

STATE OF WISCONSIN)
) ss.
MILWAUKEE COUNTY)

SUMMONS

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

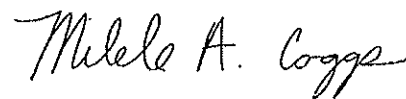
TO: Gurninder Nagra
4295 N Teutonia Ave
Milwaukee, WI 53209

Pursuant to sections 68-23.13, 82-14.15, 84-7.18, 84-45.16, 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 11:00am on Thursday, September 21, 2023 or virtually at <https://meet.goto.com/450434981> You can also dial in using your phone. Access Code: 450-434-981 United States: +1 (312) 757-3121. The hearing is being initiated because of the City of Milwaukee's receipt of a signed and sworn complaint filed by Natalie Easter. A copy of the above-referenced complaint is attached hereto as well as a Milwaukee Police Department report and copies of sections 68-23.13, 82-14.15, 84-7.18, 84-45.16, and 85-3 to 85-5, of the Code of Ordinances of the City of Milwaukee.

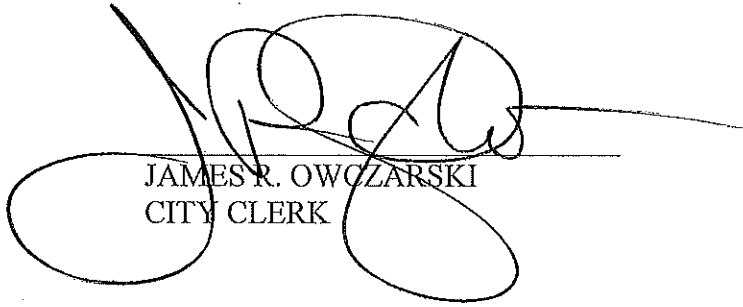
On September 21, 2023 at 11:00am you will be given an opportunity to speak on your own behalf, and to respond to and challenge any charges or reasons given by witnesses at the aforementioned hearing in support of a revocation or suspension of your licenses. You may present your own supporting witnesses, 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, Gurinder Nagra, fail to appear in person before the Committee on September 13, 2023 at 11:00am, as required by the summons, the Committee will proceed to consider the allegations of the complaint which shall be taken as true. If the Committee determines that the allegations are sufficient and the circumstances warrant, the law permits your licenses be revoked or suspended.

Dated as of the 13th day of September 2023



ALDERWOMAN MILELE A. COGGS
CHAIR, LICENSES COMMITTEE

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right. The signature is positioned above the printed name and title.

JAMES R. OWCZARSKI
CITY CLERK

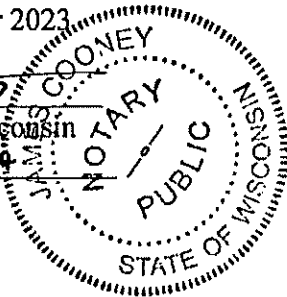
Proof of Service:

STATE OF WISCONSIN)
) ss.
MILWAUKEE COUNTY)

COMES NOW Police Officer Xavier Benitez being first duly sworn and upon his/her oath, who deposes and says that he/she is an officer of the Milwaukee Police Department, and that he/she did at 1:00 AM/PM on the 13th day of September 2023, serve a true and correct copy of this summons, the police report the complaint, and sections 68-23.13, 82-14.15, 84-7.18, 84-45.16, and 85-3 to 85-5, of the Code of Ordinances of the City of Milwaukee Gurinder Nagra at 5123 W. Villard Av.

Subscribed and sworn to before me this 13th day of September 2023

[Signature]
Notary Public, State of Wisconsin
My Commission: 4/6/2024



Xavier Benitez
Signature

Xavier Benitez
Printed Name

To Whom It May Concern,

295 N. Teutonia I am writing to support the revocation of the license for the Clark/Phillips 66 gas station located at in Milwaukee, Wisconsin, as per Chapter 85 of the License and Permit Procedures. The recent incident involving William Pinkin's heinous act of first-degree intentional homicide against Isaiah Allen presents a clear violation of the laws, rules, and regulations outlined in the said chapter.

Chapter 85 of the Milwaukee Wisconsin License and Permit Procedures establishes the guidelines and expectations that businesses must adhere to in order to maintain their licenses. Among the key provisions, several pertinent points are highlighted:

1. **Public Safety and Welfare:** Section 85-1 emphasizes the importance of public safety and welfare. The tragic incident at the Clark/Phillips 66 gas station, where Pinkin fatally shot Isaiah Allen over a box of snack cakes, directly contradicts this fundamental principle. The act not only endangered the life of the victim but also compromised the safety of customers and bystanders.
2. **Character and Conduct of Licensee:** Section 85-2 mandates that licensees exhibit good character and conduct. William Pinkin's criminal history, as evidenced by his previous conviction for first-degree reckless homicide and robbery with a dangerous weapon in 1989, raises questions about the gas station's screening procedures. The station's hiring of an individual with such a history without conducting a proper criminal background search violates this section.
3. **Background Checks:** Section 85-3 stipulates that licensees must conduct appropriate background checks before hiring personnel who will have access to the premises and interact with the public. The fact that Pinkin was hired without a thorough criminal background search further substantiates the violation of this requirement.
4. **Compliance with Laws:** Section 85-4 necessitates compliance with all laws, ordinances, and regulations of the city and state. Pinkin's actions, resulting in a felony charge of first-degree intentional homicide, clearly contravene both state and city laws.

Given the above-mentioned points, the incident involving Pinkin's intentional killing of Isaiah Allen and the subsequent violation of multiple provisions within Chapter 85 makes a compelling case for the revocation of the Clark/Phillips 66 gas station's license. The gas station's failure to prioritize public safety, ensure proper character assessment of employees, and adhere to background check regulations raises concerns about its ability to responsibly operate within the community.

It is the responsibility of the city to uphold the laws, rules, and regulations set forth in Chapter 85 of the License and Permit Procedures to ensure the well-being of its residents and visitors. Revoking the license of the Clark/Phillips 66 gas station is a necessary step to uphold public safety, maintain the integrity of licensing procedures, and prevent similar incidents from occurring in the future.



Sincerely, Natalie Easter Allen

Mother of Isaiah Allen

414-309-4500

4345 N 24th place Milwaukee WI 53209

(This is my supporting statement)

From a sociological standpoint, the tragic incident involving the security guard and the owner of the Clark/Phillips 66 gas station reveals profound insights into the adverse nature and far-reaching effects of their actions. This incident underscores how their behavior has contributed to a breakdown of community trust and safety, reinforcing the urgent need to revoke the licenses of any business owned by individuals who demonstrate a disregard for public welfare.

Firstly, the behavior of the security guard, William Pinkin, exemplifies the potential consequences of unchecked power and a lack of empathy within the realm of public service. Pinkin's violent response to a seemingly trivial situation—killing Isaiah Allen over a box of snack cakes—sheds light on the dangerous consequences of allowing individuals with violent tendencies to hold positions of authority within the community. This incident illuminates the potential for those in positions of power to misuse their authority and perpetuate violence, leading to a sense of vulnerability and fear among the public.

Secondly, the owner of the gas station's decision to hire Pinkin without conducting a proper criminal background search points to a troubling disregard for community safety. Such a decision demonstrates a lack of commitment to ensuring that the individuals hired to serve the community are responsible and trustworthy. This disregard for comprehensive screening can foster an environment where individuals with a history of violence and criminal behavior are granted access to public spaces, potentially putting innocent lives at risk. This scenario highlights the broader implications of a business owner's actions on the well-being of the entire community.

The incident at the Clark/Phillips 66 gas station reveals how the actions of both the security guard and the owner have contributed to eroding the social fabric of the community. Trust, a foundational element of social cohesion, is compromised when community members fear for their safety due to reckless and violent behavior by those in positions of authority. The incident has likely generated a sense of collective trauma, making individuals wary of patronizing businesses owned by individuals who demonstrate a disregard for community safety.

This incident illustrates the imperative to revoke licenses of any business owned by individuals who show a lack of consideration for public welfare. A business owner's decisions have ripple effects that extend beyond their immediate establishment. When owners disregard the well-being of the community, it sets a dangerous precedent that can have enduring negative consequences, both socially and economically. Revoking licenses of such businesses serves as a clear message that the community prioritizes safety, trust, and the overall betterment of its members.

In essence, this incident underscores the vital role that sociological perspectives play in understanding how individual actions impact community dynamics. By analyzing the adverse nature and effects of the security guard's actions and the owner's decisions, it becomes evident that the call to revoke licenses is not just a legal matter, but a vital step in restoring a sense of safety, trust, and cohesion within the community.

x Matalie Easter

SUBSCRIBED AND SWORN TO BEFORE ME

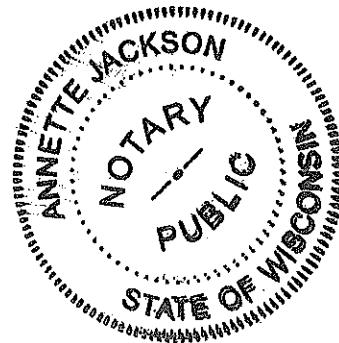
THIS 28 DAY OF August, 2023

Annette Jackson

NOTARY PUBLIC

My Commission EXPIRES

2/25/25



MILWAUKEE POLICE DEPARTMENT

LICENSING

CRIMINAL RECORD/ORDINANCE VIOLATION/INCIDENTS SYNOPSIS

DATE: 09/12/23

LICENSE TYPE: 24HR, FOOD, FILLING

NEW:

RENEWAL:

No. 349570 349571 349568

Application Date: 03/27/23

License Location: 4295 N Teutonia Av

Business Name: Teutonia Gas & Food

Licensee/Applicant: Nagra, Gurinder S
(Last Name, First Name, MI)

Date of Birth: 07/30/1970

Home Address: 6980 S. 35th Street

City: Franklin

State: WI Zip Code: 53132

Home Phone: (414) 467-2795

This report is written by Police Officer Xavier Benitez, assigned to the License Investigation Unit, Days.

The Milwaukee Police Department's investigation regarding this application revealed the following:

1. On 02/25/2014 the applicant was cited at 2667 North 5th Street in the city of Milwaukee for Responsible Person on Premises Required.

Charge: Responsible Person on Premises Required
Finding: Guilty
Sentence: \$368.00 fine
Date: 04/17/2014
Case: 14018997

2. On 05/15/2014 the applicant was cited at 2029 North Holton Street in the city of Milwaukee for Building Code Violations.

Charge: Building Code Violations
Finding: Guilty
Sentence: \$280.00 fine
Date: 01/15/2015
Case: 14062301

3. On 01/26/2016 the applicant was cited in the City of Milwaukee at 4839 N. Green Bay Av for Building Code Violations.

Charge: Building Code Violations
Finding: Guilty
Sentence: Fined \$980.00
Date: 01/05/2017
Case: 13033149

4. On 06/16/2016 the applicant was cited in the City of Milwaukee at 4110 W. Martin Dr for Building Code Violations.

Charge: Building Code Violations
Finding: Guilty
Sentence: Fined \$280.00
Date: 01/17/2017
Case: 16051366

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5. On 08/02/17 the applicant was cited in the City of Milwaukee at 4839 N. Green Bay Avenue for Building Code Violations.

Charge: Building Code Violations
Finding: Guilty
Sentence: \$330.00 fine
Date: 01/25/18
Case: 17074331

6. On 08/22/17 the applicant was cited in the City of Milwaukee at 2667 N. 5th Street for Responsible Person on Premise Required.

Charge: Responsible Person on Premise Required
Finding: Guilty
Sentence: \$190.00 fine
Date: 02/22/18
Case: 17042400

7. On 08/26/17 the applicant was cited in the City of Milwaukee at 2667 N. 5th Street for Sale of Cigarettes to Minor/Underage.

Charge: Sale of Cigarettes to Minor/Underage
Finding: Guilty
Sentence: \$280.00 fine
Date: 06/27/18
Case: 17051220

8. On 05/19/18 at 11:25pm, a 16 year old working in conjunction with the Milwaukee Police Department and WI WINS Tobacco initiative, was able to purchase a 2 pack of Swisher Sweet Cigars at 4295 N. Teutonia Avenue. The sales clerk admitted to selling the item and the station was mailed a MARTS enrollment packet.

9. On 12/03/18 the applicant was cited in the City of Milwaukee at 3876 N. Port Washington Road for Responsible Person on Premise Required.

Charge: Responsible Person on Premise Required
Finding: **Guilty**
Sentence: **\$189.00 fine**
Date: **04/11/19**
Case: 18085794

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Item #9 updated with disposition

10. On 05/15/19 at 1:20am, Milwaukee Police were dispatched to 4295 N. Teutonia Avenue for a shot spotter complaint. Investigation revealed that a shooting took place in the parking lot of the establishment. Two vehicles pulled into the lot and a female suspect entered the victims vehicle which was parked at the gas pumps. Another suspect approached in his vehicle and shot the victim inside his vehicle and drove away. The female suspect, after a struggle with the victim inside his car, exited and began walking away. The victim then backed his vehicle up, striking the female suspect and dragging her into the street. The victim then left and the female suspect, got up and entered the male suspects' vehicle (who had returned to the scene) and the left the scene.

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11. On 03/07/21 at 3:24pm, Milwaukee Police were dispatched to 4295 N. Teutonia for an Armed Robbery. Investigation revealed the victim was exiting the business when they were approached by a subject demanding money. When the victim refused, the suspect then brandished a firearm. The victim ran back into the business and the employee locked the door. The employee was cooperative and provided police with video surveillance of the incident.

12. On 03/24/21 at 10:53pm, Milwaukee Police conducted a License Premise Check at 4295 N. Teutonia Av. No violations were observed and employees were cooperative.

13. On 08/26/21 at 8:19pm, Milwaukee Police were dispatched to 4295 N. Teutonia Av., for a Battery. Investigation revealed the agent, along with a few other employees, began to assault another employee in the cashier area of the store. The agent and the other employees eventually dragged the employee to the rear of the store and continued the assault, so it would not be on video surveillance. The agent stated this was due to suspicions the employee was stealing from him. Video surveillance officers observed depicted the assault until the camera in the cashier area was turned off and the victim was dragged to the rear of the store. The agent was uncooperative with officers when they tried to retrieve the other employees' names to issue citations. The agent was issued a citation for Assault and Battery.

Charge: Assault and Battery
Finding: Dismissed without Prejudice
Sentence:
Date:
Case: 21052788

14. On 09/28/21 Milwaukee Police were dispatched to 4295 N. Teutonia Av., for a Shots Fired, which was later upgraded to a shooting. Video surveillance revealed 4 subjects inside of the business struggling over a firearm, when the victim was shot. The victim was uncooperative with police.

