience store, filling station, personal service establishment, recording studio or restaurant shall be open between the hours of 12 a.m. and 5 a.m. without first applying for and receiving a license as provided in this section.

4. EXEMPTIONS. This section shall not apply to the following:

a. Premises holding class "B" alcohol beverage licenses during those hours during which class "B" premises may be open.

b. Extended hours establishments located within General Mitchell International Airport.

5. APPLICATION. License application forms shall be obtained from the city clerk and require the information specified in s. 85-12. Post office box numbers shall not be acceptable for addresses required for extended hours establishment licenses.

6. PLAN OF OPERATION. An application for a license required under this section shall be accompanied by a completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall include:

a. The planned hours of operation for the premises.

b. The number of patrons expected on a daily basis at the premises.

c. If the premises for which the license is sought is a restaurant, the legal capacity of the premises.

d. If the premises for which the license is sought is a personal service establishment or a restaurant, the number of off-street parking spaces available at the premises.

e. Plans, if any, the applicant has to provide security for the premises.

f. Plans, if any, the applicant has to ensure the orderly appearance and operation of the premises with respect to litter and noise.

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g. Such other reasonable and pertinent information the common council or the licensing committee may from time to time require.

7. **FINGERPRINTING.** All applicants for extended hours establishment licenses shall be exempt from the fingerprinting requirement provided in s. 85-21-1.

8. **CHANGES TO BE REPORTED.** See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

9. **LICENSE FEE.** See ch. 81 for the required license fee.

10. **AGE QUALIFICATION.** No license shall be issued to any person or any agent of a corporation or limited liability corporation who is not 18 years of age or older.

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

12. **INVESTIGATION.** Each application for a new license shall be referred to the chief of police and the commissioner of neighborhood services in accordance with s. 85-21.

13. **OBJECTION.** An objection to issuance of a license shall be based on the factors set forth in s. 85-2.7-4. If the common council member, chief of police or commissioner recommends against an application, no license shall be issued unless the applicant requests, in writing, an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the recommendation of the common council member, chief or commissioner. An appeal shall be forwarded by the city clerk to the licensing committee for its recommendation as to whether a permit should be granted. The procedure for considering an appeal shall be as provided in s. 85-2.7.

14. **ISSUANCE.** See s. 85-12.5 for provisions relating to the issuance of a license.

15. **POSTING.** Each license shall be posted in a conspicuous place on the premises.

16. **TRANSFER.** See s. 85-19 for provisions relating to the transfer of a license and change of licensee names.

17. **RENEWAL.** Application for renewal of a license shall be made to the city clerk in accordance with the provisions of s. 85-26. The

city clerk shall refer the application to the chief of police, the commissioner of neighborhood services and the commissioner of health for review. If all 3 indicate that the applicant still meets the licensing qualifications, the license shall be referred to the common council for approval unless a written objection has been filed under s. 85-3. If there is objection to renewal of the license, the procedure for considering the renewal application shall be as specified in ss. 85-3 to 85-5.

18. **REVOCAION OR SUSPENSION OF LICENSE.** Any license issued under this section may be suspended or revoked for cause by the common council after notice to the licensee and a hearing. Notice and hearing on the revocation shall be conducted in accordance with s. 85-3. The common council shall consider the matter of suspension or revocation of the license in the manner provided in s. 85-5.

19. **PENALTY.** a. Any person who violates any of the provisions of this section shall, upon conviction, be subject to a forfeiture of not more than \$1,000 and, in default thereof, may be imprisoned as provided by law.

b. Citations may be issued for all violations of this section with or without prior notice. The stipulation, forfeiture and court appearance set forth in s. 50-25 shall apply.

84-10. Bill Posting Business License.

1. **DEFINITION.** A "bill posting business" shall mean any person, firm or corporation engaged in the business of outdoor advertising for a cash consideration by placing, posting or painting on billboards, ground or roof signs, displays, or on the walls of buildings to advertise goods or products to announce coming events, attractions or contests.

2. **LICENSE; WHEN REQUIRED.** a. It shall be unlawful for any person, firm or corporation to engage in the business of bill posting without having first secured a license therefor.

b. This section shall not be held to apply to the posting of a sign or notices by the order of any court or by any public officer in the performance of his duties or by any political campaign organization working to insure the election of a nominee or the success of a political issue by securing some definite result in an election.

3. APPLICATION. License application forms shall be obtained from the city clerk and require the information specified in s. 85-12.

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

5. LICENSE FEE. See ch. 81 for the required license fee.

6. AGE QUALIFICATION. No license shall be issued to any person or any agent of a corporation or limited liability corporation who is not 18 years of age or older.

7. DISQUALIFICATION. Whenever any application is denied, or a license is revoked, surrendered or not renewed, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

8. OBJECTION. An objection to issuance of a license shall be based on the factors set forth in s. 85-2.7-4. If any interested party objects to the application, no license shall be issued unless the applicant requests, in writing, an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the objection. An appeal shall be forwarded by the city clerk to the licensing committee for its recommendation as to whether a license should be granted. The procedure for considering an appeal shall be as provided in s. 85-2.7.

9. ISSUANCE. See s. 85-12.5 for provisions relating to the issuance of a license.

10. POSTING. Each license shall be posted in a conspicuous place on the premises.

11. TRANSFER. See s. 85-19 for provisions relating to the transfer of a license and the change of licensee names.

12. RENEWAL. Application for renewal of a license shall be made to the city clerk in accordance with the provisions of s. 85-26. If the applicant still meets the licensing qualifications, the license shall be issued unless a written objection has been filed under s. 85-3. If there is objection to renewal of the license, the procedure for considering the renewal application shall be as specified in ss. 85-3 to 85-5.

13. REVOCATION OR SUSPENSION OF LICENSE. Any license issued under this section may be suspended or revoked for cause by the common council after notice to the permit holder and a hearing. Notice and hearing on the revocation shall be conducted in accordance with s. 85-3.

14. REGULATIONS. a. In all instances a permit must be obtained from the department of city development for the posting of each and every sign, except for the posting of posters within business establishments, as provided for in s. 244-2.

b. No person shall post or maintain any sign or advertisement on a billboard, building, or structure which does not fully comply with the regulations set forth in ch. 244.

c. It shall be unlawful to post any advertisement on any premises in the city without the consent of the owner of such premises.

d. It shall be unlawful for any person engaged in the bill posting business to permit any refuse resulting from this work to accumulate anywhere in the city except by placing it in properly established refuse receptacles.

15. PENALTY. Any person or firm violating this section shall upon conviction, forfeit not less than \$50 nor more than \$200, together with the costs of prosecution; and, in default of payment, may be imprisoned as provided by law.

84-20. Parking Lots or Places.

1. DEFINITIONS.

b. "Event parking place" means a parking place operating principally to provide temporary parking for events and festivals.

c. "Parking place" means any garage or other building, or any plot, piece or parcel of land in or upon which a business is conducted of storing motor vehicles where the owner or person storing the vehicle is charged a fee. This term does not include the renting of private parking places that have parking spaces for 15 or fewer motor vehicles.

d. "Person" means any individual, partnership, firm, association or corporation.

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e. "Security incident" means any incident on the premises of a parking place that results in criminal harm to parking patrons, vandalism of vehicles, theft of vehicles or property inside vehicles, or any other incidents that threaten patron health, safety and welfare.

f. "Security lighting" means natural or artificial lighting producing a minimum of 0.5-foot candle in horizontal luminance and 0.25-foot candle in vertical luminance, an average of 2.5-foot candle in horizontal luminance, and a maximum to minimum uniformity ratio of 15:1.

g. "Surface transportation" means the movement of people by road, train or ship.

1.5. FINDINGS. The common council finds that parking places are inherently prone to crimes against parking patrons, vandalism of vehicles, theft of vehicles or property inside vehicles, and other threats to the security of parking patrons and property because the area is often deserted, easily accessed, poorly lighted and for other reasons. The common council further finds that greater oversight of the issuance of new licenses and the renewal of existing licenses for parking places is likely to ameliorate the greater threat to the health, safety and security of parking patrons posed by parking places.

2. LICENSE REQUIRED. a. No person shall conduct a business storing motor vehicles for hire in a parking place within the limits of the city without first having obtained a license therefor, except that no license shall be required for a parking place in a residential district and operating under a temporary conditional permit issued after a hearing by the board of appeals.

b. The person conducting such a business shall pay the fee specified in ch. 81. An additional weighing and measuring license fee shall be paid for each timing device used to establish parking charges.

3. APPLICATION. License application forms shall be obtained from the city clerk and require the information specified in s. 85-12. Each application shall be signed by the property owner.

4. PLAN OF OPERATION. An application for a parking lot or place license shall be accompanied by a completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall include:

a. The planned hours of operation for the premises.

b. The number of customers expected on a daily basis at the premises.

c. The legal occupancy limit of the premises.

d. The number of off-street parking spaces available at the premises.

e. A security plan describing the security measures implemented on the premises to protect patrons from harm, and vehicles and property inside vehicles from theft, vandalism or other damage.

f. Plans the applicant has to ensure the orderly appearance and operation of the premises with respect to litter and noise.

g. Any other licenses held by the applicant or attached to the premises.

h. A description of any provisions made for clean-up of the premises.

i. A site plan showing:

i-1. The locations of all entrances and exits. This shall include a description of how customers will enter and leave the premises.

i-2. The locations and dimensions of any off-street parking and loading areas for customers.

j. Such other reasonable and pertinent information the common council or the licensing committee may from time to time require.