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Item #13 updated with disposition

15. On 10/01/22 at 5:06p.m., officers were dispatched to a Battery at 4295 N. Teutonia Av. The caller stated they purchased items and prepaid for gas inside the store, however, when they tried to pump gas, the pump would not work. The caller stated they again entered the store, and were asked to leave by the clerk due to disorderly actions. The customer stated they refused and the clerk attempted to escort the customer out and that is when the 911 call was placed. The employee stated they did not see that the transaction went through on their end, however, agreed to the customers' demands
16. On 10/09/22 at 11:13p.m., officers were dispatched to 4295 N. Teutonia Av., for a Shoplifter. Investigation revealed a subject walked in and took several items and exited without paying. The employee stated this subject does this often and is still trying to identify the subject.
17. On 10/10/22 at 9:07p.m., officers were dispatched to a Shoplifter at 4295 N. Teutonia Av. Investigation revealed a suspect attempted to shoplift items, however, when the employee intervened the suspect attempted to damage items. The suspect was conveyed to a homeless shelter and later issued a citation for Disorderly Conduct.
18. On 10/26/22 at 5:21p.m., officers were dispatched to 4295 N. Teutonia Av., for a Battery. Investigation revealed a verbal argument between an employee and the suspect began inside the store, then turned physical outside, at which time the employee began suffering from a seizure. The employees were cooperative and allowed officers to view video surveillance of the incident.
19. On 11/11/22 at 10:42a.m., officers were dispatched to 4295 N. Teutonia Av., for Shots Fired. Investigation revealed a suspect, armed with a sub-compact Black Rifle, was seen pointing it toward the sky and firing the weapon appearing to test fire in the parking lot. Video surveillance depicted the employees on scene allowing the armed suspect to enter, loiter and exit, multiple times without locking the doors. The employees do not lock the bullet proof glass and continued to wait on other customers while the armed suspect was in the store. While officers were interviewing the employee regarding the incident, the officer observed the subject walking toward the entrance and the employee positively identified the suspect. The suspect was no longer armed, however, was taken into custody.
20. On 01/07/23 at 8:09p.m., officers were dispatched to an Armed Robbery at 4295 N. Teutonia. Investigation revealed the victim was pumping gas when they were approached by a subject from behind. The suspect pressed an object into the victim's back and demanded money. The victim complied and as the suspect was running away, the victim saw the suspect with a handgun in their hand. The employees were cooperative and allowed officers to view video surveillance of the incident.

21. On 03/23/23 at 5:07p.m., officers were flagged down by a citizen for a Battery in progress at 4295 N. Teutonia. Investigation revealed a customer was upset over the pump being cancelled. The clerk advised the suspect they have no control over this and it could have been due to an incorrect pin number. The suspect became irate and began to knock over shelves and throw things around inside the store. When the employee tried to follow the suspects to take pictures of the license plates, the suspect got out of the vehicle and punched the employee in the face multiple times in the head and face.

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22. On 03/12/23 Milwaukee Police sent a Nuisance Designation letter to the property owner of the business located at 4295 N. Teutonia Av. The property was placed into nuisance due to two incidents at the location, they are as follows:

- On 11/11/22 at 10:25am, Police were dispatched to a shots fired complaint at the. The complaint stated that a subject shot a gun in the air. Casings were recovered near the entrance of the store, and the staff did not call police regarding the incident. (Reference item # 19)
- On 02/08/23 at 11:09am, Police were dispatched to an armed robbery complaint. The victim stated that he was pumping gas, and the suspect pressed a gun to his head and took US currency.

23. On 04/14/23 at 1:24pm, Milwaukee Police were dispatched to 4295 N. Teutonia Av, for an armed robbery complaint. Officers spoke with the victim, the store clerk who stated that two suspects entered the store. Suspect 1 took items without paying for them and suspect 2 displayed a hand gun and pointed it at the store clerk. The armed suspect then attempted to get in to the employee locked area, but could not. Both suspects left in a vehicle driven by a 3rd suspect. The suspects returned. One of the suspects appeared to be armed with a long gun and attempted to enter the employee locked area a second time. The suspects could not gain entry and fled in the suspect vehicle. The suspect vehicle returned for a third time, and the suspects reenter the store. The suspects removed more items from the store and one of the suspects pointed the hand gun at the store clerk. The suspects fled. The business provided video of the incident to officers, which confirmed the event.

24. On 06/22/23 at 12:59am, Milwaukee Police were dispatched to 4295 N. Teutonia Av, for a ShotSpotter complaint. Officers spoke with the store clerk who stated that two suspect vehicles, with a total of 6 suspects pulled into the parking lot of the business. The suspects entered the store and took items from the business without paying for them. The employee attempted to stop the suspect's actions. One of the suspects pointed a hand gun at the employee, and threatened to shoot him. All the suspects entered the vehicles, and one of the suspects from the rear of the vehicle fired three shots in the air when fleeing the location. Officers reviewed the video which depicted the suspects' description, vehicle descriptions, and the incident in its entirety.

25. On 08/16/23 at 6:21am, Milwaukee Police were dispatched to 4295 N. Teutonia Av, for a shooting complaint. Officers arrived at the location and observed a victim unresponsive and shot in the back of the head. The victim was located on the east side of the parking lot. Life saving measures were performed by officers and MFD, and the victim died at the scene. Officers spoke with store clerk who did call the police regarding the shooting. Detectives responded to the scene and took over the investigation, video surveillance was recovered at the scene. Investigation revealed that the victim was shot by the suspect, a store employee

26. On 09/09/23, Milwaukee Police District 5 Officers summarized the Nuisance Designation that was placed on the business located at 4295 N. Teutonia Av. C.P.U. officers agreed to a plan by the business agent to mitigate the nuisance activity occurring on and around the property, with a start date of 04/06/23. The property completed the 45 day monitoring period on 05/21/23, without any additional qualifying police calls of service, as outlined in Milwaukee City Ordinance 80-10.

On 08/21/23 a new Nuisance Designation letter was drafted and sent to the property owner due to the following incidents at the location:

- On 06/22/23 Police were dispatched to a ShotSpotter complaint, where the suspects took items from the location and fired three shots in the air. The employee on duty failed to call the police regarding the shots fired.
- On 08/16/23 Police were dispatched to a shooting complaint. Investigation revealed that the victim was shot by the suspect, a store employee, which resulted in the death of the victim.

Milwaukee Police Department

749 W. State Street Milwaukee, WI 53233

414-933-4444

Case #: 231200080

OtherEvent #: 23-LP-1318

Incident

4295 N TEUTONIA AV MILWAUKEE, WISCONSIN 53209

Incident Date/Time:: 03/12/2023 12:00:00
CAD Number:: 231200741
District:: 5
Beat:: 520
Reporting Area:: 1583

Business Agent (1)

NAGRA, GURINDER SINGH

Person Involvement: (Must choose Agent
AGENT from drop down):

DOB:: 07/30/1970

Sex:: MALE

Race:: ASIAN

Phone 1 Number:: (414)-467-2795

Phone 1 Type:: Phone

Address:: 6980 S 35TH ST

City:: FRANKLIN

State:: WISCONSIN

Zip Code:: 53132

Licensed Premise Data (1)

TEUTONIA GAS AND FOOD

Phone 1 Number:: (414)-442-4539
Phone 1 Type:: Phone
Address:: 4295 N TEUTONIA AV
City:: MILWAUKEE
State:: WISCONSIN
Zip Code:: 53209
License Type:: Filling Station
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

Schlei, Christopher J 022571

04/30/2023

This report is written by PO Christopher J SCHLEI, PS 022571, assigned to District 5 - early power shift.

Milwaukee Police Department

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

Case #:231200080

OtherEvent #: 23-LP-1318

On March 12th, 2023, a Nuisance Designation letter regarding the establishment at 4295 N Teutonia Av. The letter was sent to the property owner, Talwinder Singh Gill.

The property was placed into nuisance due to two incidents. The first incident was for a shots fired call on November 11th, 2022, at 10:25am. The caller stated that a male subject was shooting a gun in the air at the location. There were casings recovered near the entrance to the store. This call was not called in by staff at the location. Officers did respond and investigate. This call falls under MCO 80-10-2-c-1-L, Illegal use of Firearm.

The second call was on February 8th, 2023, at 11:09am. It was a call for an armed robbery. The caller stated that he was approached by a male subject while pumping gas at the location. The male pressed what the caller believed to be a gun to the caller's back and obtained \$300 from the caller. Officers did respond and investigate. This call falls under MCO 80-10-2-c-1-L, Illegal use of Firearm.

End report

Officer (2)

Reporting Officer:	Schlei, Christopher J (022571)	04/30/2023 13:14:00
Section: (Work Location):	52	
Approving Officer:	Howard, Minisha L (016614)	04/30/2023 16:47:07
Section: (Work Location):	53	

Milwaukee Police Department

749 W. State Street Milwaukee, WI 53233

414-933-4444

Case #: 231040097

OtherEvent #: 23-LP-0991

Incident

4295 N TEUTONIA AV MILWAUKEE, WISCONSIN 53209

Incident Date/Time:: 04/14/2023 13:24:00
CAD Number:: 230821281
District:: 5
Beat:: 520
Reporting Area:: 1583

Business Agent (1)

NAGRA, GURINDER S

Person Involvement: (Must choose Agent
AGENT from drop down):

DOB:: 07/30/1970

Sex:: MALE
Race:: WHITE
Phone 1 Number:: (414)-467-2795
Phone 1 Type:: Phone
Address:: 6980 S 35th St
City:: Franklin
State:: WISCONSIN
Zip Code:: 53132

Licensed Persons Involved (1)

DHANJU, Samarth

Person Involvement:: Agent (License Holder)
DOB:: 12/19/1980
Sex:: MALE
Race:: WHITE
Phone 1 Number:: 4148700609
Address:: 4295 N TEUTONIA AV
City:: MILWAUKEE
State:: WISCONSIN
Zip Code:: 53209

Licensed Premise Data (1)

Teutonia Gas and Food

Phone 1 Number:: (414)-467-2795
Phone 1 Type:: Phone
Address:: 4295 N TEUTONIA AV
City:: MILWAUKEE
State:: WISCONSIN
Zip Code:: 53209
License Type:: Filling Station
Licensee Notification Was Made:: No
Business Was Cited For Violation:: No

Milwaukee Police Department

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

Case #:231040097

OtherEvent #: 23-LP-0991

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

Schaefer, John H 018354

04/14/2023

This report is written by PO Nicholas Kropp, D5 Days.

On 4/14/23, Sq 5140 (po Schaefer and I) responded to an Armed robbery that occurred at 4295 N Teutonia Ave in the City and County of Milwaukee, WI on 4/14/23 at approximately 1:24pm.

We spoke with the victim, Samarth Dhanju (I/m, 12-19-80) who was working at the gas station at the location as a clerk when two subjects (S1/S3) entered the business together. S3 took a bag of charcoal and another item and walked out without paying, S1 attempted to pay for a slushie, and the victim confronted S1 about the charcoal. S1 displayed a handgun which he pulled from his waistband. S1 began trying to enter the locked area behind the register but could not.

Both S1&3 re-entered a vehicle, and S2 drove away. A few minutes later the vehicle returned and S1&S2 attempted to reenter the store which was now locked from the inside. S2 was in possession of a long gun which appeared to be rifle at this time. S1&2 attempted to enter by pulling on the door and banging on the window. Store staff can be observed laying down on the ground at this time out of fear for their safety. S1&2 re-enter the vehicle and leave again.

A short time late the vehicle arrives again and parks on Roosevelt at the driveway entrance and S1&2 are able to get back into the store. S1&2 grab bags of chips, which they then throw back down, S1 pulls out the handgun again, and displayed it while grabbing candy from a rack near the door and leaving for the final time.

Video of event available at store, viewed by officers confirms event.

LICENSE PREMISES: TEUTONIA GAS AND FOOD:

Certificate of Occupancy #NDCC-20-01682, Issued:01/06/2021 Exp

LICENSE PREMISES: TEUTONIA GAS AND FOOD:

Certificate of Occupancy #NDCC-20-01682, Issued:01/06/2021 Expires:10/13/2026

Wisconsin Lottery Certificate of Authority, Expires 08/20/2025

Underground Storage Tank Permit (412053), Expires: 11/29/2023

Wisconsin Department of Revenue Seller's Permit, Account# 456-1029702158-02

Milwaukee Police Department

749 W. State Street Milwaukee, WI 53233

414-933-4444

Case #:231040097

OtherEvent #: 23-LP-0991

Extended Hours Permit#C199902, Expires 05/26/2023

Cigarettes and Tobacco# 1031035

Weights and Measures# 0007287

Food Dealer Retail# 0013025, Expires 05/26/2023

Filling Station# 0001845, Expires 05/26/2023

The licenses were behind the cashier booth and visible;

End of report.

Officer (2)

Reporting Officer:	Schaefer, John H (018354)	04/14/2023 17:41:00
Section: (Work Location):	51	
Approving Officer:	Lewan, Todd G (015118)	04/15/2023 14:28:08
Section: (Work Location):	51	

Milwaukee Police Department

749 W. State Street Milwaukee, WI 53233

414-933-4444

Case #:231730010

OtherEvent #: 23-LP-2162

Incident

4295 N TEUTONIA AV MILWAUKEE, WISCONSIN 53209

Incident Date/Time:: 06/22/2023 01:00:00
CAD Number:: 231730063
District:: 5
Beat:: 520
Reporting Area:: 1583

Business Agent (1)

NAGRA, GURINDER SINGH

Person Involvement: (Must choose Agent
AGENT from drop down):

DOB:: 07/30/1970

Sex:: MALE

Race:: ASIAN

Phone 1 Number:: (414)-467-2795

Phone 1 Type:: Phone

Address:: 6980 S 35TH ST

City:: FRANKLIN

State:: WISCONSIN

Zip Code:: 53132

Licensed Persons Involved (1)

SINGH, KRISHAN

Person Involvement:: Manager

DOB:: 03/19/1974

Sex:: MALE

Race:: ASIAN

Address:: 4295 N TEUTONIA AV

City:: MILWAUKEE

State:: WISCONSIN

Zip Code:: 53209

Licensed Premise Data (1)

TEUTONIA GAS & FOOD

Address:: 4295 N TEUTONIA AV

City:: MILWAUKEE

State:: WISCONSIN

Zip Code:: 53209

License Type:: Filling Station

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

Milwaukee Police Department

749 W. State Street Milwaukee, WI 53233

414-933-4444

Case #:231730010

OtherEvent #: 23-LP-2162

Narrative (1)

LICENSED PREMISE REPORT

Carrillo, Delia 035671

06/23/2023

This report is written by Police Officer Delia CARRILLO assigned to District 5, Late Power,

On Thursday, June 22nd, 2023, at approximately 12:59 A.M. Squad 5426 (P.O. Angelo LOPEZ and I) were dispatched to a ShotSpotter complaint at the address of 4295 N Teutonia Ave., located in the City and County of Milwaukee.

Upon arrival we spoke to a victim who verbally identified himself as William PINKINS (B/M 02/07/1967) who stated 2 B/M's, and 4 B/F's arrived in 2 vehicles (Red Chrysler 300 and Grey Hyundai w/ tapped up back windshield) and entered the gas station and grabbed multiple bags full of chips totaling about \$200. PINKINS stated he works for the gas station and attempted to stop the subjects from taking the merchandise when one of the subjects brandished a firearm and stated, "I'll pop your ass." PINKINS stated another male subject pulled away the first subject and they entered into the two vehicles. PINKINS stated one of the males in the rear of the vehicles, who did not brandish the firearm, fired 3 shots into the air and fled in an unknown direction.

We spoke to a manager at the store who identified himself as Krishan SINGH (M/A 03/19/1974) stated all of the male subjects were wearing white t-shirts and a few of the females were wearing white jackets. SINGH stated they took approximately \$200 worth of chips (\$6 per bag, approximately 30 bags). A second worker translated for SINGH and wished to remain anonymous.

We were able to view the video surveillance and were able to obtain descriptions of the subjects.

S1 M/B, Dark Comp., Blk Short Hair, White T-shirt, Dark Jeans, Adidas Sandals

S2 F/B Dark Comp., Waist Length Braids, White Track Suit w/ Dark lettering, Blk undershirt

S3 M/B, Cornrow braids, Blue jeans, white t-shirt w/ blue design,

S4 F/B Blue Shirt, Blk shorts, White Tennis shoes

S5 F/B Blk 2-Pac Shirt, Black Shorts, Red Shoes

S6 F/B Red shirt, multi-color pants

When the subjects were leaving S3 handed the pistol to S1 who fired the 3 shots into the air when both cars pulled off and headed southbound on Teutonia Av.

LICENSE PREMISES: TEUTONIA GAS AND FOOD:

Milwaukee Police Department

749 W. State Street Milwaukee, WI 53233

414-933-4444

Case #:231730010

OtherEvent #: 23-LP-2162

Certificate of Occupancy #NDCC-20-01682, Issued:01/06/2021 Exp

LICENSE PREMISES: TEUTONIA GAS AND FOOD:

Certificate of Occupancy #NDCC-20-01682, Issued:01/06/2021 Expires:10/13/2026

Wisconsin Lottery Certificate of Authority, Expires 08/20/2025

Underground Storage Tank Permit (412053), Expires: 11/29/2023

Wisconsin Department of Revenue Seller's Permit, Account# 456-1029702158-02

Extended Hours Permit#C199902, Expires 05/26/2023

Cigarettes and Tobacco# 1031035

Weights and Measures# 0007287

Food Dealer Retail# 0013025, Expires 05/26/2023

Filling Station# 0001845, Expires 05/26/2023

The licenses were behind the cashier booth and visible. Case pending.

End of report.

Officer (2)

Reporting Officer:	Carrillo, Della (035671)	06/22/2023 01:35:00
Section: (Work Location):	54	
Approving Officer:	Cornejo, Miguel A (015286)	06/23/2023 16:54:36
Section: (Work Location):	54	

Milwaukee Police Department

749 W. State Street Milwaukee, WI 53233

414-933-4444

Case #:232280034

OtherEvent #: 23-LP-2755

Incident

4295 N TEUTONIA AV MILWAUKEE, WISCONSIN 53209

Incident Date/Time:: 08/16/2023 06:21:00
CAD Number:: 232280262
District:: 5
Beat:: 520
Reporting Area:: 1583

Business Agent (1)

NAGRA, GURINDER SINGH

Person Involvement: (Must choose Agent
AGENT from drop down):

DOB:: 07/30/1970

Sex:: MALE

Race:: ASIAN

Phone 1 Number:: (414)-467-2795

Phone 1 Type:: Phone

Address:: 6980 S 35TH ST

City:: FRANKLIN

State:: WISCONSIN

Zip Code:: 53132

Licensed Persons Involved (1)

SINGH, KRISHAM

Person Involvement:: Employee

DOB:: 03/19/1974

Sex:: MALE

Race:: ASIAN

Licensed Premise Data (1)

TEUTONIA GAS & FOOD

Address:: 4295 N TEUTONIA AV

City:: Milwaukee

State:: WISCONSIN

Zip Code:: 53209

License Type:: Filling Station

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)

Milwaukee Police Department

749 W. State Street Milwaukee, WI 53233

414-933-4444

Case #:232280034

OtherEvent #: 23-LP-2755

LICENSED PREMISE REPORT

Klein, David 030908

08/16/2023

This report is written by *P.O. David KLEIN*, assigned to *DISTRICT FIVE, Late Shift, SQUAD 5321*.

On 08/16/2023, at approximately 06:21, I was dispatched to 4295 N. Teutonia Avenue for a shooting.

Upon my arrival I observed a male subject unresponsive and shot to the back of the head in the parking lot on the east side of the business. Squad 5341, P.O. LABENSKY and P.O. KARWEICK were first on scene. Also responding was Squad 5313, Sgt. Andres CABRAL, and Squad 6330, P.O. Rafael LOPEZ and P.O. Daniel PARKS. CPR was administered but the subject who was shot died after life saving measures were performed by officers and the Milwaukee Fire Department. CIB detectives also responded to the scene.

MFD Med 5 and Engine 3 (Blue Shift, Lt. HENNESSEY) were on scene.

An incident notification was completed and submitted.

I spoke to employee, Krisham SINGH (M/W 03/19/1974), who was working behind the counter at the gas station at the time of the call. There was a language barrier between SINGH and myself and I was unable to communicate with him. The employee did call to report the shooting. I attempted to look for the business license myself but could not locate it. CIB detectives responded to the scene and took over the investigation. Video surveillance was recovered by detectives.

End of Report.

Officer (2)

Reporting Officer:	Klein, David (030908)	08/16/2023 08:23:00
Section: (Work Location):	53	
Approving Officer:	Northwood, Eric A (022630)	08/17/2023 01:01:52
Section: (Work Location):	53	

Milwaukee Police Department

749 W. State Street Milwaukee, WI 53233

414-933-4444

Case #: 232520070

OtherEvent #: 23-LP-2985

Incident

4295 N TEUTONIA AV Milwaukee, WISCONSIN 53209

Incident Date/Time:: 09/09/2023 13:39:00
CAD Number:: 232520715
District:: 5
Beat:: 520
Reporting Area:: 1583

Business Agent (1)

NAGRA, GURINDER S

Person Involvement: (Must choose Agent
AGENT from drop down):

DOB: 07/30/1970

Sex:: MALE
Race:: WHITE
Phone 1 Number:: (414)-467-2795
Phone 1 Type:: Phone
Address:: 6980 S 35TH ST
City:: FRANKLIN
State:: WISCONSIN
Zip Code:: 53132

Licensed Premise Data (1)

TEUTONIA GAS & FOOD

Address:: 4295 N TEUTONIA AV
City:: MILWAUKEE
State:: WISCONSIN
Zip Code:: 53209
License Type:: Filling Station
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

Colwell, Stephen 030887

09/09/2023

This report is being written by PO Stephen COLWELL, assigned to District Five, Early Power Shift, Community Partnership Unit (CPU), Squad 5266.

This report is being authored on 9/9/23, at 3:11 PM, in regards the Nuisance Designation of the property

Milwaukee Police Department

749 W. State Street Milwaukee, WI 53233

414-933-4444

Case #: 232520070

OtherEvent #: 23-LP-2985

located at 4295 N Teutonia Ave (Teutonia Gas & Food), located within the City and County of Milwaukee.

This location has been monitored for nuisance activity by District Five CPU Officers beginning on 3/12/23 until present. The registered owner of the property is **Talwinder SINGH-GILL (W/M, 3/5/1956)**. The licensing agent for the business located on the property is **Gurinder S NAGRA (W/M, 7/30/1970)**.

On Wednesday, 3/29/23, a Nuisance Designation Letter was delivered to **SINGH-GILL** via certified mail. This nuisance designation was the result of a Shots Fired incident that occurred on 11/11/22 (**IR: 22-315-0062**) and an Armed Robbery that occurred on 1/7/23 (**IR: 23-007-0134**). CPU officers received a Proposed Course of Action from **OVV Law & Consulting S.C.** outlining **NARGA's** plans to mitigate the nuisance activity occurring on and around the property. This plan was accepted by CPU officers and the property began 4/6/23. The property completed the 45 day monitoring period on 5/21/23 without any additional qualifying calls for service and the property was placed back into monitoring status as outlined in Milwaukee City Ordinance 80-10.

On 6/22/23, officers responded to and investigated a ShotSpotter complaint at 4295 N Teutonia Ave. (**IR: 23-173-0010**) This investigation revealed subjects had been inside the store attempting to steal merchandise when they were confronted by an employee. The subjects exited the store and fired shots into the air while still on the property. The employee on duty failed to report shots being fired to police.

On 8/16/23, officers responded to and investigated a Shooting complaint at 4295 N Teutonia Ave. (**IR: 23-228-0034**) This investigation revealed the suspect and store employee fired one shot at the victim who was attempting to steal merchandise. This shot struck the victim in the head resulting in his death.

As a result of the incidents on 6/22/23 and 8/16/23, a new Nuisance Designation Letter was mailed to **SINGH-GILL** on 8/21/23. As of the date of this report, this designation letter is still in transit. A PDF copy of this letter has been attached to this report.

End of report.

Officer (2)

Reporting Officer:	Colwell, Stephen (030887)	09/09/2023 14:24:00
Section: (Work Location):	52	
Approving Officer:	Ptaszek, Timothy W (017593)	09/10/2023 09:02:48
Section: (Work Location):	52	

Attachment Data (1)

Description:	NUISANCE DESIGNATION LETTER Person 1
File Name:	4295 N Teutonia - Designation Letter.pdf

**CHAPTER 68
FOOD LICENSE REGULATIONS**

**SUBCHAPTER 1
GENERAL PROVISIONS**

- 68-1 Definitions
- 68-3 Adoption of State Code
- 68-5 Authority
- 68-7 Food Plans
- 68-9 Inspection and Investigation
- 68-11 Food Safety Advisory Committee
- 68-13 Annual Report Required

**SUBCHAPTER 2
LICENSING PROCEDURES**

- 68-21 Licensure of Food Establishments; General
- 68-23 Food Dealers
- 68-25 Food Peddlers
- 68-27 Ice Cream Peddlers

**SUBCHAPTER 3
OPERATING REGULATIONS**

- 68-31 Sanitation
- 68-32 Single-Use, Plastic Straws
- 68-33 Security in Certain Convenience Food Stores
- 68-35 Shared Kitchens
- 68-37 Food Peddlers
- 68-39 Peddling of Food by Minors

**SUBCHAPTER 4
COMPLIANCE AND ENFORCEMENT**

- 68-41 Notices and Orders
- 68-43 Restrictions
- 68-45 Penalties; General

**SUBCHAPTER 1
GENERAL PROVISIONS**

68-1. Definitions. In this chapter:

1. **ACTIVE MANAGERIAL CONTROL** means the purposeful incorporation of specific actions or procedures by business management into the operation of a business to attain control over foodborne illness risk factors. Active managerial control is a preventive rather than reactive approach to food safety through a continuous system of monitoring and verification.

2. **ADULTERATED** means prepared, packaged or held under conditions in which contamination or injury to health may occur.

3. **BASIC FOOD ITEMS** means milk and dairy products, bread products, prepared sandwiches, frozen entrees, refrigerated food and baby food.

4. **CARRIED CONTAINER** means a container carried on foot which contains food for sale.

5. **CERTIFICATE HOLDER** means a person who holds a valid, current certificate of food protection practices, commonly referred to as a certified food managers license, issued by the Wisconsin department of agriculture, trade and consumer protection under s. 97.33, Wis. Stats.

6. **COMMISSIONER** means the commissioner of health or the commissioner's duly authorized representative.

7. **COMMUNITY FOOD PROGRAM** means any site at which all food is provided free of cost to those in need or to organizations who serve persons in need, such as a free meal site or food pantry.

8. **COMMUNITY GARDEN** shall have the meaning provided in s. 295-201-112.

9. **COMPLIANCE ORDER** means an order which identifies mandatory interventions a food establishment must implement to achieve active managerial control of risk factors the department has identified as contributing to an establishment's history of noncompliance.

68-1-10 Food License Regulations

10. **COMPLIANCE PLAN** means a written document that details specific actions or procedures by an operator to achieve active managerial control over foodborne illness risk factors. A compliance plan identifies how an operator will implement and maintain an effective food safety management system.

11. **CONVENIENCE FOOD STORE** means a store that meets either of the following conditions:

a. Contains less than 5,000 square feet of retail sales space, has, as its primary business, the sale of basic food items, and sells household products.

b. Is a filling station that sells basic food items and household products.

12. **COTTAGE FOOD PRODUCT** means food products prepared and canned in a residential kitchen, sold to the public, and meeting the requirements of s. 97.29(2)(b)2, Wis. Stats.

13. **CORE VIOLATION** means a failure to meet provisions of the Wisconsin Food Code that relate to general sanitation and overall maintenance of the equipment and the facilities. A core violation includes, but is not limited to, a failure to keep the floors, walls, and ceilings of an establishment clean, failure of food employees to wear hair restraints, or keeping a facility or equipment in disrepair.

14. **DEPARTMENT** means the Milwaukee health department.

15. **EXCESSIVE VIOLATIONS** shall include both the number and magnitude of violations identified during an inspection or investigation. An establishment shall be found to have excessive violations if any of the following conditions are met:

a. The total number of violations identified during an inspection or investigation exceed the pre-determined limit for the establishment type.

b. An imminent health hazard or violation serious enough to require the issuance of an emergency order to suspend all or part of an operation or issue a notice of intent to close an establishment, regardless of the total number of violations identified during an inspection.

c. Failure to abide by a restriction placed upon an establishment as a condition of plan approval or part of a compliance order.

16. **FARM STAND** means a temporary or permanent structure used for the sale of fresh produce, herbs, flowers, plants, nuts, honey, cider, maple syrup, sorghum and cottage food products.

17. **FILLING STATION** shall have the meaning provided in s. 295-201-189.

18. **FOOD** means all articles of food, drink or condiment, including ice and water used for human consumption, whether simple, mixed or compound, and articles used or intended for use as ingredients in the composition or preparation thereof.

19. **FOOD DISTRIBUTOR** means an individual who transports food for sale to retail and wholesale establishments and does not perform any processing or repacking of food items.