4.5. PARKING PLACE SECURITY.

a. **Police Review.** Following submission of a new license application by a parking place, but prior to the scheduling of a license committee hearing, the applicant shall meet in person with a police department community liaison officer, or other designee of the chief of police, to review the plan of operation, and to conduct a crime prevention through environmental design (CPTED) survey.

b. **Grounds for Non-renewal, Suspension or Revocation.** In addition to the evidence provided in s. 85-4-4, probative evidence concerning whether or not a license granted to a parking place should be subject to non-renewal, suspension or revocation shall include the suitability of the security plan for the premises and how the security plan compares to the review conducted by the police department under pars. a and b.

c. **Additional Security Measures.** If 2 or more security incidents occur on the premises within a month, a parking place licensed under this section shall implement additional security measures, as determined by the police department, to protect the health, safety and welfare of parking patrons and the security of property. The parking place shall maintain these measures during the

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remaining term of the license. These measures may include, but shall not be limited to:

c-1. Employment of at least one attendant. Each attendant shall be on duty on the premises whenever a customer's vehicle is parked on the premises. An attendant shall patrol the entire premises at least once every 40 minutes during daylight hours and every 20 minutes otherwise.

c-2. Security lighting throughout the premises whenever customer vehicles are parked on the premises.

c-3. A security video surveillance system capable of producing retrievable images. Cameras shall be positioned to view the faces of persons entering and leaving the parking facility, and moving among the parked vehicles. Videos shall be stored on digital video recorders, or other comparable media, and be readily available to assist law enforcement in identification, apprehension and prosecution of suspected law breakers. A security video surveillance system shall include drones or robots if appropriate.

c-4. Security fencing at least 6 feet tall enclosing the premises with gates for vehicle entry and egress.

c-5. At least one fixed or mobile elevated surveillance platform, staffed by an attendant whenever customer vehicles are parked on the premises, for every 200 spaces available for customer parking, if the parking place is not a garage.

5. CHANGES TO BE REPORTED. See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

5.1. LICENSE FEE. See ch. 81 for the required license fee.

5.2. AGE QUALIFICATION. No license shall be issued to any person or any agent of a corporation or limited liability corporation who is not 18 years of age or older.

5.3. DISQUALIFICATION. Whenever any application is denied, or a license is revoked, surrendered or not renewed, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

5.4. INVESTIGATION AND FINGER-PRINTING. Each application for a new license under this section shall be referred to the chief of police and commissioner of neighborhood services in accordance with s. 85-21. Each applicant under this section shall be exempt from the fingerprinting requirement provided in s. 85-21-1.

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

5.6. ISSUANCE. See s. 85-12.5 for provisions relating to the issuance of a license.

5.7. POSTING. Each license shall be posted in a conspicuous place on the premises.

5.8. TRANSFER. See s. 85-19 for provisions relating to the transfer of a license and change of licensee names.

5.9. RENEWAL. a. Application for the renewal of a parking lot license shall be made to the city clerk in accordance with the provisions of s. 85-26. The city clerk shall refer the application to the chief of police and the commissioner of neighborhood services for review.

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

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

6. REVOCATION OR SUSPENSION OF LICENSE. Any license issued under this section may be suspended or revoked for cause by the common council after notice to the licensee and a hearing. Notice and hearing on the revocation shall be conducted in accordance with s. 85-3.

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7. **SIGNS POSTED.** a. All owners, operators or maintainers of parking places shall post prominently, at the entrances thereof, signs bearing the names of the owners, operators or maintainers and designating the rates of charges for parking privileges. The rates shall be displayed before 8:00 a.m. and shall not be increased for 24 hours thereafter.

b. All signs posted shall be a minimum size of 18 by 24 inches. The vertical height of the lettering for the rates shall be a minimum 3 inches, and the vertical height of other lettering shall be a minimum of 1.5 inches.

8. **CLAIM CHECKS TO BE FURNISHED.** At the time of accepting a motor vehicle for storing or parking in a parking place, the person conducting the same, his agent or employee, shall furnish to such person parking his motor vehicle a distinctive check which shall be numbered to correspond to a coupon placed upon such motor vehicle, which check shall contain the name and address of the place owning or operating such parking place. These provisions shall not apply where cars are stored on a weekly or monthly fee basis.

9. **FINANCIAL RESPONSIBILITY.** All owners, operators or maintainers of parking places shall satisfy all final judgments arising out of or because of the operation or maintenance of parking places, in favor of and obtained by patrons within 15 days after the entry of judgment and, in default of compliance with this section and such judgment, the license of the owner, operator or maintainer shall be suspended until the judgment has been satisfied of record and satisfactory evidence of the financial responsibility of the owner, operator or maintainer has been furnished to the city clerk. Satisfactory evidence shall consist of the furnishing of a \$2,000 bond, on condition that the owner, operator or maintainer of a parking place will pay all final judgments recovered by the bailor according to law for damages arising from the operation or care of motor vehicles in the parking place and for the loss, damage, theft or conversion of any motor vehicle, except for personal property left in a car. The city clerk shall cancel the license for the operation of any parking place upon failure of any owner, operator or maintainer of a parking place to comply with this subsection.

10. **BARRIERS.** Persons operating parking places shall keep the same enclosed with a proper or suitable fence, wall or other barrier along streets upon which parking places front, so that motor vehicles cannot be removed from such place except at the regular established entrances and exits. Each licensee shall keep the sidewalks surrounding the parking places free from dirt, ice, sleet and snow, and shall keep the sidewalks in safe condition for the travel of pedestrians.

11. **PARKED VEHICLES NOT TO BE USED WITHOUT AUTHORITY.** It shall be unlawful to make any use for any purpose or purposes whatsoever of any motor vehicle parked on the premises of any parking place unless such use shall first be authorized by the owner or person having control of such vehicle.

12. **VEHICLES NOT TO BE MOVED ONTO PUBLIC STREET.** It shall be unlawful for any parking lot operator to park any motor vehicle, for which a fee has been charged, on the public highways or any location other than the parking lot under his control.

13. **PARKING LOT EGRESS REQUIRED.** a. Any person, firm or corporation offering parking service, whether licensed or not, upon any premises within the city shall provide for the egress or removal from said premises within 30 minutes of notification by the owner or operator of any vehicle for which a fee for parking has been paid.

b. Such person, firm or corporation offering parking for a fee shall post and maintain in a conspicuous place on the parking premises the name, address, and phone number of a party who shall be available at all times parking service is offered to serve as agent for notification under par. a.

14. **PENALTY.** Any person, firm or corporation violating this section shall be subject to a fine of not less than \$10 nor more than \$100, or in default of payment thereof to imprisonment in the county jail or house of correction, Milwaukee county, for not less than 10 days nor more than 30 days.

15. **FRAUD OF PARKING LOT OPERATORS.** a. Payment of Fees. It shall be unlawful for a parking lot patron to remove his car from a parking lot without paying any due parking fees.

b. Posting of Ordinance. The owner or operator of every parking lot shall post or cause to be posted a copy of this section, or a summary thereof, in a conspicuous place within said parking lot.

c. Penalty. Any person violating par. a shall be punished by a fine of not less than \$50 nor more than \$500 and in default of payment thereof shall be imprisoned in the county jail or house of correction for a period not to exceed 60 days.

d. Exception. The provisions of pars. a and c shall not apply if the operators of the parking lot have not met the provisions of sub. 13-b.

84-43. Cigarette and Tobacco License.

1. DEFINITIONS. In this section:

a. "Cigarette" means any roll of tobacco wrapped in paper or any substance other than tobacco.

b. "Tobacco products" means cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but "tobacco products" does not include cigarettes.

2. LICENSE REQUIRED. It shall be unlawful for any person, firm or corporation in any manner, or upon any pretense, or by any device, directly or indirectly, to sell, exchange, barter, dispose of or give away, any cigarettes or tobacco products without first obtaining a license therefor.

3. APPLICATION. License application forms shall be obtained from the city clerk and require the information specified in s. 85-12.

4. PLAN OF OPERATION. An application for a cigarette and tobacco license shall be accompanied by a completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall include:

a. The planned hours of operation for the premises.

b. The number of customers expected on a daily basis at the premises.

c. The legal occupancy limit of the premises.

d. The number of off-street parking spaces available at the premises.

e. Plans the applicant has to provide security for the premises.

f. Plans the applicant has to ensure the orderly appearance and operation of the premises with respect to litter and noise.

g. Any other licenses held by the applicant or attached to the premises.

h. A description of any provisions made for clean-up of the premises.

i. A site plan showing:

i-1. The locations of all entrances and exits. This shall include a description of how customers will enter and leave the premises.

i-2. The locations and dimensions of any off-street parking and loading areas for customers.

j. Such other reasonable and pertinent information the common council or the licensing committee may from time to time require.

5. CHANGES TO BE REPORTED. See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

6. LICENSE FEE. See ch. 81 for the required license fee.

7. AGE QUALIFICATION. No license shall be issued to any person or any agent of a corporation or limited liability corporation who is not 18 years of age or older.

8. ISSUANCE. See s. 85-12.5 for provisions relating to the issuance of a license.

9. TRANSFER OF LICENSE OR CHANGE OF NAME. No cigarette and tobacco license may be transferred from one licensee to another or from one premises to another. The city clerk may, however, change the name of a licensee as provided in s. 85-19 upon receiving information that the name of the licensee has been lawfully changed by marriage, order of a court or administrative determination by the Wisconsin department of financial institutions.

10. RECORDS TO BE KEPT. Every retailer licensed under this section shall keep complete and accurate records of all purchases and receipts of cigarettes and tobacco products. The records shall be preserved on the licensed premises for 2 years in a manner to ensure permanency and accessibility for inspection and

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shall be subject to inspection at all reasonable hours by authorized state and local law enforcement officials.

11. **SUSPENSION, NONRENEWAL AND REVOCATION.** The city adopts s.134.65 (6), (7) and (8), Wis. Stats.

12. **PENALTIES.** a. Any person violating this section shall be fined not less than \$25 nor more than \$100 for the first offense or, in lieu of nonpayment or default of such fine, costs and disbursements, may be imprisoned as provided by law; and for a second or subsequent offense not less than \$25 nor more than \$200 or, in lieu of nonpayment or default of such fine, costs and disbursements, may be imprisoned as provided by law.

b. If upon conviction of a 2nd or subsequent violation, the person violating this section is found personally guilty of a failure to exercise due care to prevent the violation, the person shall be fined not less than \$25 nor more than \$300 or, in lieu of nonpayment or default of such fine, costs and disbursements, may be imprisoned as provided by law. Conviction under this paragraph shall result in immediate termination of the license of the person convicted of being personally guilty of failure to exercise due care and the person shall not be entitled to another license under this section for a period of 5 years after conviction, nor shall the person in that period act as the servant or agent of a person licensed under this section in the performance of acts authorized by the license.