20. **FOOD ESTABLISHMENT** shall have the meaning provided for "retail food establishment" in ch. ATCP 75, Wis. Adm. Code, as amended. This term shall include any restaurant, food peddler, vehicle, micro market, community food program, school, college, university, or temporary food stand.

21. **FOOD HANDLER** means a person engaged in the preparation, processing or service of food.

22. **FOOD MANUFACTURER** means anyone using raw ingredients to create a new food product for sale to retail or wholesale establishments.

23. **FOOD PEDDLER** means any person who sells food from a food peddler vehicle or from a carried container.

24. **FOOD PEDDLER VEHICLE** means any pushed, pedaled, pulled or motorized vehicle from which food is prepared or sold and includes any mobile or transient retail food establishment licensed under s. ATCP 75.06, Wis. Adm. Code.

25. **FRESH PRODUCE** means unprocessed, unfrozen, whole, raw fruits and vegetables that have not been combined with other ingredients.

26. **HACCP PLAN** means a written document that specifies the formal procedures for following the Hazard Analysis Critical Control Point (HACCP) principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

27. **HISTORY OF NONCOMPLIANCE** means having reached, through repeated enforcement, an administrative hearing or intent to close at any time in the preceding 24-month period. Any food establishment having a license suspended shall be considered as having a history of noncompliance for 36 months, beginning from the effective date of the suspension.

28. **HOUSEHOLD PRODUCTS** means cleaning products, paper products, baby products and pet food.

29. ICE CREAM PEDDLER means any person who physically operates an ice cream vending vehicle or any person who physically conducts ice cream vending from such a vehicle or from a carried container.

30. ICE CREAM VENDING VEHICLE means any pushed, pedaled, pulled or motorized vehicle from which ice cream or similar frozen confections are prepared or sold.

31. IMMINENT HEALTH HAZARD means a product, practice, circumstance, or event posing a significant threat or danger to health and creating a situation that requires immediate correction or cessation of operation to prevent injury or illness, as determined by the department.

32. INSPECTION means an evaluation of an establishment to assure that the equipment, facilities, and operational plan are code-compliant and adequate for the operation. This definition shall include the following:

a. Pre-inspection, or a preoperational evaluation performed prior to approval to operate or implement a modification to an establishment's operational plan.

b. Re-inspection, or an evaluation performed to determine if a food establishment has obtained compliance with findings or orders issued by the department.

c. Routine inspection, or the thorough periodic examination of an operation to determine compliance with code provisions, laws and regulations.

33. INSPECTION PLACARD means a graded notice that describes the compliance status of a food establishment at the most recent inspection, re-inspection, or investigation.

34. INVESTIGATION means the process of assessing the credibility of a complaint made against an individual or food establishment related to licensure, sanitation or foodborne illness.

35. MICRO MARKET, as provided in s. 97.01(9m), Wis. Stats., means any indoor, unstaffed, self-service area that is accessible only to persons authorized by the person in control of the premises and not accessible to the general public, where a customer may obtain unit servings of food or beverage either in bulk or in package before payment at an automated kiosk or by other automated method, without the necessity of replenishing the area between each transaction. "Micro market" does not include a vending machine, a device which dispenses only bottled, prepackaged, or canned soft drinks, a one-cent vending device, a device dispensing only candy, gum, nuts, nut meats, cookies, or crackers, or a device dispensing only prepackaged Grade A pasteurized milk or milk products.

36. MOTORIZED VEHICLE means a vehicle which uses a mechanical engine to propel it.

37. NONPROFIT ORGANIZATION shall have the definition provided in s. 101-23.7-1-c.

38. OCCASIONAL SALE means offered for sale for not more than 3 days in any 12-month period.

39. PERSON means any individual, firm or corporation.

40. POTENTIALLY HAZARDOUS FOOD shall have the definition provided in ch. ATCP 75, Appendix, Wis. Adm. Code.

41. PRIORITY FOUNDATION ITEM shall have the definition provided in ch. ATCP 75, Appendix, Wis. Adm. Code.

42. PRIORITY FOUNDATION VIOLATION means a violation of a priority foundation item.

43. PRIORITY ITEM shall have the definition provided in ch. ATCP 75, Appendix, Wis. Adm. Code.

44. PRIORITY VIOLATION means violation of a priority item.

45. PROCESSING means any manipulation of food, including assembling, grinding, cutting, mixing, baking, grilling, frying, coating, stuffing, packing, bottling, packaging, canning, extracting, fermenting, distilling, pickling, freezing, drying or smoking. Processing does not include the act of harvesting, washing, and packing of raw agricultural products.

46. PRODUCTION KITCHEN means a kitchen in a school in which food preparation activities beyond reheating, portioning and hot and cold holding are performed.

47. PUSHED, PEDALED OR PULLED VEHICLE means a vehicle which does not have a mechanical engine to propel it and is moved by human power.

48. READY-TO-EAT FOOD means restaurant-style food that is offered or prepared for sale and is ready for consumption, regardless of whether consumption is on the premises where the food is sold.

49. RECURRING VIOLATION means the same violation on any 3 inspections or investigations in the previous 24-month period. Inspections or investigations do not need to be consecutive.

50. RE-INSPECTION means an inspection to determine if a food establishment has obtained compliance with findings or orders issued by the department.

51. REPEAT VIOLATION means the same violation on 2 successive routine inspections.

68-3 Food License Regulations

52. RISK CONTROL PLAN means a written document developed by an establishment in cooperation with the department for the purpose of identifying and implementing controls to address a repeat or recurring violation.

53. SATELLITE KITCHEN means a kitchen in a school in which the food handling activities are limited to the reheating or holding of cooked food that has been delivered from a production kitchen, storage of cold ready-to-eat food items and portioning and serving of bulk products either delivered from a production kitchen or requiring no on-site preparation for service.

54. SELF-INSPECTION means the use of a department developed checklist on either a daily or weekly basis to monitor ongoing establishment compliance.

55. SERIOUS FOOD-HANDLING SANITATION VIOLATION means a violation that is the basis of a citation by the department and that involves a potentially hazardous food temperature violation, a food or equipment cross-contamination violation, a poor hygienic practice by a food handler violation or a confirmed case of food-borne illness.

56. SHARED KITCHEN means a commercial kitchen in which more than one food establishment or operation with different license holders is using the same commercial kitchen facilities for the storage or production of food or as an operational base, ware-washing facility, commissary for a food peddler, seasonal market, temporary event vendor, food manufacturer or caterer.

57. TEMPORARY EVENT means a single event held at a fixed location not lasting more than 14 consecutive days. This definition shall include a fair, festival, fundraiser for a nonprofit organization, carnival, circus, public exhibition, anniversary sale or occasional sale.

58. VARIANCE means a written document approved by the department that authorizes a modification or waiver of one or more regulatory requirements, provided that, in the opinion of the department, the modification will not result in a health hazard or nuisance.

59. VENDING MACHINE shall have the definition provided in s. ATCP 75.203(14), Wis. Adm. Code. A food display case, including a case with temperature control, which allows a user to access multiple items simultaneously is not considered a vending machine, even if the items are purchased through a self-checkout process.

68-3. Adoption of State Code. Except as otherwise provided in this chapter, the city of Milwaukee adopts chs. 97, 98 and 254, Wis. Stats., and chs. ATCP 74, 75, 80, and 88, Wis. Adm. Code, as amended, and where pertaining specifically to food establishments, chs. SPS 314, 316, and 361 to 365 Wis. Adm. Code, as amended, as part of this code. Adoption of ATCP 74 and 75, Wis Adm. Code, includes the adoption of the Wisconsin Food Code, which is an appendix to both chapters. Wherever the term "regulatory authority" is used in the Wisconsin Food Code it shall be held to mean the commissioner.

68-5. Authority. 1. TO REGULATE. The commissioner may adopt written rules and regulations as necessary for the enforcement of this chapter and shall file with the city clerk a certified copy of all such rules and regulations. A certified copy of the rules and regulations shall also be kept on file in the office of the commissioner. The rules and regulations shall have the same force and effect as the provisions of this section, and the penalty for violations thereof shall be the same as the penalty for violations of this chapter. In addition, unless otherwise provided in this chapter, the commissioner shall have the authority to enforce the provisions of ch. 214 pertaining specifically to fire prevention in food establishments.

2. TO ENFORCE. a. The commissioner shall enforce the regulations of this chapter and may issue orders to effect corrections of violations. The commissioner shall issue citations pursuant to the procedure set forth in s. 50-25, except orders to correct violations of ch. 214 shall be enforced as specified in ch. 200.

b. If the conditions imposed by any provision of the code of ordinances are either more restrictive or less restrictive than comparable conditions imposed by the Wisconsin Food Code, or any other law, statute, rule, resolution, ordinance, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern.

3. TO INSPECT. a. Except for an establishment exempted from inspection by state law, a representative of the department, after presentation of proper identification, shall be permitted to enter any food establishment at any reasonable time to make inspections in accordance with this chapter.

Food License Regulations 68-7

b. The department shall have authority to:

b-1. Conduct a reasonable examination of a licensee's business records, including:

b-1-a. Information related to establishing the business's total amount of gross food sales.

b-1-b. Materials used to demonstrate adherence to approved plans.

b-1-c. Materials required to inspect or assess the food purchased, received or used by a food establishment.

b-2. Examine a licensee's food, food preparation, storage and display areas.

b-3. Collect environmental and food samples for laboratory analysis. The department shall offer to pay fair market value for any samples taken, unless the sampling is conducted as a follow-up to a previous unsatisfactory test result.

b-4. Take photographs to document inspection or investigation findings.

c. No person may assault, restrain, threaten, intimidate, impede, interfere with or otherwise obstruct the commissioner in the performance of his or her duties.

d. No person may obstruct or provide false, deceptive or misleading information to the commissioner.

e. Violation of this subsection may result in corrective action, including revocation of a license.

68-7. Food Plans. 1. PLANS REQUIRED.

a. General. All food establishments requiring licensure and all food establishments requiring registration under s. 68-21-2-c or d shall submit food operation plans and food facilities plans, on forms approved by the commissioner, to the department and the city clerk's office. Plans shall be retained by the commissioner for as long as the plans are in effect.

b. Food Operation Plans. Food operation plans shall be approved by the department before a license or registration is issued. Plans shall include sufficient operational detail to evaluate the potential risk of the proposed operation, as determined by the commissioner, including:

b-1. The size of the food operation, including anticipated gross sales.

b-2. The types of food sold, including any menus.

b-3. The methods of food preparation and sale.

c. Food Facilities Plans. Food facilities plans shall be approved by the department before any person may erect, construct, enlarge or alter a licensed or registered food establishment or otherwise make any substantial operational changes to a food establishment. Implementing a process specified in the Wisconsin Food Code as requiring a HACCP plan or requiring regulatory approval prior to implementation shall be considered a substantial operational change requiring plan submission. Plans shall consist of drawings which clearly show and describe the nature and extent of the work proposed, including:

c-1. Floor plans, equipment plans and specifications.

c-2. Wall, floor and ceiling finishes.

c-3. Plans and specifications for food service kitchen ventilation.

c-4. Any other information necessary to demonstrate compliance with applicable health code provisions.

2. EXCEPTION. At the discretion of the commissioner, the requirement for plan submission may be waived for minor alterations to a food establishment.

3. SHARED KITCHEN AGREEMENT. A signed shared kitchen agreement shall be submitted with any application proposing to share space in a commercial kitchen operated by an agent other than the applicant.

4. SITE EVALUATION. a. A site evaluation may be conducted by the department upon written request of a food establishment.

b. A site evaluation shall include an assessment of the general suitability of a facility for use as a food establishment, and shall identify general modifications to the facility needed to meet the requirements of this chapter.

c. If a site evaluation has already been conducted for a particular location and is in conformance with all current requirements of this chapter, the evaluation shall be provided free of charge upon request of the operator.

d. A site evaluation shall provide general guidance rather than guidance based on a food establishment's planned operation and shall not replace the need to submit and obtain approval for a food establishment operation or facilities plan.

5. VARIANCE. a. For processes identified in the Wisconsin Food Code as requiring a variance for situations where strict adherence to any public health-related provision of this chapter,

68-9 Food License Regulations

ch. 214, or any state regulations adopted in s. 68-3 is impractical for a particular food establishment, or at the commissioner's discretion, the commissioner may approve a variance for that food establishment if the commissioner is provided with satisfactory proof that the granting of the variance will not jeopardize public health, safety or welfare.

b. Application for a variance shall be submitted in writing to the commissioner on a form provided by the department. The application shall be accompanied by the documentation specified in par. e.

c. Upon receipt of a complete application, the commissioner shall review the request and grant or deny the request in writing within 30 days. If a variance is granted, the commissioner shall maintain a copy of the variance in the food establishment's file.

d. No variance shall be issued until the applicant paid the application fee specified in s. 81-55.3.

e. Documentation supporting a proposed variance shall include the following information:

e-1. A description of the proposed variance from this chapter, ch. 214 or state regulations, citing relevant code provisions or regulations.

e-2. A description of how any potential public health hazards or nuisances will be addressed if the variance is granted.

e-3. If requested by the commissioner and relevant to the variance request, a hazard analysis and HACCP plan.

f. A variance shall be valid for 5 years from the date of issuance unless revoked for non-compliance. An operator wishing to extend a variance approval shall be required to submit a variance renewal request. Failure to file a request for variance renewal prior to expiration shall result in any subsequent application being considered a new application.

g. Failure by a food establishment to adhere to the terms of a variance approval shall be grounds for corrective action, including revocation of the variance approval.

6. FEES. Plan examination and modification fees, site evaluation fees, and inspection fees shall be submitted and paid as required in ss. 81-55 and 81-55.3. Fees shall be nonrefundable and include the cost of all inspections required for a plan, if applicable.

68-9. Inspection and Investigation. 1. PRE-INSPECTION. a. New Establishment. Every food establishment shall be inspected by the department prior to issuance of a new license. License issuance or renewal may be withheld pending inspection, investigation, re-inspection, and plan verification or validation.

b. Existing Establishment. Inspections shall be required for any licensed food establishment wishing to make changes to the physical premises. Additional inspections may be required for any significant changes to a food plan or operation, as determined by the commissioner.

2. ROUTINE INSPECTION. a. Food Dealer. Within 60 days of license issuance, a food dealer shall be inspected. The department shall routinely inspect all licensed food dealers at least once every 12 months.

b. Food Peddler. Within 60 days of license issuance, all vehicles, carts or carried containers of a licensed food peddler shall be inspected. A renewal food peddler license shall not be issued until an inspection is performed and any priority and priority foundation violations have been corrected.

c. Temporary Food Dealer. The department shall inspect each temporary food dealer establishment licensed under this chapter.

d. Wisconsin Department of Agriculture, Trade and Consumer Protection License Inspections. The department is authorized by the state to inspect all state-licensed mobile restaurants and temporary events.