84-45. Filling Stations. 1. PURPOSE. In order to protect the health, safety and general welfare of the community and environment and prevent potential harm and nuisance that could result from the location and operation of filling stations, the common council enacts the following regulations.

2. **DEFINITION.** In this section, "filling station" (gas station) means a place, building, pump or device maintained and used on private premises for the purpose of dispensing to the public gasoline or other fuels for use in motor vehicles of any kind.

3. **LICENSE REQUIRED.** a. No person, firm or corporation shall operate a filling station unless the person, firm or corporation possesses a valid license issued pursuant to this section. See s. 81-51.6 for the required fee.

b. An additional weighing and measuring license fee specified in ch. 81 shall be paid for each pump or device used to establish charges for gasoline or other fuels.

3.5. **SECURITY CAMERA REQUIRED.** All filling stations open to customers on a 24-hour basis shall:

a. Install, maintain in proper working order and operate during all hours the store is open to customers a security camera which can produce reproducible digital color images.

b. The camera shall be placed to provide a clear and identifiable full frame of the filmed individual's face, either entering, exiting or at the cash register. Hanging displays shall not obstruct views of the individual's face.

c. If a time-lapse digital video camera is operated, recorded images shall not be recorded at a slower speed than 24 hours.

d. Recorded digital image files shall be kept for a minimum of 72 hours.

4. **APPLICATION.** License application forms shall be obtained from the city clerk and require the information specified in s. 85-12.

5. **PLAN OF OPERATION.** An application for a filling station license shall be accompanied by a completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall include:

a. The planned hours of operation for the premises.

b. The number of customers expected on a daily basis at the premises.

c. The legal occupancy limit of the premises.

d. The number of off-street parking spaces available at the premises.

e. Plans the applicant has to provide security for the premises.

f. Plans the applicant has to ensure the orderly appearance and operation of the premises with respect to litter and noise.

g. Any other licenses held by the applicant or attached to the premises.

h. A description of any provisions made for clean-up of the premises.

i. A site plan showing:

i-1. The locations of all entrances and exits. This shall include a description of how customers will enter and leave the premises.

i-2. The locations and dimensions of any off-street parking and loading areas for customers.

j. Such other reasonable and pertinent information the common council or the licensing committee may from time to time require.

6. **CHANGES TO BE REPORTED.** See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

7. LICENSE FEE. See ch. 81 for the required license fee.

8. AGE QUALIFICATION. No license shall be issued to any person or any agent of a corporation or limited liability corporation who is not 18 years of age or older.

9. DISQUALIFICATION. Whenever any application is denied, or a license is revoked, surrendered or not renewed, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

10. INVESTIGATION. Each application for a new license shall be referred to the chief of police, the commissioner of neighborhood services and the commissioner of health in accordance with s. 85-21-2. All applicants for filling station licenses shall be exempt from the fingerprinting requirement provided in s. 85-21-1.

11. OBJECTION. An objection to issuance of a license shall be based on the factors set forth in s. 85-2.7-4. If the local common council member, chief of police or commissioner recommends against an application, no license shall be issued unless the applicant requests, in writing, an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the recommendation of the common council member, chief or commissioner. An appeal shall be forwarded by the city clerk to the licensing committee for its recommendation as to whether a permit should be granted. The procedure for considering an appeal shall be as provided in s. 85-2.7.

12. ISSUANCE. See s. 85-12.5 for provisions relating to the issuance of a license.

13. POSTING. Each license shall be posted in a conspicuous place on the premises.

14. TRANSFER. See s. 85-19 for provisions relating to the transfer of a license and the change of licensee names.

15. RENEWAL. Application for renewal of a license shall be made to the city clerk in accordance with the provisions of s. 85-26. The city clerk shall refer the application to the chief of police. If the applicant still meets the licensing qualifications, the license shall be issued unless a written objection has been filed under s. 85-3. If there is objection to renewal of the license, the procedure for considering the renewal application shall be as specified in ss. 85-3 to 85-5.

16. REVOCATION OR SUSPENSION OF LICENSE. Any license issued under this section may be suspended or revoked for cause by the common council after notice to the licensee and a hearing. Notice and hearing on the revocation shall be conducted in accordance with s. 85-3.

17. ENFORCEMENT, PENALTY.

a. A person who violates any provision of this section or fails to comply with an order of the commissioner that was issued under this section or otherwise issued concerning the operation of a filling station shall be liable upon conviction to a Class J penalty under s. 61-16. Each day of a continued violation is a separate offense.

b. Citations may be issued for any violation of this section with or without prior order or notice. The stipulation, forfeiture and court procedure set forth in s. 50-25 shall apply.

84-49. Distribution of Printed Materials in City Hall Complex. The city clerk shall furnish periodical boxes for distribution of newspapers, newsletters, magazines, or other publications, which are published on a regular schedule. Any person, group, or organization distributing publications shall ensure that the periodical boxes are kept in a neat and orderly manner at all times and that publications are kept up-to-date. The city clerk may issue guidelines for the enforcement of this section. Any publications not maintained in accordance with this section or the guidelines established by the city clerk may be removed by the city clerk.

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84-55. Security Personnel License.

1. **DEFINITIONS.** In this section, "security personnel" means any on-site employee or contractor of an establishment, or any employee of a third-party security firm hired by an establishment, whose primary job responsibility is maintaining the security of a premise.

2. **LICENSE; WHEN REQUIRED.** It shall be unlawful for any person, firm or corporation to indicate on a licensing application or in a committee hearing, for the purpose of obtaining or maintaining a license, that an establishment utilizes security personnel, unless such personnel possess a valid license issued pursuant to this section, or a valid private security permit or private detective license pursuant to ch. SPS 31, Wis. Admin. Code.

3. **APPLICATION.** License application forms shall be obtained from the city clerk and require the information specified in s. 85-12.

4. **INVESTIGATION AND FINGERPRINTING.** Each application for a new license shall be referred to the chief of police in accordance with s. 85-21.

5. **CONDITIONS FOR APPROVAL.**

a. A license may be issued under this section if the individual applicant, or each member of a partnership or a limited liability company or each corporate officer who executed the application:

a-1. Subject to ss. 111.321, 111.322, and 111.335, Wis. Stats., does not have an arrest or conviction record involving a misdemeanor or a violation, as defined in s.440.26 (4m), Wis. Stats.

a-2. Has not been convicted in this state or elsewhere of a felony, unless pardoned.

a-3. Is not a user of drugs or alcohol to an extent dangerous to himself or herself or to other persons or to an extent which could impair a person's ability to direct or perform private security activities responsibly.

a-4. Does not have a physical, emotional, or mental condition that might adversely affect the applicant's ability to responsibly direct or perform private security activities.

b. If an application does not meet the conditions for approval established in this subsection, the application shall be referred to the licenses committee in accordance with 85-2.7

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

7. **LICENSE FEE.** See ch. 81 for the required license fee.

8. **AGE QUALIFICATION.** No license shall be issued to any person or any agent of a corporation or limited liability corporation who is not 18 years of age or older.

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

10. **ISSUANCE.** See s. 85-12.5 for provisions relating to the issuance of a license.

11. **RENEWAL.** Application for renewal of a license shall be made to the city clerk in accordance with the provisions of s. 85-26. The city clerk shall refer the application to the chief of police. If the applicant still meets the licensing qualifications, the license shall be issued unless a written objection has been filed under s. 85-3. If there is objection to renewal of the license, the procedure for considering the renewal application shall be as specified in ss. 85-3 to 85-5.

12. **REVOCAION OR SUSPENSION OF LICENSE.** Any license issued under this section may be suspended or revoked for cause by the common council after notice to the permit holder and a hearing. Notice and hearing on the revocation shall be conducted in accordance with s. 85-3.

13. **BOND REQUIRED.** a. No license may be issued under this section until either of the following occurs:

a-1. A bond or liability policy in the amount of \$2,000 has been executed, filed with, and approved by the license division.

a-2. The applicant provides proof of valid coverage under a commercial general liability policy or surety bond which the division deems sufficient.

b. The bond or liability policy shall be furnished by an insurer authorized to do a surety business in this state in a form approved by the department. The person shall maintain the bond or liability policy during the period that the license is in effect.

14. PENALTIES. a. Any licensee or license applicant violating this section in the course of attempting to obtain or maintain a license shall be fined not less than \$25 nor more than \$100 for the first offense or, in lieu of nonpayment or default of such fine, costs and disbursements, may be imprisoned as provided by law; and for a second or subsequent offense not less than \$25 nor more than \$200 or, in lieu of nonpayment or default of such fine, costs and disbursements, may be imprisoned as provided by law.

b. If upon conviction of a 2nd or subsequent violation, the licensee or license applicant violating this section is found personally guilty of a failure to exercise due care to prevent the violation, the person shall be fined not less than \$25 nor more than \$300 or, in lieu of nonpayment or default of such fine, costs and disbursements, may be imprisoned as provided by law. Conviction under this paragraph may result in immediate termination of the license of the person convicted of being personally guilty of failure to exercise due care and the person shall not be entitled to another license under this section for a period of 5 years after conviction, nor shall the person in that period act as the servant or agent of a person licensed under this section in the performance of acts authorized by the license.

**For the legislative history of chapter 84,
contact the Municipal Research Library.**

84-Miscellaneous Licenses

Pages 310 to 322 are blank.

CHAPTER 85
LICENSE AND PERMIT PROCEDURES

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SUBCHAPTER 1
PROCEDURES FOR COMMITTEE
HEARINGS AND COMMON COUNCIL REVIEW

85-1. Purpose and Scope. 1. **PURPOSE.** It is the purpose of the common council to assure uniformity and clarity in the procedures under which certain licenses and permits are considered for approval, denial, renewal, non-renewal, suspension and revocation. It is the further purpose of the common council to guarantee to licensees, permittees and members of the public those protections of due process of law respecting a full and fair right to be heard upon adequate notice, to confront and cross-examine witnesses, to have the benefit of rules of evidence, and to present evidence and arguments of law and fact.

2. **SCOPE AND APPLICATION.** The provisions of this chapter shall not supercede or replace any provision contained elsewhere in this code respecting licenses and permits, but shall apply where provisions for notice, committee hearing or council action are otherwise silent.

85-2. Definitions. 1. **APPLICANT** means any person, partnership, corporation, limited liability company or other firm causing, either directly or by agent or counsel, a written application for license or license renewal or for a permit or permit renewal to be filed with an office of the city for consideration and determination by the common council. For purposes of this chapter, applicant shall also mean a licensee or permittee subject to suspension or revocation proceedings.

2. **COMMITTEE** means the licensing committee or permitting committee designated by common council ordinance or rule to review and hear matters related to identified licenses or permits.

3. **COMPLAINANT** means a person or party who asserts an interest affected by the operation or proposed operation of a licensee, or the issuance or continuance of a permit, who files a written complaint in compliance with the provisions of this code or the provisions of state law with respect to the license or permit.

3.5. **LICENSEE** or **PERMITTEE** means a person licensed, permitted or otherwise approved under the provisions of this code to operate a particular type of business or to conduct a certain activity for which the code

85-2.5 License and Permit Procedures

requires that a license, permit or other approval be granted or issued by the city before any person may operate that type of business or conduct that activity.

4. **OBJECTION** means a written statement submitted by an interested party to the city clerk that includes information personally known to the objector that could form the basis for nonrenewal or suspension of a license or permit as provided in s. 85-4-4, or as expressly provided elsewhere in this code for a license or permit as a basis for denying renewal or suspension of the license.

5. **OBJECTOR** means a person or party affected by the operation or proposed operation of a licensee, or who is or may be affected by the issuance or continuance of a permit, whose written objection is sufficient under this code to initiate proceedings for non-renewal, suspension or revocation of a license or permit.

6. **PERSON** means any individual, firm, partnership, association, corporation, limited liability company or limited liability partnership.

85-2.5. Notice of Hearing Upon Council Member Request. 1. **CITY CLERK TO NOTIFY.** Upon request of the local council member, the city clerk may provide, by mail, written notice, regarding an application for any business license processed by the city clerk, which is scheduled for a hearing before the licensing committee of the common council, to up to 100 single-family residences in the immediate area of the property for which a license is sought, or to each resident of the circular area having a radius of 250 feet, centered on the property for which a license is sought, whichever is greater.

2. **EXCEPTION.** Notwithstanding sub. 1, those interested parties who have made written requests to the city clerk to be notified of a hearing for a particular license application shall be provided notice by the city clerk regardless of their residence.

85-2.7. Hearing Procedure, New License. 1. **HEARING; NOTICE.** The licensing committee shall make a recommendation on whether or not to grant each new license. If there is a possibility of denial, the licensing committee shall hold a hearing. No hearing shall be heard unless the city clerk, or other city official or department

authorized to receive applications for licenses, has provided written notice to the applicant. The notice shall be served upon the applicant so that the applicant has at least 7 days' notice of the hearing. The notice shall contain:

a. The date, time and place of the hearing.

b. A statement to the effect that the possibility of denial of the license application exists and the reasons for possible denial. If the possibility of denial is based on the fitness of the location of the premises to be licensed, the notice shall also be served upon the owner of the premises so that the owner has at least 7 days' notice of the hearing. Notice to the owner of the premises shall contain the same information and statements included under this paragraph related to the notice to the applicant.

c. A statement that an opportunity will be given to the applicant to respond to and challenge any reason for denial and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

d. A statement that the applicant may be represented by an attorney of the applicant's choice at the applicant's expense, if the applicant so wishes.

2. **POSSIBILITY OF DENIAL.** If there is a possibility of denial, at the hearing the committee chair shall open the meeting by stating that a notice was sent and read the notice into the record unless the applicant admits notice. The chair shall advise the applicant that the applicant has an option to proceed with a due process hearing, represented by an attorney, with all testimony both direct and cross-examination under oath, or that the applicant may simply make a statement to the committee.

3. **DUE PROCESS.** A due process hearing shall be conducted in the following manner:

a. All witnesses shall be sworn in.

b. The chair shall ask those opposed to the granting of the license to proceed first.

c. The applicant shall be permitted an opportunity to cross-examine.

d. After the conclusion of the opponent's testimony, the applicant shall be permitted to present the applicant's own witnesses, subject to cross-examination.

e. Committee members may ask questions of witnesses.

f. The applicant shall be permitted a brief summary statement.

4. **RECOMMENDATION.** The recommendation of the committee regarding the applicant shall be based on the preponderance of evidence presented at the hearing. Probative evidence concerning whether or not the license should be granted may be presented on the following subjects:

a. Whether or not the applicant meets the municipal requirements.

b. The appropriateness of the location and premises where the licensed premises is to be located and whether use of the premises for the purposes or activities permitted by the license would tend to facilitate a public or private nuisance or create undesirable neighborhood problems such as disorderly patrons, unreasonably loud noise, litter, and excessive traffic and parking congestion. Probative evidence relating to these matters may be taken from the plan of operation submitted with the license application.

c. The fitness of the location of the premises to be maintained as the principal place of business, including but not limited to whether there is an overconcentration of businesses of the type for which the license is sought, whether the proposal is consistent with any pertinent neighborhood business or development plans, or proximity to areas where children are typically present.

d. The applicant's record in operating similarly licensed premises.

e. Whether or not the applicant has been charged with or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the activity to be permitted by the license being applied for.

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

5. **FACTORS NOT CONSIDERED FOR RECOMMENDATION.** The recommendations of the committee regarding the applicant shall not be based on evidence presented at the hearing related to the type or content of any music, or the actual or likely financial or non-financial effects on actual or potential competitors.

6. **Committee Decision.** The committee may make a recommendation immediately following the hearing or at a later date. Written notice of the committee's decision will be provided if the decision is made at a later

date or if the applicant was not present or represented. The committee shall forward its recommendation in writing to the common council for vote at the next meeting at which such matter will be considered.

7. **DOCUMENT.** If the common council grants the application for a license, the city clerk, or other city official or department authorized by the code to issue licenses, shall issue an appropriate document to the applicant confirming that fact. The document shall also contain any restrictions or conditions which the common council may place on approval.

85-3. Notice and Service. 1. NOTICE OF POSSIBLE NON-RENEWAL, SUSPENSION OR REVOCATION.

a. Unless otherwise provided, the city clerk, or other city official or department authorized by the code to receive applications for licenses or permits, shall provide written notice of the possibility of non-renewal, or of suspension or revocation of a license or permit to the applicant addressed to the person or agent at the address most recently provided by the applicant.

b. Written notice of possible non-renewal, suspension or revocation shall include:

b-1. The date, time and place of a hearing to be held by the committee.

b-2. A statement of the common council's intent to revoke, suspend or not renew the license or permit if objections, charges or allegations are found to be true.

b-3. A statement of the specific reasons for revocation, suspension or non-renewal.

b-4. A statement that an opportunity will be provided to respond to and challenge the reasons for revocation, suspension or non-renewal, and to present witnesses under oath and to confront and cross-examine witnesses under oath.

b-5. A statement that the applicant may be represented by an attorney of the applicant's choice at the expense of the applicant.

b-6. A statement that, if the applicant requires the assistance of an interpreter, the applicant may employ an interpreter at the expense of the applicant.

b-7. A statement that, upon conclusion of a hearing before the committee, the committee will prepare a written report and recommendation to the common council, and shall provide a copy of the report and recommendation to the applicant.

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2. SERVICE OF DOCUMENTS.

Service of notices of meetings and service of other documents including committee reports and recommendations shall be made upon any party entitled to such notice and service by placing the same in the United States first class mail, postage prepaid. Hearing notices shall be served upon the applicant so that the applicant has at least 7 days' notice of the hearing.

3. OBJECTIONS. a. How Made.

Notice of an objection to the renewal of a license or in support of suspension of a license or permit by an interested party shall not be included in the notice of hearing if the objection has not been received by the city clerk within 45 days of the expiration of the license. Failure to timely submit an objection shall not be a bar to testimony or other evidence that relates to any matter actually identified in the notice of hearing as a basis for nonrenewal or suspension. An objection shall include information that could form the basis of a license nonrenewal or suspension and may be transmitted in writing or by electronic means. Any city official, or the official's delegate, shall forward an objection from an interested party, or from a resident as provided in s. 90-1-19, to the city clerk. The information provided by an official or the official's delegate to the city clerk shall include the name of the objector, contact information for the objector, and information known to the objector that may form a basis for nonrenewal or suspension. The submission by a city official or the official's delegate of a written summary of the objection to the city clerk shall be treated in the same manner as other objections. The city clerk is authorized to establish forms for the purpose of assisting persons wishing to submit an objection.

b. Exception. If application for renewal is filed with the city clerk after the deadline for renewal application established by the city clerk and prior to the expiration of the license, an objection may be submitted in fewer than 45 days prior to the expiration of the license and may be considered at a regularly scheduled meeting of the licensing committee provided sufficient and timely notice is given.

85-4. Hearing Procedure; Non-Renewal, Suspension or Revocation. 1. AUTHORITY OF COMMITTEE. The committee shall conduct hearings with respect to the non-renewal, suspension or revocation of a license or permit pursuant to this section. The chair of the committee shall be the presiding officer.

1.5. MULTIPLE LICENSE TYPES.

When the committee conducts a hearing relating to the possible denial, non-renewal, suspension or revocation of a business type license and the licensee holds one or more other types of licenses or permits issued by the city clerk for the same premises, the committee shall also consider possible non-renewal, suspension or revocation of the other licenses or permits at the same hearing. Notice of possible denial, non-renewal, suspension or revocation of the non-alcohol beverage licenses or permits shall be provided in accordance with s. 85-3.