3. REINSPECTION. a. General. The department shall, within 30 days, reinspect every violation found during an inspection or a compliant investigation, regardless of a licensee's ability to correct a violation during the inspection, to ensure the violation is corrected or remains corrected.

b. The department shall make as many additional reinspections as are necessary for the enforcement of this chapter.

4. COMPLAINT INVESTIGATION. The department shall investigate all complaints alleging violations of licensing, sanitation, foodborne illness or food handling. If the department identifies violations during a complaint investigation and orders are issued, the orders shall be subject to the same reinspection requirements and fee schedule as those identified during a routine inspection.

5. REINSTATEMENT INSPECTION.

a. Requirement. Whenever a food establishment is required by the department to cease or suspend any part of its food sales or processing, the establishment shall not resume food operations until an inspection determines that the conditions responsible for the requirement to cease or suspend food operations no longer exist.

b. Correction. Upon notification by the food establishment that the conditions responsible for the requirement to cease or suspend food operations have been corrected, the department shall, within two business days, perform an inspection to determine if the food establishment may resume operation.

c. Reinstatement. Upon determination that the basis for the requirement to cease or suspend food operations has been addressed, the department shall provide the food establishment written notice that it may resume operation.

d. Notification. The Wisconsin department of agriculture, trade and consumer protection, the city clerk's office and the police department shall be notified of any food establishment ordered to cease or suspend operation and when an order is lifted. Electronic notification shall be considered as meeting the notification requirement.

6. INSPECTION PLACARDS. a. Issuance. Upon completion of an inspection or investigation, the department shall issue an inspection placard to the food establishment.

b. Design. The commissioner shall design the placard, which shall show the name and address of the food establishment, the date of the inspection or investigation, the name of the licensee, and the results of the inspection or investigation.

c. Posting Required. It shall be unlawful to operate a food establishment unless an inspection placard is posted in accordance with this subsection. Each food establishment shall post only the most recent inspection placard.

d. Location. A food placard shall be posted in a conspicuous place on the food establishment premises that is readily and easily visible to the public. To qualify as a conspicuous place, the placard shall be:

d-1. Not lower than 4 feet nor higher than 6 feet from the ground or floor.

d-2. Within 5 feet of the front door or direct entrance.

d-3. Unobscured and on the establishment's front window, door, or exterior wall.

d-4. In a location approved by the health inspector to ensure proper notice to the general public and to patrons of the food establishment.

e. Placard to Remain Intact. An inspection placard shall not be defaced, marred, camouflaged, hidden or removed. The operator shall report any stolen placard to the police department and provide documentation of the police report to the health department for a replacement placard.

f. Violation; Penalties. f-1. An operator that violates any of the provisions of this subsection may be required to appear before the licensing committee.

f-2. The department shall order immediate closure of a food establishment that has failed to meet the criteria established by the department. The license issued to the food establishment shall be suspended, and a placard serving as notice of closure shall be posted until the license is reinstated.

7. REPORTS. a. Issuance. When an inspection or investigation is made by the department of a food establishment, the findings shall be recorded in a form approved by the commissioner. A copy of the inspection or investigation report shall be provided to the food establishment, in a form approved by the commissioner.

b. Receipt. b-1. An inspector shall request a signed acknowledgment of receipt of an inspection report when the report is issued at a food establishment.

b-2. The signed acknowledgement shall not constitute an agreement with the findings of the report.

b-3. Refusal to sign an acknowledgment of receipt shall not affect the license holder's obligation to correct the violations noted in the inspection report within the time frames specified.

b-4. Refusal to sign the acknowledgment of receipt shall be noted on the inspection report in place of the signature.

b-5. Documentation of delivery of the report shall be retained by the department and shall be considered evidence of issuance.

c. Reports are Public Record. Inspection reports shall be public record and posted on the internet.

68-11 Food License Regulations

8. APPEAL OF INSPECTION. a. Request for Appeal. If a food establishment disagrees with an inspection report, the food establishment may submit a written request for an appeal within 5 business days of the issuance of the report. The request for an appeal shall include:

- a-1. The date of the inspection.
- a-2. The violation being appealed.
- a-3. The reason the licensee believes a provision of the code does not apply or was inappropriately applied.

b. Appeal Deadline. Failure to submit a written request for appeal within 5 business days of the issuance of an inspection report shall be considered grounds to deny an appeal unless a request for an extension is received prior to the 5-business day period elapsing. Failure to submit a written request to hold posting of an inspection report or placard with a written appeal of an inspection report shall result in the report or placard being posted.

c. Appeal Hearing and Determination. An appeal shall be heard by the commissioner within 10 business days following receipt of a written appeal request. The inspection report or inspection placard shall be updated based on the outcome of the appeal and issued to the food establishment.

9. FEES. The department shall charge the health code inspection fees provided in s. 60-70.

68-11. Food Safety Advisory Committee.

1. ESTABLISHMENT. The commissioner shall appoint and maintain a food safety advisory committee.

2. PURPOSE. The food safety advisory committee shall assist in developing policies and regulations that enhance food safety and create an environment that is supportive for the continued growth of the food industry. The committee shall provide guidance to the commissioner on licensing, inspection fees, inspection criteria, grading of food establishments, and compliance and enforcement activities for the department.

3. COMPOSITION. This committee shall be comprised of representatives from restaurants, retail food establishments, peddlers, temporary event vendors, food manufacturers, consumers and academia.

68-13. Annual Report Required. The commissioner shall, by April 1 of each year, submit to the common council and the mayor a written food safety report. The report shall include the following information:

1. A summary of activities in the previous year undertaken by the department to improve the safety of food being produced or sold within the city.

2. An evaluation of the inspection program's effectiveness using the quality assurance criteria defined by the U. S. Food and Drug Administration Voluntary National Retail Food Regulatory Program Standards.

3. Inspection and investigation findings for the previous 3-year period, including the frequency of foodborne illness risk factor violations by establishment type and aldermanic district.

4. The frequency of occurrence of foodborne illness reported to the department and a summary of any outbreak investigations performed.

SUBCHAPTER 2
LICENSING PROCEDURES

68-21. Licensure of Food Establishments;

General. 1. LICENSE REQUIRED. Unless otherwise provided in this chapter, no person may carry on the business of a food establishment without first having obtained a license under this chapter.

2. EXCEPTIONS. A license shall not be required of any of the following:

a. A person selling only bottled or canned non-alcoholic drinks that do not require refrigeration.

b. A stand offering homemade beverages or food items not requiring heating or refrigeration, provided the stand is:

b-1. Not connected with any temporary event.

b-2. Located on private property in a residential area.

b-3. Operated by a child under the age of 14.

c. A community food program, provided all food is provided free of cost to persons in need or organizations serving persons in need.

d. Any primary or secondary school meal program, whether public or private, provided all of the following conditions are met:

d-1. Food service is limited to students who attend the school or to children as part of a free summer meal program.

d-2. All food preparation and service is performed by staff directly employed by the school.

d-3. The school registers annually with the department at least 10 days prior to operating or prior to the first day of the school year, and pays the registration and inspection fees specified in s. 81-55.5.

d-4. Prior to initial operation, the program submits plans in compliance with s. 68-7, and undergoes inspection prior to operating.

d-5. The program undergoes 2 inspections per school year. Inspections or investigations where significant noncompliance is found shall be subject to additional fees, as specified in s. 60-70.

e. A food manufacturer that derives 25% or more of its gross sales from wholesale trade, has obtained a food processing plant license from the state, and does not serve meals to the public.

f. A food distributor that derives 25% or more of its gross sales from wholesale trade, has obtained a food warehouse license from the state, and does not serve meals to the public.

g. A retail food establishment exempt from licensure under s. 97.30(2)(b), Wis. Stats., or s. ATCP 75.03(9), Wis. Adm. Code, including:

g-1. A retail food establishment selling only packaged foods or fresh fruits and vegetables, provided the establishment does not sell potentially hazardous food and does not engage in food processing.

g-2. A temporary retail food establishment operated by a religious, charitable or nonprofit organization for no more than 12 days in any license year.

g-3. A food peddler with a food peddler license who operates on private property as part of a festival as defined in s. 108-1-2.5, street festival as defined in s. 95-1-2, or special event as defined in s. 105-55.5, provided the food operation remains unchanged from that conducted routinely under the operator's existing food peddler license.

h. A bakery, as defined in s. 97.29 (1) (b), Wis. Stats., selling only non-potentially hazardous, flour-based goods baked out of a home and sold directly to consumers. This does not include the cooking and drying of candies or other confectionaries.

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

4. FINGERPRINTING. a. All applicants for food dealer and temporary food dealer licenses shall be exempt from the fingerprinting requirement provided in s. 85-21-1.

b. All applicants for food peddler licenses and ice cream peddler licenses shall be fingerprinted, as provided in s. 85-21-1.

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

a. Changes in the food facility or operational plan submitted as part of a supplemental application shall be submitted in accordance with s. 68-7.

b. A licensee shall promptly notify the city clerk in writing of his or her intention to cease operations.

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

7. DISQUALIFICATION. Whenever any application is denied, or a license is revoked, surrendered or not renewed, the procedures provided in ss. 85-13, 85-15 and 85-17 shall apply.

8. INVESTIGATION. Each application for a license under this chapter, except for an application for a food dealer license by a micro market or an application for a temporary food dealer license, shall comply with the requirements of s. 85-21-2. In addition to the requirements of s. 85-21-2, if applicable:

68-23 Food License Regulations

a. Each application for a new food dealer license shall be referred to the commissioner and the department of neighborhood services for inspection.

b. Each application for a new food peddler license shall be referred to the commissioner for inspection.

c. Each application for a temporary food dealer license shall be referred to the commissioner for inspection.

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 food establishment.

11. TRANSFER. A license may not be transferred from one person or entity to another, from one premises to another, or from one food peddler vehicle, cart or carried container to another, except:

a. An individual may transfer a license to an immediate family member, as defined in s. 97.608(4)(a)2, Wis. Stats., if the individual is transferring operation of a restaurant, as defined in s. 254.61(5), Wis. Stats.

b. A food peddler changing operational bases may amend a food peddler license to reflect the new operational base.

12. RENEWAL. Application for renewal of a license shall be made to the city clerk in accordance with the provisions of s. 85-26. Except for an application for a food dealer license by a micro market or an application for a temporary food dealer license, 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.

13. SUSPENSION AND REVOCATION. Any license issued under this chapter 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 ss. 85-3 to 85-5.

68-23. Food Dealers. 1. LICENSE REQUIRED. Unless otherwise provided in this chapter, no person may manufacture, offer for sale, store, distribute or sell food within the city without first having obtained a food dealer license.

2. PROCEDURE FOR ISSUING NEW LICENSE. a. The city clerk shall issue a license to each applicant for a new license who meets all the

requirements of this section and has paid to the city treasurer the fee specified in s. 81-55, unless there is an objection by the commissioner, the department of neighborhood services, the common council member in whose district the food establishment would be located, or any person affected by the operation or proposed operation of the applicant.

b. If the common council member objects to an application, the applicant may request 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. Appeals shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 and 85-5.

3. TEMPORARY OPERATION. a. No food establishment may operate at any temporary site, location, stand or event without having obtained a temporary food dealers license.

b. A temporary food dealer license shall authorize a food establishment to prepare, process, serve or sell food at temporary events for one year from the date of issuance. This authority shall be contingent upon the license holder also obtaining any other special privileges or licenses required for the conduct of a temporary food dealer.

c. A food dealer seeking a temporary change of plan to a licensed premises shall comply with s. 85-39.

d. The following license holders shall be exempt from the requirement provided in par. a, provided the activities of the food establishment remain unchanged from those allowed under the existing license:

d-1. Food peddlers operating on private property at a festival grounds as defined in s. 295-201-187, a street festival as defined in s. 95-1-1-I, or a special event as defined in s. 105-55.5.

d-2. Mobile or temporary retail food establishments licensed under s. ATCP 75.03, Wis. Stats.

d-3. Mobile restaurants licensed under s. ATCP 75.104, Wis. Stats.

e. The procedures for issuance of a temporary food dealer license shall be as set forth in sub. 2. An individual who has applied for, but has not been issued, a food dealer license shall not be issued a temporary food dealer license at the location where the food dealer license application is pending.

f. Failure to pay for and obtain any license necessary to operate a temporary event at least one business day prior to the event occurring may result in the applicant for a temporary food dealers license not being allowed to participate in the event.

4. MICRO MARKETS. At the commissioner's discretion, a food dealer license for a micro market may be issued prior to inspection.

68-25. Food Peddlers. 1. FINDINGS. The common council finds that regulation of the health conditions of food sold by food peddlers is necessary for the prevention of disease and sickness within Milwaukee, and that such regulation is vital to the health, safety and welfare of residents of and visitors to the city.

2. LICENSE REQUIRED. No person shall engage in the sale of any food from any vehicle, cart or carried container on a public street without first obtaining a food peddler license issued under this chapter or a mobile food license issued by the state of Wisconsin for the food being sold. A separate license shall be required for each vehicle, cart or carried container from which food is sold.

3. APPLICATION. In addition to the information required under s. 85-12, application for a food peddler license shall contain the following:

a. A description of the locations where the applicant intends to sell food.

b. The hours of the day during which the applicant intends to sell food.

c. A physical description of the unit proposed to be licensed, including, if a motor vehicle, the license plate number or vehicle identification number.

d. A menu of the food items to be sold, along with information on the food processing to be performed.

e. If using a shared kitchen as an operational base, a signed copy of the shared kitchen agreement. If the operational base is outside the city, a copy of the food license and the most recent inspection report.

4. PROCEDURE FOR ISSUING NEW OR RENEWAL LICENSE. a. An application for a food peddler permit shall be referred to the commissioner, who shall cause an investigation to be made. If the commissioner approves the application, the city clerk shall issue the license, provided the applicant meets all the requirements of this section and has paid to the city treasurer the applicable fees.

b. If the commissioner objects to an application, the applicant may request 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 of the commissioner. An appeal shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 and 85-5.

68-27. Ice Cream Peddlers. 1. FINDINGS. The common council finds that an individual involved in the business of ice cream peddling comes into frequent and substantial contact with children. Additionally, an individual peddling ice cream from an ice cream vending vehicle makes frequent stops, deals with customers congregating near the path of the vehicle, and is responsible for driving safely when operating a motor vehicle. Therefore, the common council finds it necessary for the safety and welfare of the public to license individuals peddling ice cream.

2. LICENSE REQUIRED. No person shall operate or act as an ice cream peddler within the city without first having obtained an ice cream peddler license. The ice cream peddler license required by this section shall be in addition to the food peddler license required in s. 68-41. No ice cream peddler license shall be required if all retail sales are conducted at a temporary event, as defined in s. 68-1-57, provided that average daily attendance is estimated at 5,000 persons or more.

3. APPLICATION. In addition to the information required under s. 85-12, application for an ice cream peddler license shall contain one recent photograph suitable in size and form, as determined by the city clerk, for inclusion on the applicant's official license.

4. PROCEDURE FOR ISSUING NEW OR RENEWAL LICENSE. a. A food peddler application received by the city clerk shall be forwarded to the chief of police for review and criminal background check.

b. Upon review and report of the chief of police and subject to the requirements of s. 111.335, Wis. Stats., the license shall be granted to an applicant who has not been required to register as a sex offender pursuant to s. 301.45, Wis. Stats., or who has not been convicted of violating s. 940.22(2), 940.225(1), (2) or (3), 944.06, 948.02(1) or (2), 948.025, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.095, 948.11(2)(a) or (am), 948.12, 948.13, or 948.30, or of s. 940.30 or 940.31, Wis. Stats., if

68-27-4-c Food License Regulations

the victim was a minor, or who has not been convicted of operating a vehicle under the influence of an intoxicant or other drug pursuant to s. 346.63, Wis. Stats., in the past 3 years. These provisions shall also apply to the granting of this license to any applicant who has been convicted pursuant to similar statutes in other states or foreign jurisdictions.

c. In addition to the provisions of par. b, the chief of police may object to granting of the license based on the applicant's criminal history, including whether 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 licensed activity.

d. If the chief of police or another interested party objects to an application, the applicant may request 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 of the chief of police. An appeal shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 and 85-5.

e. If the chief of police approves an application, the city clerk shall issue the license, provided the applicant meets all the requirements of this section and has paid to the city treasurer the applicable fees.

SUBCHAPTER 3
OPERATING REGULATIONS

68-31. Sanitation. 1. GENERAL. No person shall manufacture, prepare for sale, offer, expose for sale or sell food unless it is securely protected from filth, flies, dust, contamination or other unclean, unhealthful or unsanitary conditions.

2. FOOD WRAPPERS. No person shall give away, sell or offer for sale any food which is pronounced by the commissioner liable to contamination, putrefaction or other types of spoilage, by using wrappers, covers, or containers, or including in the package or wrapping any token or other symbol which may be returned for premiums, or anything of other value.

3. PREMIUMS OR TOKENS. Whenever the condition of sale provides that the token, symbol, or other item, which is to be returned for anything of value, can be mailed only to an office or other location where food is not prepared, processed, stored or offered for sale, and where the premium or other item of value is not an article of primary interest to children, the use of such tokens, symbols or other items shall not be in violation of the provisions of this section.

4. COMMON DRINKING CUPS. The furnishing or use of a common drinking cup or receptacle for drinking water in any public place or in any railroad station is prohibited. Any person who furnishes, installs or offers for public use such common drinking cup or receptacle for drinking water in any public place, or in any public institution, hotel, theater, factory, department store, public hall or public school, or in any railroad station in the city, shall be punishable by a fine of not less than \$5 nor more than \$25.

68-32. Single-Use, Plastic Straws. 1. PROHIBITED. Effective April 14, 2020, no food establishment may provide any customer with a single-use, plastic straw, where "single-use" means a product that is designed and intended to be used only once and is generally recognized by the public as an item that is to be discarded after one use.

2. EXEMPTIONS. Subsection 1 shall not prohibit:

a. Prepackaged individual serving beverages where a small plastic straw is included in the packaging.

b. The provision of a plastic beverage straw to a customer upon request of a plastic beverage straw by the customer.

c. The provision of a plastic beverage straw to a customer receiving a viscous beverage, such as a milkshake or smoothie, that requires a large, durable straw, for which a non-plastic straw would not be suitable.

d. The provision of any other approved compostable straw as determined by the environmental sustainability director. The environmental sustainability director shall maintain a list of acceptable compostable straws.

68-33. Security in Certain Convenience Food Stores. 1. REGULATIONS. Unless otherwise provided in this section, every convenience food store shall:

a. Locate the cash register so that the employee and customer are both visible from the storefront, provided that this location can be accomplished without incurring additional cost that would not otherwise be ordinarily incurred.

b. Keep glass entrance and exit doors clear of any signs or advertisements, with the exception of a sign which states that the cash register contains \$50 or less and that the safe is not accessible to employees.

c. Maintain a safe conforming to the standards of the chief of police.

d. Provide lighting for the store's parking area during all hours of darkness when employees or customers are on the premises at a minimum average of 2-foot candles per square foot, unless the store is not open for business after sunset and before sunrise.

e. Install at least 2 high resolution surveillance security cameras which can produce reproducible digital color images from a digital video recorder. Each camera shall display a date and time stamp on each image, and produce retrievable images suitable for permanent police records. Digital-video recording equipment shall be maintained in proper working order and operated at all times during store operating hours. In addition:

e-1. At least one camera shall provide an overall view of the counter and register area, and at least one camera shall be positioned to provide a clear, identifiable, full-frame image of the face of each person entering and leaving the store. Camera views shall not be obstructed by store fixtures or displays.

e-2. If a time-lapse digital video recorder is operated, recording speed shall be approved by the chief of police.

68-35 Food License Regulations

e-3. All digital video records shall be stored in a manner provided by the police department, maintained in good viewing order for 30 days after recording, and made available upon request to the licensing committee and chief of police.

f. Have customer entrance and customer exit doors that are made of glass or other transparent material, except that a store that does not have such doors on August 17, 1994 shall not be required to install such doors until the holder of the store's food dealer license changes.

2. EXEMPTIONS. a. The requirements of this section do not apply to a convenience food store that conforms to either of the following descriptions:

a-1. The store is located in an enclosed shopping structure, enclosed commercial building or hospital. A convenience food store is not in an enclosed structure or building if a customer can enter it directly from the outside.

a-2. The store physically separates employees from customers with a solid partition that bars a person from entering the employee area from the customer area, has a secure lock on the employee side of any door between the employee area and the customer area, and conducts all transactions through a service window or similar arrangement.

b. At the discretion of the chief of police, a convenience store may be exempted from any or all of the regulations specified in sub. 1. The owner or operator of a convenience food store that seeks an exemption under this paragraph shall submit to the police department a written exemption request that includes the specific reasons that the applicant believes the exemption should be granted. The chief of police may grant an exemption to a requestor if the chief of police finds that the security provisions at the location are adequate.

3. ROBBERY PREVENTION TRAINING. All owners and employees of a convenience food store shall be required to complete a training course in robbery prevention approved of or provided by the police department within 120 days of ownership or employment.

68-35. Shared Kitchens. **1. REVIEW AND APPROVAL.** a. Any time one or more food establishments propose to operate out of the same commercial kitchen, the primary license holder shall notify the department of his or her intent to share kitchen space.

b. If not previously approved by the department, the addition of other users sharing commercial kitchen space shall be considered a significant operational change requiring plan review and approval as specified in s. 68-7.

c. The commissioner may prohibit use of a commercial kitchen as a shared kitchen based on either the size of the kitchen or the compliance history of the food establishment.

d. Unless operated by the same licensee, each shared kitchen user shall obtain his or her own food dealer license.

2. OPERATOR DUTIES. The primary license holder shall: a. Ensure the physical facilities and all equipment provided by the primary license holder in the shared kitchen are in compliance with all local, state and federal regulations, including compliance with all health and sanitation requirements.

b. Ensure that any person engaged in food preparation or storage within the facility is properly licensed. Allowing an unlicensed user to prepare food for sale shall be considered a violation and grounds for corrective action, including revocation of the food dealer license.

c. Maintain records on site regarding the use of the shared kitchen for a period of 24 months from the date of entry and make the records immediately available upon request by the department at the time of inspection or investigation. Failure to maintain records or to provide required records to the department shall be grounds for the department to rescind approval to permit shared use of the kitchen. Each of the following records shall be maintained and made available by the primary license holder:

c-1. A list of all shared kitchen users and current contact information.

c-2. For each shared kitchen user, a copy of the following documents:

c-2-a. A menu approved by the department.

c-2-b. A valid food dealer license.

c-2-c. All agreements entered into by the primary license holder with each shared kitchen user, including the effective date, and if applicable, the termination date of each agreement.

c-2-d. If the shared kitchen user is processing or storing potentially hazardous foods, a valid food service manager certificate.

c-3. A weekly or monthly schedule of the proposed dates and times when each shared kitchen user, including the primary license holder, intends to use the shared kitchen.

c-4. A shared kitchen user sign-in log indicating the dates and times each shared kitchen user arrived and departed.

d. Notify the department if a shared kitchen user discontinues, terminates or otherwise withdraws from any contract or agreement, or if a shared kitchen user repeatedly fails to use the space during his or her scheduled time without contacting the primary license holder.

e. Provide access for inspection by the department to all locked equipment located in any storage area maintained in the shared kitchen.

f. Ensure that the number of shared kitchen users operating in the shared kitchen does not pose a health or safety risk, and remains within the total number of users and total number of simultaneous users for which the establishment is approved.

3. USER DUTIES. A shared kitchen user issued a secondary or subsequent license for a food establishment shall:

a. Conform to the requirements provided in s. 68-7.

b. Comply with all food safety requirements and regulations set forth in this chapter. Primary license holders and shared kitchen users shall be jointly and individually liable for any equipment or facility violations.

c. Ensure a certified food manager is on site at all times that potentially hazardous food is being prepared, tasted, handled, packaged, prepared for storage, served or otherwise used, and make available, upon request, a food manager certificate.

d. Have a copy of a city-issued license posted on site at all times when the shared kitchen user is using the shared kitchen.

e. Keep and maintain on file each of the following records:

e-1. A list identifying the dates and times the user uses the shared kitchen.

e-2. A copy of the written statement signed by the primary license holder of the shared kitchen stating that the shared kitchen user has been authorized to rent, lease or use the shared kitchen. The statement shall include the start date and end date, if any, to which the authorization applies.

4. USER RECORDS. The records required under sub. 3-e shall be maintained by the shared kitchen user for a period of at least 24 months after the date of entry of a record. Upon a request by any authorized city official, the shared kitchen user shall make these records immediately available for inspection by an authorized city official.

68-37. Food Peddlers.

1. SALES ON THE PUBLIC RIGHT-OF-WAY. a. Findings. The common council finds food peddler vehicles parked on the public right-of-way in areas where there is a high concentration of traffic and pedestrian density jeopardize the safety of pedestrians and drivers, and dangerously increase traffic congestion. The common council further finds limiting the locations and times these vehicles may park on the public right-of-way in specified areas contributes to public safety. The common council shall review annually the ordinances relating to food peddler vehicles. It is the intent of the common council to work in cooperation with the police department, health department, and department of public works to administer its food peddler vehicle program.

b. Definition. For purposes of this subsection, "limited operation food peddler vehicle zone" means a portion of a public right-of-way designated by the common council for parking of food peddler vehicles subject to specified limitations. A limited operation food peddler vehicle zone shall be recorded on a map that may be found in the common council proceedings. The official record shall be on file in the city clerk's office.

c. Locations Restrictions.

c-1. Public Right-of-way. All sales shall be made on the public right-of-way directly from a food peddler vehicle or a carried container unless one of the following exemptions is met:

c-1-a. A food peddler is selling food at the invitation of a business owner on private property provided all sales are made only to employees of the business and not to the general public.

c-1-b. A food peddler is issued an occupancy permit by the department of neighborhood services allowing food sales by the food peddler on a private property.

d. Time Restrictions. A food peddler shall not offer for sale or sell food between 3 a.m. and 6 a.m., Monday through Friday, or between 3:30 a.m. and 6 a.m. on Saturday and Sunday.

e. Limited Operation Food Peddler Vehicle Zone. The department of public works shall mark a limited operation food peddler vehicle zone by either posting a sign or painting the designated area.

e-1. Type 1, Time-Limited Food Peddler Vehicle Zone. Notwithstanding sub. d, a food peddler vehicle that is parked in a type 1 limited operation food peddler vehicle zone shall not:

e-1-a. Offer for sale or sell food between 1 a.m. and 6 a.m.

68-37-2 Food License Regulations

e-1-b. Park in that zone for more than 6 hours within a 12-hour time period.

e-2. Type 2, Density-Limited Food Peddler Vehicle Zone. The maximum number of food peddler vehicles allowed on a block face in a type 2 limited operation food peddler vehicle zone shall be determined for that specific block based upon density and traffic safety, as determined by the common council in consultation with the department of public works and the police department.

e-2-a. Application. Application for a parking space in a type 2 limited operation food peddler vehicle zone shall be made with the licensing division using an application established for that purpose. In the first year this ordinance is in effect, applications shall be filed no later than July 1, 2023, and shall be filed no later than March 1 of each year thereafter. If granted a parking space, the licensing division shall notify the applicant of the assignment, and the applicant shall accept the parking space in writing within 10 calendar days of receiving notification of the assignment or shall forfeit the assignment. Only one parking space shall be assigned per food peddler vehicle. No food peddler vehicle may be assigned a space in more than one zone. Parking space assignments may not be transferred.

e-2-b. Parking Space Assignment Seniority. Parking space assignment shall be determined by seniority, calculated by counting the number of years a food peddler has operated in the zone for which the applicant is applying as reported on their itinerary. Spaces shall be assigned to applicants in order of seniority until all applicants have been assigned a parking space or until all parking spaces are assigned. If applicants remain after all parking spaces are assigned, a waiting list shall be created using the same seniority system.

e-2-c. Additional Points. One year of seniority shall be added for a vehicle that is all of the following: 12 feet or less in length, 11 feet or less in height, and 7 feet or less in width, including wheels and all extensions, counter space, foldouts, awnings, or other contrivances attached to the main body of the food peddler vehicle.

e-2-d. Tie. If more than one food peddler has the same number of years of seniority, this tie shall be broken using the following criteria, considered in order:

e-2-d-1. Whichever food peddler has been licensed by the City the longest.

e-2-d-2. Whichever food peddler's average food establishment grade is higher, as determined by the health department pursuant to s. 68-9-7.

e-2-d-3. Whichever applicant has received the fewest demerits for being disciplined by the city for offenses relating to the operation of food

peddler vehicles. Each warning letter from the licenses committee shall count as one demerit. Each suspension of more than 10 days or revocation shall count as 5 demerits.

e-2-d-4. A game of chance administered by the license division.

e-2-e. Waiting List. Late applicants and food peddlers who forfeit their parking space as provided in subd. e-2-a shall be placed at the bottom of any waiting list. Any parking space that becomes available after parking space assignments have been made shall be offered to the highest-ranking food peddler on the waiting list.

f. Special Permission. The common council may grant permission to a food peddler to park a food peddler vehicle and offer for sale or sell food at a location, on a date, and during a time period not otherwise authorized by this subsection.