2. COMMITTEE HEARING PROCEDURE. a. The chair shall advise the applicant of the right to proceed to a due process hearing represented by counsel with all testimony, both direct and cross examination, under oath or that the applicant may simply make a statement to the committee.

b. The chair shall direct that oaths be administered and subpoenas issued upon request of any party.

c. The chair shall ensure that an orderly hearing is conducted in accordance with the requirements of this section. The chair shall open the hearing with a statement that a notice was sent to the applicant, and, if the applicant appears, shall further inquire whether the notice was received. Unless expressly provided elsewhere in this code, the chair shall advise the licensee and parties seeking nonrenewal, suspension or revocation of the license that each side will be limited to 30 minutes for testimony and oral argument. This time may be extended by the chair, subject to approval by the committee, if additional time is necessary for a full and fair presentation of the facts and arguments. When permitted by the chair, questioning by committee members and relevant responses shall not count against the time limitation. In the event that the applicant does not admit receipt of the notice and also denies knowledge of the contents of the notice, the chair shall ascertain whether the applicant wishes to immediately proceed to a full hearing or whether the applicant wishes the matter to be held to the call of the chair or to a time certain. The decision to proceed or to hold the matter shall be made by the committee.

d. The chair shall rule on objections to the admissibility of evidence. Any ruling of the chair shall be final unless appealed to the committee, and the committee shall reverse such ruling only upon the vote of a majority of its members.

3. RECORD. An electronic or stenographic record shall be made of all licensing proceedings before the licensing committee and the common council. An electronic record shall audibly, accurately and completely reflect the testimony and statements made by participants in the proceedings. Recordings shall be maintained in a manner prescribed by the city clerk. An electronic record shall be made available for stenographic transcription or for transcription by other means at the expense of the person or party seeking the transcription of all or any portion of the record.

4. GROUNDS FOR NON-RENEWAL, SUSPENSION OR REVOCATION. The recommendations of the committee regarding the applicant shall be based on the preponderance of evidence presented at the hearing. Unless otherwise specified in the code, probative evidence concerning non-renewal, suspension or revocation may include evidence of:

a. Failure of the applicant to meet municipal qualifications.

b. Pending charges against or the conviction of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the circumstances of the particular licensed or permitted activity, by the applicant or by any employee or other agent of the applicant.

c. If the activities of the applicant involve a licensed premises, whether the premises tends to facilitate a public or private nuisance or has been the source of congregations of persons which have resulted in any of the following:

- c-1. Disturbance of the peace.
- c-2. Illegal drug activity.
- c-3. Public drunkenness.
- c-4. Drinking in public.
- c-5. Harassment of passers-by.
- c-6. Gambling.
- c-7. Prostitution.
- c-8. Sale of stolen goods.
- c-9. Public urination.
- c-10. Theft.
- c-11. Assaults.
- c-12. Battery.
- c-13. Acts of vandalism including graffiti.
- c-14. Excessive littering.
- c-15. Loitering.
- c-16. Illegal parking.
- c-17. Loud noise at times when the licensed premise is open for business.

- c-18. Traffic violations.
- c-19. Curfew violations.
- c-20. Lewd conduct.
- c-21. Display of materials harmful to minors, pursuant to s. 106-9.6.
- c-22. Any other factor which reasonably relates to the public health, safety and welfare.
- c-23. Failure to comply with the approved plan of operation.

5. HEARING OFFICER. Where it is impractical for the committee to hold an evidentiary hearing, the committee may employ a hearing officer for the purposes of taking testimony and rendering recommended findings of fact and conclusions of law to the committee. When such hearing officer is employed, he or she shall prepare written findings of fact and conclusions of law which shall be simultaneously transmitted to the committee as well as to the applicant, the applicant's agent, manager, operator or any other employee of the applicant, and to the person bringing the complainant or objector. The chair of the committee shall schedule a hearing on the receipt of the report of the hearing officer in not more than 30 days from receipt of the report. Notice of the committee hearing on the report shall be given to all parties. The committee may take and reserve additional evidence at the time of said hearing. The committee may accept or reject the report of the hearing officer or make any changes to the report which are warranted by the circumstances, the evidence presented and any arguments of the parties who appeared before the hearing officer and the committee. The committee shall transmit its recommendation to the common council for action as provided in sub. 6.

6. COMMITTEE REPORT. The committee may make a report and recommendations immediately following the hearing or at a later date. The committee may recommend that the license or permit be renewed, not renewed, suspended or revoked. In addition, if the committee determines that circumstances warrant, the committee may recommend that the license or permit be renewed conditioned upon a suspension of the license or permit for a defined period of time. When the committee elects to recommend that a license or permit be renewed with a period of suspension, the license or permit may be suspended for a period of not less than 10 days and no more than 90 days.

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85-5. Council Action. 1. **REPORT TO BE PROVIDED.** Within 10 working days after it reaches a decision, the committee shall prepare and serve a report and recommendation upon the applicant and upon the complainant or objector, if any. The report and recommendations shall include specific findings of fact and conclusions of law made by the committee. A copy of the report shall be distributed to each member of the common council.

2. **FILING WRITTEN STATEMENTS OR RESPONSES.** Following a recommendation by the committee that the license or permit not be renewed, or that the license or permit be revoked or suspended, the applicant may submit a written statement including objections, exceptions and arguments of law and fact. When the proceedings have been commenced upon the complaint or objection of an interested party who has appeared and offered evidence, the complainant or objector may also submit a written statement in response. Written statements shall be filed with the city clerk before the close of business on a day that is at least 3 working days prior to the date set for hearing by the common council.

3. **COPIES TO BE PROVIDED TO COMMON COUNCIL MEMBERS.** A copy of any statement in response to the report and recommendations of the committee that is timely filed shall be provided to each member of the common council at least 24 hours before any vote on the question is scheduled before the common council.

4. **PROCEDURE AT MEETING OF THE COMMON COUNCIL.** a. At a meeting of the common council following the receipt of the report and recommendations of the committee, the common council shall consider the report and recommendations. The city clerk shall notify the applicant, and the complainant or objector, if any, by United States first class mail, postage prepaid, 5 working days prior to the hearing before the common council, and shall also notify the city attorney, that the council will convene to act upon the report and recommendations.

b. Each member of the common council shall be asked to affirm that he or she has read the report and recommendations of the committee. When a written statement has been or objector, each member of the common council shall be asked to affirm that he or she has read the statement. If members of the council have not read the recommendation and

report of the committee and any statement in response that has been timely filed, the chair shall allocate time for the members to do so.

c. Oral argument on behalf of the applicant, and oral argument by the complainant or objector, if any, shall be permitted only to those parties having timely filed a written statement. Oral argument shall be limited to 5 minutes. The city attorney shall also be permitted to make an oral presentation of not more than 5 minutes.

d. Applicants shall appear only in person or by counsel. Corporate applicants shall appear only by designated agents or counsel. Partnerships shall be represented only by a partner or counsel. Limited liability companies shall be represented only by designated agents or counsel. Complainants and objectors shall appear only in person or counsel. Any person making an appearance before the council who requires the services of an interpreter shall obtain one at his or her own expense.

e. The common council shall determine by a majority roll call vote of those in attendance and voting whether to adopt the recommendation of the committee. The city clerk shall provide written notice of the decision to the applicant, and to the complainant or objector, if any, including a written statement or summary of the reasons for the decision.

f. Unless otherwise expressly provided, the revocation of a license or permit shall be effective upon service of the notice of decision upon the applicant or upon any person having charge or control of a licensed premises. Suspension of a license or permit in proceedings for revocation shall be effective upon service of the notice of decision upon the applicant or upon any person having charge or control of a licensed premises. Suspension of a license or permit in proceedings for renewal shall be effective on the date the common council takes action to suspend the license or permit, or on the date of the expiration of the license or permit, whichever is later. A license or permit may be suspended for not less than 10 days and no longer than 90 days.

g. If a retail alcohol beverage license for a premises is suspended and the licensee also holds a public entertainment premises license for the premises, the public entertainment premises license shall be suspended for the same time period as the alcohol beverage license.

SUBCHAPTER 2
ADMINISTRATIVE PROCEDURES
APPLICABLE TO LICENSE AND
PERMIT APPLICATIONS

85-11. Purpose and Scope. 1. **PURPOSE.** It is the purpose of the common council to assure uniformity and clarity in the procedures related to application for and administration of certain licenses and permits.

2. **SCOPE AND APPLICATION.** The provisions of this subchapter shall not supersede or replace any provision contained elsewhere in this code respecting licenses and permits, but shall apply where provisions for application and administration are otherwise silent. This subchapter provides uniform procedures for licenses and permit disqualifications, transfers of licenses and permits, changes in names of licensees, permittees and business names, and consideration of changes in circumstances following denial, nonrenewal or revocation.

85-12. Contents of Application. 1. **WHEN APPLICANT IS AN INDIVIDUAL.** The license application, which shall be signed and certified by the applicant, shall contain the following information:

- a. The type of license being applied for.
- b. Name, permanent home address and telephone number of the applicant.
- c. The date of birth of the applicant.
- d. If applicable, the name and address of the business with which the license will be associated or at which the licensee will be employed.

e. Such other reasonable and pertinent information as the common council or licensing committee may from time to time require.

2. **WHEN APPLICANT IS A BUSINESS.** An application for a new or renewal license shall be signed by the sole proprietor, one partner, the agent, a majority owner of the business entity, or a corporate officer. Each type of application shall contain the following information:

- a. The type of license being applied for.
- b. The name and permanent address of the applicant.
- c. If applicable, the name and address of the premises for which the license is to be granted.

d. If the applicant is a corporation, limited liability company or other organized business entity, the name of the corporation, company or other entity shall be set forth exactly as it is set forth in its articles of incorporation, together with the name and address of an agent and of each person who owns 20% or more of the corporation, company or entity.

e. If the applicant is a partnership, the application shall set forth the name and resident address of each of the partners, including limited partners, and the application shall be verified by each partner. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the corporate partners.

f. The date of birth of each sole proprietor, partner, agent or person who owns 20% or more of the business entity.

g. Such other reasonable and pertinent information the common council or the proper licensing committee of the common council may from time to time require.

3. **PROOF OF IDENTITY; AGE REQUIREMENT.** a. Every applicant shall present to the city clerk for examination a driver's license, Milwaukee municipal identification card, or some other proof of identity as may be reasonably required.

b. Every applicant shall be at least 18 years of age at the time of application, unless otherwise specified in this code.

85-12.5. Issuance of License or Permit; Duplicate Required. 1. **ISSUANCE.** Each license or permit authorized to be issued by the city clerk shall contain the signature of the city clerk and shall be sealed with the corporate seal of the city. No license or permit shall be issued until the applicant shall satisfy the common council, or other public body or official authorized by the common council, that he or she has in every manner complied with the ordinances pertaining to the issuance of the license or permit, including payment to the city of the required license or permit fee. In addition, no license or permit shall be issued by the city clerk if the health department or department of neighborhood services has placed a hold on issuance of the license or permit because of a need for the applicant to obtain an inspection or a permit, to pay a fee, or to comply with an order issued by the department.

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2. **DUPLICATE REQUIRED.** Any license or permit that cannot be produced or displayed due to loss, theft, mutilation or destruction or that is not legible due to defacement or any other reason shall be promptly replaced by the licensee or permittee upon payment of the fee for a duplicate copy provided in s. 81-1-4.

85-12.7. Scheduling of Committee Hearing. For any license application subject to review by a licensing committee of the common council, the city clerk shall, upon certifying that the application is complete and that any required reports of the police department and department of neighborhood services have been completed, refer the application to the appropriate committee. Upon referral, the application shall be scheduled and heard by the common council committee before the expiration of the period beginning on the date of referral and ending not later than 3 complete periods between regularly scheduled meetings of the common council.

85-13. Disqualification for License.

1. **APPLICABILITY.** Whenever any application denied, or license not renewed, revoked or surrendered, is an alcohol beverage retail establishment or tavern entertainment license, the provisions of this section related to periods of disqualification for these licenses shall apply to any other type of alcohol beverage retail establishment license.

2. **EXCEPTIONS.** This section shall not apply to any application that is denied or any license that is not renewed for a reason based solely on the failure of the applicant to appear before the licensing committee for a hearing on whether a new or renewal application shall be recommended for approval or denial to the common council.

3. **WHEN WITHDRAWN.** Whenever a new application for a license is withdrawn after the city clerk issues a notice for a hearing on a possible denial, the application shall be considered denied upon withdrawal for purposes of the disqualification provided in sub. 4, except that the period of disqualification shall be 6 months from the date of withdrawal.

4. **WHEN DENIED.** a. Except as provided in par. b, whenever an application is denied, no other application by the same applicant for the same license, and where applicable, at the same premises, shall be recommended for approval by the licensing committee for a period of 12 months following the date of the denial.

b. Whenever an application for a new license is denied for a reason relating to the fitness of the location of the premises to be licensed, no other application by any party for the same license at the same premises shall be recommended for approval by the licensing committee within 3 years of the date of the denial unless the applicant has demonstrated under s. 85-15 a change of circumstances since the denial.

5. **WHEN NOT RENEWED.** a. Except as provided in par. b, whenever a license is not renewed, no other application by the same applicant for the same license, and where applicable, at the same premises, shall be recommended for approval by the licensing committee for a period of 12 months following the date of nonrenewal.

b. Whenever a license is not renewed for a reason relating to the fitness of the location of the licensed premises, no other application by any party for the same license at the same premises shall be recommended for approval by the licensing committee within 3 years of the date of the nonrenewal unless the applicant has demonstrated under s. 85-15 a change of circumstances since the nonrenewal.

6. **WHEN REVOKED.** a. Except as provided in pars. b and c, whenever a license is revoked, no other new application by the same applicant for the same license, and where applicable, at the same or any other premises, shall be recommended for approval by the licensing committee for a period of 12 months following the date of revocation.

b. Whenever a license is revoked, no other application by any other party who has a financial relationship with the person whose license was revoked, including, but not limited to membership in the same partnership, corporation, limited liability company or association, for the same license at the same premises shall be recommended for approval by the licensing committee for a period of 12 months following the date of revocation.

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c. Whenever a license is revoked for a reason relating to the fitness of the location of the licensed premises, no other application by any party for the same license at the same premises shall be recommended for approval by the licensing committee within 3 years of the date of the revocation unless the person has demonstrated under s. 85-15 a change of circumstances since the revocation.

7. WHEN SURRENDERED. Whenever a license is surrendered in lieu of pending nonrenewal or revocation proceedings, no other new application by the applicant for the same license, and where applicable, at the same or any other premises, shall be recommended for approval by the licensing committee for a period of 12 months following the date of surrender.

85-14. Insurance Required.

1. For any license or permit issued by the city clerk for which insurance is required, an insurance policy shall continuously remain in effect for the duration of the license period. Failure to comply with this paragraph shall be grounds for suspension of the license or permit.

2. If a license or permit is suspended under par. a, the licensee or permittee shall pay the fee specified in s. 81-1-6 prior to reinstatement of the license or permit.

85-15. Change of Circumstances.

1. **ELIGIBILITY.** a-1. Except as provided in pars. b and c, whenever an application accompanied by the fee specified under s. 81-19.2 and a written statement of changed circumstances is filed with the city clerk setting forth the change in circumstances relating to the fitness of the location of the proposed premises since the prior denial, nonrenewal or revocation, the committee shall hold a hearing to determine if changed circumstances exist.

a-2. Except as provided in pars. b and c, whenever the owner of the premises has filed with the city clerk the fee specified under s. 81-19.2 and a written statement of changed circumstances setting forth the change in circumstances relating to the fitness of the location of the proposed premises since the prior denial, nonrenewal or revocation, and no application for a license or permit has been filed the committee shall hold a hearing to determine if changed circumstances exist sufficient for removal of the disqualification.

b. No hearing under this section shall be held by the licensing committee within a period of 12 months following the date of denial, nonrenewal or revocation of a license for a reason relating to the fitness of the location of the premises.

c. Not more than one hearing under this section involving the same applicant or owner at the same premises shall be held by the licensing committee during the period of disqualification under s. 85-13.

2. HEARING. a. At the hearing, testimony and other evidence shall be limited to that offered by the applicant or owner, appearing in person or by counsel, to demonstrate a change in circumstances. The committee may also entertain relevant evidence offered by city officers and employees.

b. If the committee determines that the applicant or owner has failed to demonstrate that a sufficient change in circumstances exists, the period of disqualification shall remain in effect. If an application has been filed under sub. 1-a-1, then the committee shall recommend that the application be denied.

c. If the committee determines that a sufficient change in circumstances has been demonstrated, the period of disqualification shall be terminated. If an application has been filed under sub. 1-a-1, then the committee shall schedule a separate hearing on whether the application should be recommended for approval or denial.

d. In considering whether changed circumstances exist, the committee shall consider, among other factors:

d-1. A change in the type of license sought by an applicant.

d-2. A change in the number of premises holding the same license in the neighborhood.

d-3. A change in zoning applicable to the subject property.

d-4. New developments or land uses in the vicinity of the subject property.

85-17. Request to Surrender a License.

1. If a licensee wishes to surrender his or her license or withdraw a renewal application after receiving a notice for a hearing on nonrenewal, revocation or suspension, the licensee shall request, in writing, permission from the licensing committee to do so prior to the date of the hearing. The committee may

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approve the request, or deny the request and proceed with the hearing.

2. If a licensee who has surrendered his or her license wishes to have the surrendered license returned, regardless of whether the license was surrendered pursuant to sub. 1, the licensee shall request, in writing at least 45 days prior to the expiration date of the license, permission from the licensing committee to do so and appear before the committee at the date, time and place specified in written notice provided to the licensee by the city clerk.

3. The committee may approve the request and return the license without further action by the common council, provided that the period for which the license was originally granted has not expired, or make a recommendation to the common council to deny the request based on the same grounds set forth for nonrenewal or revocation of the license. If the committee makes a recommendation to deny the request for the return of the license, all committee recommendations shall be prepared and common council actions conducted in the same manner set forth for nonrenewal or revocation.

85-18. License or Permit Not Issued.

1. No person shall be issued any license or permit after one year from the date of granting or approval of the license or permit.

2. The common council may waive the requirement of sub. 1 upon demonstration of unusual circumstances and payment of the fee provided in s. 81-1-9. A waiver shall be effective for one year from the date of approval by the common council.

3. If a waiver is filed under sub. 2, the hearing procedures of s. 85-2.7 and the investigation requirements of 85-21-2 shall apply.

85-19. Transfer of License or Permit or Change of Name.

1. GENERAL REQUIREMENT. Unless otherwise provided in this code, no license or permit shall be transferable whether as to licensee, permittee or location except as herein provided.

2. CHANGE OF PREMISES. Every license or permit issued under this code may be transferred from one premises to another within the city upon payment of the fees required in ch. 60 or ch. 81, as the case may be, but no

licensee or permittee shall be entitled to more than one transfer in any one license or permit year. The application and proceedings for such transfer shall be made in the same form and manner as the original application.

3. CHANGE OF NAME. The city clerk is authorized to change the name on a license or permit whenever there is a death in the family, a marriage, or a divorce with an award by court decree, provided the name change will not transfer the license or permit outside the family.

4. DEATH. a. Death of Licensee or Permittee. In case of death of the licensee or permittee, the license or permit may in the discretion of the common council be transferred to the executor, administrator or next of kin of the deceased licensee or permittee. In such event, the executor, administrator or next of kin of the deceased licensee or permittee shall report the death of the original licensee or permittee to the city clerk, together with the name and address of the person by whom the licensed or permitted business is to be conducted. The transfer of a license or permit under such circumstances may be made only if it is approved by the common council and the new licensee or permittee is in full compliance with the applicable provisions of this code.

b. Death or Withdrawal of Partner. In the case of the death or withdrawal of one or more members of a partnership to which a license or permit has been issued, the city clerk shall upon request allow the remaining partner or partners to operate the business for the remainder of the license or permit year.

5. DISABILITY. If a licensee or permittee becomes disabled, the common council may in its discretion, upon application, transfer the license or permit to the licensee's or permittee's spouse if that spouse may hold a license or permit under applicable license or permit qualifications and complies with all requirements under this code applicable to original applicants, except that the spouse is exempt from payment of the license or permit fee for the year in which the transfer takes place.