2. OPERATING RESTRICTIONS. A food peddler shall comply with all regulations provided under ch. 101 and ss. 105-56 and 115-45, as enforced by the commissioner of public works or the chief of police. Repeat violation of these restrictions shall be considered grounds for suspension, revocation or nonrenewal of a food peddler license.

3. KEEPING OF PERISHABLE FOOD. All perishable foods shall be kept in one of the following ways:

- a. Frozen.
- b. Refrigerated at 41° F or lower by means of mechanical refrigeration.
- c. Heated and maintained at 135° F or higher.

4. SCALE REQUIRED. A food peddler shall provide a scale for items that are sold by weight and weighed at the time of sale. The scale shall be approved and licensed under ss. 81-135 and 82-14.

5. NOISE RESTRICTED. A food peddler shall comply with the noise nuisance regulations of s. 80-65-4 and all other noise regulations of this code.

5.5. LITTER CONTROL. A food peddler operating from a food peddler vehicle shall provide a sufficient number and capacity of litter receptacles adjacent to the peddler's point of sale, and within any area patrons may reasonably be expected to congregate while eating. A food peddler shall:

- a. Regularly monitor any area patrons may reasonably be expected to congregate while eating during operations, and collect litter found on sidewalks and the public right-of-way, regardless of the source of the litter.

b. Promptly empty litter receptacles whenever full to minimize litter on sidewalks and the public right-of-way.

c. Return litter receptacles and litter collected to a home base kitchen at the end of each day's operations and properly dispose of collected litter.

6. COMPLIANCE WITH POLICE DEPARTMENT. A food peddler shall comply with any request from the police department to relocate for public health, safety or welfare reasons.

7. FIRE EXTINGUISHER. A food peddler doing any cooking or heating, whether that heating uses a combustible gas, electric heating device or an open flame, shall have and maintain a fire extinguisher appropriate for the operation.

8. BASE OF OPERATION. Every food peddler shall obtain a mobile base license. Unless operated at a licensed temporary event where facilities are provided on site or granted a variance by the department, each food peddler vehicle, cart or carried container shall return to its operational base every 24 hours for food, water and supplies, or for cleaning and servicing operations, including the emptying and cleaning of waste containers. A log shall be maintained indicating the dates and times the food peddler vehicle, cart or carried container was last serviced at a base of operation. Failure to use or maintain an operational base or failure to maintain an updated service base log shall be considered grounds for suspension or revocation of the food peddler license.

9. BLOCKING PEDESTRIAN ACCESS TO DOORWAYS PROHIBITED. Blocking or restricting any individual's access to a business or residential doorway shall be prohibited.

10. BLOCKING SIDEWALK PROHIBITED. Occupying any sidewalk so as not to permit any pedestrian at any time to have a minimum 5-foot clearance shall be prohibited.

11. DOOR-TO-DOOR SALES PROHIBITED. Selling food door-to-door shall be prohibited.

12. HORN USE PROHIBITED. Use of any type of horn by a food peddler with a carried container or a pushed, pedaled or pulled vehicle shall be prohibited.

13. CARRIED CONTAINER AND VEHICLE DESIGN AND CONSTRUCTION REGULATIONS.

a. **Self-Contained Food Peddler Vehicles.** Each food peddler vehicle shall be self-contained so that all extensions, counter space, foldouts, awnings, or other contrivances for the preparation and sale of food shall be attached to the main body of the food peddler vehicle or cart and move along with it.

b. **Size Limitations.** Each food peddler vehicle shall conform to the following size limits:

b-1. A motorized food peddler vehicle shall be 25 feet or less in length.

b-2. A pushed, pedaled or pulled food peddler vehicle shall conform to the following size limits:

b-2-a. Width including wheels shall be 4 feet or less.

b-2-b. Length shall be 9 feet or less, of which not more than 6 feet of length shall be used for the display, storage, or preparation of items for sale.

b-2-c. Height shall be 6 and one-half feet or less, excluding awnings or umbrellas.

c. **Generator Noise.** A food peddler vehicle using a generator shall produce not more than an average of 80 decibels of sound, as measured 4 feet from the generator.

14. Identifying Signage. Each food peddler vehicle or carried container licensed under this chapter shall have identifying signs printed or affixed, in a prominent position, to 2 sides of the vehicle or container. Each identifying sign shall include the name of the business or person operating the vehicle or container and a valid telephone number for the business, in lettering not less than 3 inches high.

68-39. Peddling of Food by Minors.

1. FINDINGS. The common council finds that persons under 12 years of age are susceptible to injury and other harm when engaged in street trades, particularly when engaged in activities involving the sale or distribution of food and beverages, including water, on highways, streets and alleys of the city. The common council further finds that regulation of food peddling by persons under 12 years of age is necessary for the health, safety and welfare of residents and visitors to the city.

2. PROHIBITED. In accordance with s. 103.23(1), Wis. Stats., no person under 12 years of age shall be employed or permitted to work at any time in any street trade, as defined in s. 103.21(6) Wis. Stats., to include the selling, offering for sale, soliciting for, collecting for, displaying or distributing any articles or goods on any street or public place.

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SUBCHAPTER 4
COMPLIANCE AND ENFORCEMENT

68-41. Notices and Orders. 1. ORDER TO CORRECT.

a. If, upon inspection or investigation, the department finds that any food establishment is conducted or managed in violation of any of the ordinances or regulations of the city, or the laws of the state of Wisconsin, it shall be the duty of the department to serve a written order to an establishment operator, licensee, licensee's agent, or employee in charge of the premises, stand or food peddler vehicle, cart or carried container, notifying the operator of the violation.

b. A violation shall be recorded on an inspection or investigation form. For each violation identified, the written order shall include:

b-1. The code section violated.

b-2. A brief description of the violation.

b-3. The corrective action the food establishment needs to make.

b-4. A specific date or time by which the violation shall be corrected.

c. The maximum time interval for correction of a priority or priority foundation violation shall be 72 hours.

d. The maximum time interval for correction of a core violation shall be 90 days. The time limit may be extended upon mutual agreement of the department and the food establishment, provided no health hazard exists or will result from allowing an extended schedule for compliance. The extended time limit shall be no longer than the interval until the operator's next routine inspection.

e. An inspection report shall indicate whether an operator was able to correct any violation at the time of the inspection and whether any orders relate to repeat violations.

f. An order may be appealed in writing to the commissioner within 5 days of the inspection or investigation.

2. ORDER TO OBTAIN ACCESS. If a food establishment or a suspected food establishment denies the department access to the establishment to enforce the provisions of this chapter, the agent of the department shall present to the person in charge his or her official credential, explain the authority upon which access is requested, and make a final request for access. If the person in charge continues to refuse access, the department shall issue an order to obtain access to the food establishment, or suspected food establishment. Failure to comply with the

order to obtain access shall result in either an emergency order to suspend or an order to cease food operations. Repeated failure by a licensed establishment to provide the department access to inspect shall be grounds for citation, suspension or revocation.

3. EMERGENCY ORDER TO SUSPEND.

a. The department may summarily suspend any food license without prior warning, notice or hearing if it determines, through investigation, inspection, or examination of employees, food, records or other means as specified in this chapter or under the Wisconsin Food Code, that an imminent health hazard exists.

b. An emergency order to suspend shall state:

b-1. That the food license is immediately suspended and that all food operations shall immediately cease.

b-2. The reason for summary suspension, with reference to the provision of the city code or state statute in violation.

b-3. The conditions that must be met before the emergency order is removed.

b-4. The process for requesting a reinstatement inspection to certify that the reason for the suspension has been eliminated.

b-5. That a fee, as specified in s. 60-70, shall be assessed for the inspection or investigation that identified the hazard, and that a reinstatement inspection fee shall be charged for each inspection performed to assess hazard elimination.

c. An emergency order to suspend shall be valid for up to 14 days. The emergency order may be extended for an additional 14 days, provided the food establishment is offered the opportunity for a license review hearing before the commissioner. The license review hearing may be waived upon mutual agreement of the department and the food establishment. If after 28 days the hazard remains, the emergency order shall be rescinded and reissued as a notice of suspension.

d. The commissioner shall promptly notify the city clerk and police department when any suspension is placed or when a suspension is removed.

e. Any person to whom an emergency order to suspend is issued shall immediately comply with the order, but upon written petition to the department shall be afforded a hearing before the commissioner within 5 working days of order issuance.

68-41-4 Food License Regulations

f. Failure to allow an inspector immediate access to the premises to determine whether such grounds exist shall be grounds for suspension. The commissioner shall promptly notify the city clerk of this failure.

4. ORDER TO CEASE FOOD OPERATIONS. a. The commissioner may order, without prior warning, notice or hearing, a food establishment exempt from licensure or an unlicensed food establishment to cease its operations if it is determined through investigation, inspection or examination of employees, food, records or other means as specified in this chapter or under the Wisconsin Food Code, that an imminent health hazard exists, that an establishment is operating without a license, or that the establishment has failed to register with the department prior to operation.

b. The order to cease operation for a licensed food establishment shall state:

b-1. That all food operations shall immediately cease.

b-2. The reasons for the order to cease operation with reference to the provisions of the city code or state statute that are being violated.

b-3. The conditions that must be met before the order is removed.

c. The order to cease operation for an exempt food establishment whose food operation was suspended due to a health hazard shall state:

c-1. The process for requesting a reinstatement inspection to certify that the reasons for the order were eliminated.

c-2. That a fee, as specified in s.60-70, shall be assessed for the inspection or investigation that identified the hazard and that a reinstatement inspection fee will be charged for each inspection performed to assess hazard elimination.

d. The commissioner shall promptly notify the city clerk and the police department when any order to cease operations is placed or when an order to cease operations is removed.

e. Any person to whom an order to cease operations is issued shall immediately comply with the order, but upon written petition to the department shall be afforded a hearing before the commissioner within 5 working days of order issuance.

f. Failure to allow an inspector immediate access to the premises to determine whether such grounds exist shall be grounds for suspension. The commissioner shall promptly notify the city clerk of this failure.

5. HEARING NOTICE. a. A food establishment shall be notified at least 3 days in advance of any hearing conducted by the commissioner. The hearing notice shall include:

a-1. The date, time and place of the hearing.

a-2. The purpose of the hearing and the potential outcomes.

a-3. A statement that an opportunity will be given to the appellant to challenge the order or action, present witnesses under oath, and confront and cross-examine opposing witnesses under oath.

a-4. A statement that the appellant may be represented by an attorney of the appellant's choice at the appellant's expense, if the appellant so wishes.

a-5. A listing of all inspections, investigations and orders under consideration.

a-6. A listing of the applicable code provisions, rules or statutes.

a-7. A short and plain statement of the matters asserted.

a-8. A statement that the licensee may request a change of time or date until 48 hours prior to the hearing; however, the rescheduled hearing shall be no later than 5 days from the originally-scheduled hearing date.

b. The notice shall be sent by certified mail to the agent or hand delivered to the person in charge at the food establishment.

6. COMPLIANCE ORDER. a. When a food establishment is determined to have a history of noncompliance, the commissioner shall order the establishment to implement interventions necessary to prevent foodborne illness and continued violation of the provisions of this chapter.

b. A compliance order shall require that the food establishment complete one or more of the following actions:

b-1. Risk control plan.

b-2. Compliance plan.

b-3. Safety training.

b-4. Self-inspection.

b-5. Standard operating procedures.

b-6. Recipe and process instructions.

b-7. Equipment and layout changes.

c. Operational or equipment changes, risk control plans and compliance plans shall be subject to the fees specified in s. 60-70.

7. NOTICE OF INTENT. The department shall issue a notice of intent prior to issuing a suspension, revocation or restriction to a food establishment. A notice of intent shall not be required when such action is taken due to the identification of an imminent health hazard. The notice of intent shall clearly identify what actions must be taken, the time frame for the actions to be completed, and the consequence for not obtaining compliance.

8. NOTICE OF SUSPENSION, REVOCATION OR RESTRICTION. a. If, after being served the notice of intent, a food establishment fails to meet the requirements specified in the intent order, the department shall issue a notice of suspension, revocation or restriction. For a suspension or revocation, the establishment shall be required to immediately cease all or part of the food operation. For restrictions to the food establishment, the operator shall immediately comply with the limitations placed on food operations.

b. The notice of suspension, revocation or restriction shall state:

b-1. That the food license is immediately suspended, revoked or restricted and that all food operations suspended, revoked or restricted shall immediately cease.

b-2. The reasons for notice, including the circumstances leading to the notice being issued.

b-3. The minimum period for the suspension, revocation or restriction, and the conditions that must be met for it to be removed.

b-4. The process for requesting a reinstatement inspection to certify that the conditions for reinstatement have been met.

b-5. That a reinstatement inspection fee, as specified in s. 60-70 shall be charged for each inspection performed to assess that the conditions to lift the suspension, revocation or restriction have been met.

b-6. That a suspension, revocation or restriction of a food license may be appealed to the commissioner. An appeal shall be submitted in writing to the department within 5 business days of the notice being issued.

c. The department shall promptly notify the city clerk and police department when any suspension, revocation or restriction is placed or removed.

68-43. Restrictions. 1. RESTRICTION OR EXCLUSION OF FOOD WORKER. a. To prevent possible disease transmission, a food establishment worker suspected of having a foodborne illness or being exposed to a foodborne illness shall be restricted from handling food in a food establishment, and may be excluded from working in a food establishment, at the discretion of the commissioner.

b. The department may issue an order of restriction or exclusion to a food worker or the license holder, and may do so without prior warning, notice of a hearing, or a hearing.

c. The exclusion or restriction order shall include:

c-1. The reason for the restriction or exclusion.

c-2. The evidence that the food worker or licensee may provide to demonstrate that the reasons for the restriction or exclusion have been eliminated.

c-3. The process for appealing the order to the commissioner.

2. OPERATIONAL RESTRICTIONS.

a. The department may place limitations or conditions on a license if the department determines it necessary to protect public health.

b. Restrictions shall remain in place until removed by the department or until vacated by the commissioner.

c. An operator found engaged in a practice in conflict with the limitations or conditions placed on the operator's license shall be considered in violation of this chapter and shall be subject to corrective action, including inspection fees, citation, suspension and revocation.

d. Restrictions or conditions ordered by the department shall be appealable to the commissioner.

68-45. Penalties. 1. GENERAL. a. Any person who violates or fails to comply with this chapter shall, upon conviction, be subject to a Class N penalty, as provided in s. 61-20, in addition to any other penalty set forth herein. In addition, a citation may be issued with or without prior notice as set forth in s. 50-25.

b. Any food establishment that violates any of the provisions of s. 68-9-6 shall forfeit \$300 per day.