6. BANKRUPTCY. If any licensee or permittee becomes bankrupt or makes an assignment for the benefit of creditors, the receiver or creditor may continue or sell the business. The transfer of a license or permit under such circumstances may be made only if

it is approved by the common council and the new licensee or permittee is in full compliance with the applicable provisions of this code.

7. TRANSFER OF STOCK. The transfer of stock in any corporate licensee or permittee when the effect of the transfer would constitute a change in a stockholder list required by this code shall be reported to the city clerk within 10 days of the transfer. The transfer of corporate stock shall not require the payment of any transfer of license or permit fee.

8. SOLE PROPRIETORSHIP OR BUSINESS ENTITY REORGANIZATION. A sole proprietorship that reorganizes as a business entity or a business entity that reorganizes as either a sole proprietorship or a different type of business entity may transfer a license or permit for operation of an establishment to the newly-formed business entity or sole proprietorship if the following conditions are satisfied:

a. The establishment remains at the location for which the license or permit was issued.

b. At least one individual who had an ownership interest in the sole proprietorship or business entity to which the license or permit was issued has an ownership interest in the newly-formed sole proprietorship or business entity.

9. NOTIFICATION. a. The city clerk shall be notified of any changes made in the name of a licensed or permitted business within 10 days of the change.

b. The city clerk shall notify the chief of police, the licensing committee and the Wisconsin department of revenue of any name change or license transfer involving an alcohol beverage licensee or permittee.

85-20. Provisional Renewal Licenses.

1. ISSUANCE. If a licensee files a renewal application but the common council will not be able to meet to take action on the application prior to the expiration date of the license, the city clerk may issue a provisional renewal license whenever:

a. The renewal application contains all required information.

b. The licensee has submitted all required supporting documentation.

c. The licensee has paid the required fee for the renewal license and provisional renewal license specified in ch. 81.

d. Except in the case of a Class "D" operator's license or a Class "B" manager's license, the local common council member has approved the application for a provisional renewal license.

e. Issuance of the provisional license would not be contrary to state law.

f. The renewal application is filed before the end of the license period subsequent to the expiration date of the license.

2. EXCEPTIONS. a. If a licensee files a renewal application by the date established by the city clerk but the common council will not be able to meet to take action on the application prior to the expiration date of the license, the city clerk may issue a provisional renewal license and the licensee shall not be subject to pars. 1-c and d.

b. If an application is held in committee, the city clerk may issue a provisional renewal license, and the licensee shall not be subject to pars. 1-c and d.

3. APPEAL. If an application is denied approval by a common council member under sub. 1-d, the city clerk shall forward the application to the licensing committee for a hearing on the appeal of the decision of the common council member.

4. EXPIRATION DATE. A provisional renewal license shall expire 60 days after the date of issuance by the city clerk or upon issuance, non-renewal or suspension of the regular license, whichever is sooner, and shall not be renewable.

5. REVOCATION. The city clerk may revoke a provisional renewal license without further common council action if he or she determines that the licensee provided false information on the license application.

85-21. Fingerprinting and Investigation Required.

1. FINGERPRINTING REQUIREMENT. a. 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.

a-1. If the applicant is a partnership, each partner shall be fingerprinted.

a-2. If the applicant is a corporation, limited liability company or similar firm or business recognized in law, the agent as well as any persons holding 20% or more ownership in the legal entity shall be fingerprinted.

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b. If there is a change of agent by the licensee, the new agent shall be fingerprinted within 10 days of the change.

c. If there is change of ownership where the change results in any person holding 20% or more ownership in the legal entity, that person shall be fingerprinted within 10 days of the change, if not already fingerprinted under this section.

d. Exemption. This requirement shall not apply to a person already licensed by the city when that person is renewing the license. If a set of fingerprints is on file with the police department, an additional set shall not be required unless expressly requested by the police department for verification.

2. INVESTIGATION REQUIREMENT. a. Each application for a license or permit subject to review by a licensing committee of the common council shall be referred to the chief of police who shall cause an investigation to be made and report the findings to the licensing committee of the common council within 14 days of the applicant's compliance with background investigation requirements.

b. The report provided by the chief of police shall include information for the preceding 10 years related to any criminal or ordinance convictions and any pending criminal charges and ordinance citations of the applicant; each partner, if the applicant is a partnership; or agent, as well as any persons holding 20% or more ownership in the legal entity, if the applicant is a corporation, limited liability company or similar firm or business recognized in law.

c. If referral of a license or permit application to the commissioner of neighborhood services, commissioner of health, commissioner of public works or chief of police for investigation is required, the commissioner or chief of police shall cause an investigation to be made and report the findings to the licensing committee of the common council within 14 days of the city clerk's referral of the application to the commissioner or chief of police.

85-23. Maximum Authorized Occupancy for Certain Licensed Establishments.

1. PURPOSE. The common council finds that the overcrowding of licensed establishments constitutes a serious risk of harm, injury or death, that overcrowding may also be detrimental to the character and well-

being of the surrounding neighborhood, including traffic and parking patterns in that neighborhood, and that these risks and detrimental impacts increase with each person over the established occupancy limit for an establishment. The purpose of this section is to require the clear and accurate posting of occupancy limitations and to enforce occupancy limitations so as to assure the health, safety and welfare of the public and of persons employed by licensed establishments with occupancy limitations.

2. POSTING REQUIRED. Any licensed establishment with a maximum occupancy established by the commissioner of neighborhood services or, in the case of a public entertainment premises, by the common council under s. 108-7-3, shall securely post and maintain official placards issued by the department of city development indicating the maximum number of persons permitted on the licensed premises as established by the commissioner of neighborhood services or, in the case of a public entertainment premises, by the common council under s. 108-7-3, whichever is less.

3. POLICE ORDERS. If, in the determination of the police department, the number of persons on the premises exceeds the limitation set on the official placard, the police department shall order the number reduced to the permitted number. The police department may also order the establishment closed until it complies with this section.

4. PROHIBITIONS. a. No greater number of persons than the number indicated on the official placard shall be permitted on the licensed premises by any person responsible for operations or activities conducted on the premises.

b. Tampering with, obscuring or otherwise changing the official placard is prohibited.

c. Refusal by a patron to comply with a police department order to leave an establishment that has been determined by the police department to exceed the posted occupancy limitation is prohibited.

5. CITATION. The citation for a violation of sub. 4 shall state the occupancy limitation contained upon the official placard and shall further state the number of persons determined to be present in excess of the permitted limitation.

6. **PENALTIES.** Any person convicted of a violation of this section shall be subject to the following forfeitures and penalties:

a. For conviction of a violation of subs. 2, 4-b and 4-c, not less than \$200 nor more than \$1000.

b. For conviction of a violation of sub. 4-a, not less than \$200 nor more than \$10,000

c. For conviction of a second violation of sub. 4-a within 12 months, not less than \$200 nor more than \$15,000.

d. For conviction of a third or subsequent violation of sub. 4-a all within 12 months, not less than \$200 nor more than \$25,000

e. For purposes of determining the amount of a forfeiture for violation of sub. 4-a, the court may treat each person found to have been on the premises in excess of the permitted limit as a separate violation.

f. Any person convicted of a violation of this section shall, in default of payment of the prescribed forfeiture, be imprisoned as permitted under law.

85-24. Issuance and Transfer of License.

1. **STATE TAX DOCUMENTATION REQUIRED.** The city clerk shall not issue any business license or permit until the license applicant has provided the city clerk with proof of one of the following:

a. The applicant is the holder of or exempt from holding a seller's permit or use tax registration certificate issued by the Wisconsin department of revenue. b. The applicant is registered with the Wisconsin department of revenue to collect, report and remit use tax under subch. III of ch. 77, Wis. Stats.

c. The applicant has been informed by an employee of the Wisconsin department of revenue that the department will issue a seller's permit or use tax registration certificate to the applicant or register the applicant to collect, report and remit use tax.

2. **COMPLIANCE WITH ORDINANCES.** No license or permit shall be issued until the person, firm or corporation applying for the same shall satisfy the common council or the city clerk, as the case may be, that he or she has in every manner complied with the ordinances pertaining to the issuance of the license or permit, including the presentation to the city clerk of the city treasurer's receipt showing payment to the city of the required license or permit fee.

3. **SIGNATURE AND SEAL.** Each license or permit issued by the city clerk shall contain the signature of the city clerk and shall be sealed with the corporate seal of the city.

4. **TRANSFER.** No license or permit issued by the city clerk shall be assignable or inure to the benefit of any other than the person to whom the license or permit was originally issued, except as may otherwise be provided, but the license or permit may be transferred from one premises to another upon proper application made to the common council or city clerk, as the case may be, and the transfer shall be endorsed, after proper action by the common council if necessary, upon the original license or permit by the city clerk.

85-25. Display of License or Permit. Except as otherwise expressly provided in this code, any license or permit issued by the city clerk that authorizes the conduct of business upon or within identified premises shall be posted and displayed in a conspicuous place on the premises and shall be readily accessible for inspection by all members of the public and proper authorities who enter upon or within the premises.

85-26. Application for Renewal. 1. Application for renewal of a permit or license shall be timely made prior to deadlines established by the city clerk.

2. Except where expressly permitted in this code, no activity authorized by permit or license shall be conducted by the permittee or licensee after expiration of the permit or license.

3. Application for renewal of a permit or license may be made at any time during the permit or license period immediately subsequent to the expired permit or license period except where state law requires application for a new license following expiration.

4. A permit or license renewed after expiration shall be valid for the license period specified in ch. 81.

85-27. Revocation of Licenses. The judge of the county court may at his or her discretion revoke and annul any license issued under this code upon the conviction of any licensed person of any crime or of the violation of any city ordinance which in the opinion of the judge should necessitate revocation. It shall be the duty of the clerk of the county and municipal courts to notify the city clerk of the revocation of

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a license. Any license issued under this code may be also revoked by the common council in its discretion for any improper conduct of the licensed person.

85-29. Discrimination by License Holders.

1. **DISCRIMINATION PROHIBITION.** No holder of any license, permit or franchise issued by the city may willfully refuse services or add charges or require deposits not required of the general public under such license, permit or franchise because of sex, race, religion, color, national origin or ancestry, age, handicap, lawful source of income, marital status, sexual orientation, gender identity or expression, familial status, the fact that a person is a past or present member of the military service, whether dressed in uniform or not, or because a person is affiliated, or perceived to be affiliated, with a protected individual. No holder of a dwelling facility license issued by the city may willfully refuse services or add charges or require deposits not required of the general public under the dwelling license because of a person's place of residence.

2. **DECLARATION REQUIRED.** All applications submitted by persons seeking the licenses, permits or franchises listed in sub. 1 shall contain the following declaration: (name of applicant) shall not willfully refuse to provide those services offered under this license, permit or franchise, or add charges or required deposits not required of the general public because of race, color, sex, religion, national origin or ancestry, age, handicap, lawful source of income, marital status, sexual orientation, gender identity or expression, familial status or the fact that a person is now or has been a member of the military service, whether dressed in uniform or not. All applications submitted by persons seeking a dwelling facility license shall also contain the following declaration: (name of applicant) shall not willfully refuse to provide those services offered under this license or add charges or require deposits not required of the general public because of a person's place of residence.

3. **LICENSEES EXERCISING AGE DISTINCTION IN THE INTEREST OF PUBLIC ORDER.** Notwithstanding sub. 1, Class "B" tavern license holders may, in the interest of the public order and keeping the general peace, exercise a predetermined age restriction that must be posted at the establishment. A declaration required by sub. 2, minus the age

provision, shall be required for the holders of these licenses.

85-30. Collusive Agreements Prohibited.

Any person licensed in the city who shall permit any other person to conduct business under the licensee's license, or in the name of said licensee, or who shall connive, collude, or agree with any other person to enable such other person to conduct any business under the licensee's license or in the name of the licensee, and any person who shall conduct any business within the city under a license issued to another person, or in the name of another person, or who shall connive, collude, or agree with any licensee to enable such person to conduct business in the name, or under the license of such licensee, shall be subject to the penalty specified in s. 85-41-2. This section shall not apply to holders of Class "B" special fermented malt beverage licenses issued under s. 90-4-7.

85-32. Operation of Public Utilities on Licensed Premises. 1. GENERALLY.

Operators of a licensed or permitted premises shall not permit or allow the operation, whether directly or under contract, of any telephone, Internet, broadcast or other public utility service as defined in s. 196.01, Wis Stats., in any manner inconsistent with the rules, regulations and requirements of the U.S. federal communications commission.

2. **TELEPHONE ACCESSIBILITY.** A telephone made routinely available to members of the public by a licensee or permittee for payment or otherwise, shall be provided and operated in compliance with all U.S. federal communications requirements for accessibility, including rules, regulations or other requirements ensuring toll free calling in emergencies.

85-34. Truth of Statements and Affidavits.

1. No document submitted to the city clerk by any person relating to any application filed with or license or permit issued through the city clerk's office shall contain false, misleading or fraudulent information or false affidavit.

2. Any application filed with or license or permit issued through the city clerk's office may be denied, suspended, not renewed or revoked by the common council after notice to the applicant or licensee and a hearing, if the applicant or licensee provided false, misleading or fraudulent information or a false affidavit.

3. The city clerk may revoke a provisional license without further common council action if he or she determines that the applicant provided false, misleading or fraudulent information.

4. The city clerk shall provide on each individual application for any license or permit issued through the city clerk's office notice that a penalty is provided for any false, misleading or fraudulent information or false affidavit provided by any applicant or licensee.

85-35. Changes to Application. A licensee shall notify the city clerk whenever there is a change in any information that is reported on the application form or renewal application form. The licensee shall make this notification in writing within 10 days after the change occurs.

85-37. Changes to Plan of Operation, Permanent. If, after a license has been issued, the licensee wishes to permanently deviate from the plan of operation that was submitted with the original application, the licensee shall file a written request with the city clerk which states the nature of the change. No change shall take place until the request is approved through issuance of a new license.

85-39. Changes to Plan of Operation, Temporary. 1. AUTHORITY. The granting of a temporary change of plan permit shall authorize the permittee or licensee to deviate from the plan of operation specified on the existing license or permit. Such authority shall be contingent on the licensee also obtaining any other special privileges or permits required to effectuate the additional action or activity sought in the change of plan permit application.

2. ELIGIBLE AREAS. Areas included in any temporary change of plan permit shall be owned by or under the control of the permittee or licensee. If the applicant seeks to encroach upon public property or a public thoroughfare, the applicant shall also obtain the applicable special privilege permit.

3. APPLICATION. a. Application for a temporary change of plan permit shall be made by an individual, or authorized agent in the case of a corporation, who shall be personally responsible for compliance with all of the provisions of this section.

b. Application for the temporary change of plan permit shall be filed on or before

the deadline established by the city clerk on forms provided by the city clerk. The application shall include:

b-2. The name, business address and telephone number of the applicant.

b-3. The address of the existing licensed premises, the aldermanic district in which the premises is located, and a specific description of the site for which the temporary change is sought.

b-4. The name of the particular event or function for which the temporary change of the licensed premises is sought.

b-5. The date and period of time for which the particular event or function will be operated.

b-6. Such other reasonable and pertinent information as the common council or licensing committee may require.

c. The city clerk shall accept applications filed after the filing deadline established by the city clerk, provided the applicant affirms the applicant's understanding that any decision made by a common council member under sub. 4 is final and not subject to further review.

4. APPROVAL BY COUNCIL MEMBER. a. The completed application shall be referred to the common council member representing the district in which the premises for which the permit is sought is located. The common council member shall determine whether to approve the permit and shall inform the city clerk of his or her decision.

b. In making a determination, the common council member shall consider each of the following factors:

b-1. The appropriateness of the location and site for which the permit is sought, and whether the activity for which the permit is sought will create undesirable neighborhood problems.

b-2. The hours during which the activity would take place on the site and the likely effect of the activity on the surrounding area.

b-3. Whether previous permits granted to the same applicant or to other applicants for the same site have resulted in neighborhood problems including, but not limited to, complaints of loud music, noise, litter, disorderly assemblages, loitering or public urination.

b-4. Any other factors which reasonably relate to the public health, safety and welfare.

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5. COMMITTEE ACTION. a. If an application filed prior to the deadline set by the city clerk is denied approval by a common council member under sub. 4-a, the applicant may appeal the decision to the licensing committee.

b. If a written objection to an application is filed by any interested person, the city clerk shall forward the application to the licensing committee for a hearing.

6. HEARING PROCEDURE. a. Any hearing required under sub. 5 shall be conducted as set forth in s. 85-2.7.

b. No hearing shall be heard unless the city clerk provides the applicant written notice in the manner set forth in s. 85-3 so that the applicant has at least 7 days' notice of the hearing.

7. ISSUANCE. a. If the common council member approves or the common council grants the application for a temporary change of plan permit, the city clerk shall issue an appropriate document to the applicant confirming that fact and specifying the date, period of time and specific location for which the temporary change of plan shall be in effect. The document shall also contain any restrictions or conditions which the common council member or common council may place on the approvals.

b. The city clerk shall not issue a temporary change of plan permit if the commissioner of neighborhood services has provided the city clerk with a request to hold the issuance on the basis that the applicant has not obtained all required permits for the premises or final inspection of the premises has not yet occurred.

c. The city clerk shall, within 24 hours after the issuance of the approving document, inform the chief of police of the date, place and event for which the temporary change of plan was issued.

8. ON-PREMISES SALE.

a. A licensee granted a temporary change of plan permit and in possession of a current Class "B" tavern license, Class "B" fermented malt beverage retailer's license, or Class "C" wine retailer's license may not sell any alcohol or non-alcohol beverages for consumption in bottles, cans and glass containers in the temporary location of the change of plan. Beverages may only be sold in single-service cups for on-premises consumption in the location of the temporary extension of the licensed premises.

b. An exception to the limitation on sale of alcohol beverages to single-service cups in par. a may be permitted by the chief of police upon application of an event sponsor or the licensee of the temporary change of plan made at least 60 days prior to the special event. In an application for such an exception, the applicant shall provide all of the following to the chief of police:

b-1. A copy of the change of plan application or permit, if issued, and information identifying the sponsor or sponsors of the special event, if any.

b-2. The reason or reasons for which an exception is sought.

b-3. The security plan proposed for the event, including a specific description of the procedures and policies for ensuring the safety of the public.

b-4. A description of the entertainment or amusement to be provided during the special event.

b-5. The type and estimated quantity of single-service beverage containers proposed for sale or possession upon the extended premises.

b-6. Any other information the chief of police may require.

c. The chief of police may permit beverage containers other than single-service cups when, in his or her discretion, considering information in the application and other factors consistent with the health, safety and welfare of the public and of police officers, it is determined that the exception poses no appreciable risk. These factors may include past experience with the same or similar special events, the estimated number of participants in the special event, and neighborhood circumstances.

d. The chief of police may, upon cause clearly shown in the application, waive the requirement that an application be made at least 60 days prior to the event.

9. DISPLAY OF PERMIT.

a. Every person issued a temporary change of plan permit pursuant to this section shall post the permit in a conspicuous place in the premises during those times when the activity is taking place.

b. It shall be unlawful for any person to post a permit or to be permitted to post a permit upon premises other than those mentioned in the application, or knowingly to deface or destroy a permit.

c. Failure to appropriately post a permit shall be treated in the same manner as operating without a permit.

10. FEE. Each application shall be accompanied by the fee specified in s. 81-126.5.

85-41. Penalty, General. 1. Any person who violates any of the provisions of this chapter shall, where no other provisions are expressly made for the enforcement of any forfeitures or penalties under this chapter, upon conviction be subject to a forfeiture of not more than \$500 and in default of payment thereof, shall be imprisoned as provided by law.

2. Any person who violates s. 85-30 shall upon conviction be subject to a forfeiture of not less than \$2,500 and not more than \$5,000, and in default of payment thereof, shall be imprisoned as provided by law.

For legislative history of chapter 85, contact the Municipal Research Library.

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