68-45-2 Food License Regulations

2. FOOD PEDDLERS. a. Any person violating any of the provisions of s. 68-41, except those identified in par. b, shall, upon conviction, be subject to a Class B penalty as set forth in s. 61-8.

b. Any person violating s. 68-41-5-a, ss. 68-41-5-c to e, or ss. 68-41-5-j to m shall, upon conviction, be subject to any of the following penalties:

b-1. A forfeiture of not less than \$20 nor more than \$200 for each violation.

b-2. A suspension of the food peddler's license for not less than 10 days nor more than 30 days, or a revocation of the food peddler's license for the remainder of its term.

c. At the discretion of the court, a penalty under par. b may be imposed as follows:

c-1. The penalty may be imposed on an agent.

c-2. Whenever the court finds that the business, organization or person that holds the food peddler's license under which the agent's sales are made has failed to properly supervise the agent, the penalty may be imposed on the business, organization or person.

c-3. The penalty may be imposed on both an agent and the business, organization or person that holds the food peddler's license under which the agent's sales are made.

d. An ice cream peddler license may be revoked by the health department upon conviction of a licensee for violation of any provision specified in s. 68-43-4-b. The commissioner shall promptly notify the city clerk of any revocation.

e. Any license revoked by the health department under par. d may be appealed to the administrative review appeals board. If the commissioner has cause to seek revocation of a license under par. d, he or she shall give prompt notice to the licensee of the intent to revoke the license with an opportunity to appeal the revocation to the administrative review appeals board.

3. ICE CREAM PEDDLERS. a. Any person violating any of the provisions of s. 68-43 shall, upon conviction, be subject to a Class I penalty, as set forth in s. 61-15.

b. Any person licensed under s. 68-41 employing a person required to obtain a license under s. 68-43 who is not licensed, shall, upon conviction, be subject to a Class I penalty, as set forth in s. 61-15.

4. CERTIFIED FOOD MANAGERS. Any person violating s. 68-23-3-c shall, upon conviction, be subject to a Class I penalty, as provided in s. 61-15.

5. PEDDLING OF FOOD BY MINORS.

a. Any person violating s. 68-39 shall, upon conviction, be subject to a Class F penalty, as provided in s. 61-12.

b. Any person subject to sanction as a juvenile under this subsection shall not be subjected to a forfeiture or other penalty greater than that permitted by state law.

**For legislative history of chapter 68,
contact the Municipal Research Library.**

[Pages 165-180 are blank]

**CHAPTER 82
WEIGHTS AND MEASURES**

**TABLE
SUBCHAPTER 1
GENERAL REGULATIONS**

82-1	Peddlers and Transient Merchants
82-2	Use of False Weights and Measures; Penalty
82-3	Dry Commodity Standards
82-4	Standard Bushel
82-5	Packaged Food Articles
82-6	Sale of Milk and Cream in Bottles
82-7	Standard Barrels and Boxes
82-8	Standard Crates
82-9	Fruit and Berry Containers
82-10	Weight to Mean Net Weight
82-11	Grain Measure, Bushel
82-12	Sale of Fruits and Berries, Quality
82-13	Sale of Coal or Coke
82-14	Weighing or Measuring Device License
82-16	Sale of Firewood
82-19	Coin-in-the-slot Machine, Maintenance
82-20	Scanning Devices
82-22	Penalty, General

**SUBCHAPTER 2
WEIGHTS AND MEASURES PROGRAM**

82-41	Weights and Measures Program
82-45	Inspectors
82-47	Oath of Office
82-49	Duties of Inspectors
82-51	Official Standards of Weights and Measures
82-53	Inspection of Weights and Measures; Right of Entry
82-55	Procedure in Case of Violation of Laws; Sealing
82-57	Authority to Make Arrest; Badges
82-59	Alteration of Weights and Measures
82-61	Refusal to Exhibit Weights and Measures
82-63	Interference with Officers
82-65	Health Department Employees not to Vend Weights and Measures
82-67	Record of Weights and Measures Inspected; Reports

**SUBCHAPTER 1
GENERAL REGULATIONS**

82-1. Peddlers and Transient Merchants.

1. SCALES TO BE CHECKED. All itinerant peddlers and hawkers and all transient merchants shall, before making any use of any weights, scales, measures or weighing or measuring devices, cause the same to be taken to the office of the sealer of weights and measures and have the same adjusted and sealed annually with the seal for the year during which the same is to be used.

2. TO NOTIFY SEALER. Any person, firm or corporation who shall acquire or have in his or its possession, after this chapter shall take effect and be in force, any scales or weighing instruments or nonportable measures or measuring devices to be used in the sale or purchase of any article or thing for hire shall notify the sealer of weights and measures at his office that he has the same, giving a general description thereof, and the street and number of the place where same may be found. It shall be the duty of the sealer to acknowledge in writing forthwith the receipt of any such notice.

3. DEVICE SEALED. Any person, firm or corporation who shall acquire or have in his or its possession, after this chapter shall take effect and be in force, any portable measures or measuring devices to be used in the sale or purchase of any article or thing, or for hire, shall cause the same to be taken to the office of the sealer of weights and measures and shall not use the same until sealed by said sealer.

4. MOVING TO NEW LOCATION. Any person, firm or corporation who shall have in his or its possession any weighing or measuring device previously sealed and who shall move his or its place of business to a new location shall, at least 48 hours before using the said weighing or measuring devices at said new place of business, notify the sealer of weights and measures of his or its new business location. (File #46389, March 9, 1931.)

82-2 Weights and Measures

82-2. Use of False Weights and Measures; Penalty. Any person who, by himself or by his servant or agent, or as the servant or agent of another, shall use or retain in his possession any false weight or measure or any weight or measure or weighing or measuring device to be used in the buying or selling of any commodity or thing which has not been sealed by the sealer of weights and measures according to this chapter, or any person who, by himself or by his servant or agent, or as the servant or agent of another, shall use, with or without an intent to defraud, in the buying or selling of any commodity or thing any false, defective or inaccurate weighing or measuring device; or any person who, by himself or by his servant or agent, or as the servant or agent of another, shall, with or without an intent to defraud, sell or offer or expose for sale, or keep for the purpose of sale a lesser quantity of any commodity than the quantity he represents it to be; or who shall in the purchase or offer of purchase of any commodity or thing represent such commodity or thing to be of a lesser quantity than its true quantity; or who, by himself or by his servant or agent or as the servant or agent of another, shall use any false weight or measure in buying or selling any commodity or thing, or shall sell or offer for exchange for sale, or keep for the purpose of sale, any commodity in manner contrary to law or this chapter; or any person who, by himself or by his servant or agent, or as the servant or agent for another, shall sell or offer to sell or have in his possession for the purpose of selling, any device or machine to be used or calculated to falsify any weight or measure shall upon conviction forfeit to the city a penalty of not less than \$25, nor more than \$500. (*File #48-2621, Feb. 14, 1949.*)

82-3. Dry Commodity Standards. 1. BY BUSHEL. Whenever any of the articles or commodities mentioned in this section shall be sold in the city by the bushel or fractional part thereof, and no special agreement as to weight thereof shall be made in writing, the measure thereof shall be ascertained by avoirdupois weight and shall be computed as follows:

- a. 60 pounds for a bushel of wheat, peas, potatoes, clover seed, beans, alfalfa or alsike (clover).
- b. 56 pounds for a bushel of Indian corn, rye, lima beans, wrinkled peas, flaxseed, rutabagas or tomatoes.
- c. 54 pounds for a bushel of sweet potatoes.
- d. 50 pounds for a bushel of corn meal, rapeseed, millet seed, beets, green cucumbers, rye meal, carrots, buckwheat, hickory nuts, onions or fine salt.
- e. 48 pounds for a bushel of barley, peaches, pears or Hungarian grass seed.
- f. 14 pounds for a bushel of blue grass seed or red top seed.
- g. 46 pounds for a bushel of castor beans.
- h. 45 pounds for a bushel of timothy seed or rough rice.
- i. 44 pounds for a bushel of hemp seed, parsnips, apples or sea island cotton seed.
- j. 42 pounds for a bushel of turnips.
- k. 35 pounds for a bushel of cranberries.
- L. 34 pounds for a bushel of barley malt.
- m. 33 pounds for a bushel of dried peaches.
- n. 32 pounds for a bushel of oats or onion sets.
- o. 30 pounds for a bushel of upland cotton seed.
- p. 25 pounds for a bushel of dried apples.
- q. 20 pounds for a bushel of bran or shorts.
- r. 70 pounds for a bushel of coarse salt or lime.
- s. 80 pounds for a bushel of unslaked lime.
- t. 8 pounds for a bushel of plastering hair. For a fractional part of a bushel, a like fractional part of the above weights shall be required.

2. STANDARD DRY MEASURE. All dry commodities not otherwise specified in this section shall be bought or sold only by standard dry measures, standard weights or numerical count except where parties otherwise agree in writing. (*File #9722, Oct. 25, 1915.*)

82-4. Standard Bushel. The bushel in struck measure shall contain 2,150.42 cubic inches. The 1/2 bushel and parts thereof shall correspond in capacity to that of the bushel and shall be the standard measure for fruits, vegetables and other dry commodities customarily sold by heaped measure, in measuring such commodities; the 1/2 bushel or other smaller measure shall be heaped as high as may be without special effort or design. (*File #5723, Feb. 2, 1914.*)

82-5. Packaged Food Articles. 1. QUANTITY TO BE MARKED. All articles or food sold or exchanged, or kept, exposed or offered for sale or exchange within the city in package form shall have the same actual quantity of the contents plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count; reasonable variations shall be permitted from such stated weight, measure or numerical count in accordance with the tolerances and the rules and regulations established by the Wisconsin state department of agriculture, trade and consumer protection.

2. PENALTY. Any person violating this section shall forfeit a penalty of not less than \$25 nor more than \$500 for each offense. (*File #64-3148-a, Jan. 12, 1965.*)

82-6. Sale of Milk or Cream in Bottles.

1. STANDARD MEASUREMENTS.. Bottles or jars used for the sale of milk or cream shall be of the capacity of 1/2 gallon, 3 pints, one quart, one pint, 1/2 pint, one gill, when filled full to the bottom of the cap seat, stopple or other designating mark.

2. VARIATIONS. a. The following variations on individual bottles or jars may be allowed, but the average contents of not less than 25 bottles selected at random from at least 4 times the number tested must not be in error by more than 1/4 of the tolerances:

a-1. 6 drams above and 6 drams below on the 1/2 gallon.

a-2. 5 drams above and 5 drams below on the 3-pint.

a-3. 4 drams above and 4 drams below on the quart.

a-4. 3 drams above and 3 drams below on the pint.

a-5. 2 drams above and 2 drams below on the 1/2 pint.

a-6. 2 drams above and 2 drams below on the gill.

b. When milk or cream is pasteurized in the bottle in which it is to be sold or delivered, such bottle must have a capacity sufficient to permit of the expansion of the contents in the process of heating, but such bottle shall have clearly marked thereon by a line or other designating mark the points to which such bottle is filled when containing the respective capacities provided for in this section, at 68° F or 20° C.

3. SEALER. The sealer shall enforce the rules and regulations prescribed and adopted by the state superintendent of weights and measures and measures relating to the capacity of bottles used for the sale of milk and cream. Bottles or jars used for the sale of milk shall have clearly blown or otherwise permanently marked in the side of the bottle the capacity of the bottle and the word "sealed," and in the side or bottom of the bottle the name, initials or the trademark of the manufacturer and the designating number, as provided for in ch. 566, laws of Wisconsin, 1911.

5. COMPLIANCE. The sealer of weights or measures is not required to seal bottles or jars for milk or cream marked as provided in this section, but he shall from time to time make tests on individual bottles used by the various dealers in the city in order to ascertain whether the provisions [in this section] are being complied with. (*File #9722, Oct. 25, 1915.*

82-6-4 rp File #131559, 5/13/2014; eff. 7/1/2014/)

82-7. Standard Barrels and Boxes. 1. A liquid barrel shall contain 31-1/2 gallons and a hogshead, 2 barrels; aliquot parts of a barrel shall contain the proportionate number of gallons. A barrel for beer, ale, porter or other similar fermented liquors shall contain 31 gallons. Each gallon to contain 231 cubic inches; a 1/2 barrel 15-1/2 gallons; a 1/4 barrel 7-3/4 gallons; an 1/8 barrel 3-7/8 gallons. The capacities of the barrel and its subdivisions enumerated shall apply to all containers in which beer, ale, porter or other similar fermented liquors are commonly sold, known as barrels, kegs, casks, or any other container made of staves, hoops and flat heads.

82-8 Weights and Measures

2. A liquid gallon shall contain 231 cubic inches.
3. A barrel of flour measured by weight shall contain 196 pounds.
4. A barrel of potatoes or other vegetables shall be the same as the standard barrel for apples or pears or other fruits, as provided in sub. 6.
5. A barrel of unslaked lime shall contain 200 pounds.
6. The standard barrel for apples or pears or other fruit, unless otherwise specifically defined, shall have an inner capacity of 7,056 cubic inches and shall not be less than 26 inches between the heads inside; the diameter of the heads shall be 17-1/8 inches, including the beveled edge; the outside bilge or circumference shall not be less than 64 inches, the thickness of the staves being 4/10ths of an inch; provided, however, that any barrel of a different form but of an interior capacity of 7,056 cubic inches shall be a legal barrel.
7. The standard barrel for cranberries shall measure not less than 25-1/4 inches between the heads inside; the diameter of the head shall be 16-1/4 inches, including the beveled edge; the outside bilge, or circumference, shall measure not less than 58-1/2 inches, the thickness of the staves being 4/10th of an inch. But any barrel of different form, but of the same interior capacity, shall be considered a legal barrel. (*File #9722, Oct. 25, 1915.*)

82-8. Standard Crates. 1. A standard crate for apples, pears, plums, peaches and other fruits, not secondarily contained in quart or other boxes within such crate, shall have an interior capacity of not less than 2,150 cubic inches exclusive of cover. (*File #51-3300, Mar. 25, 1952.*)

2. A bushel crate of cranberries and blueberries shall have an interior capacity of one bushel struck measure.
3. All sales of blackberries, blueberries, currants, gooseberries, raspberries, cherries, strawberries and similar berries in quantities of less than one bushel shall be by the quart, pint, or 1/2 pint dry measure, and all berry boxes or baskets sold, used or offered for sale within the city shall be of the interior capacity of not less than one quart, one pint, or 1/2 pint dry measure.

4. All sales of fresh fruits or vegetables in containers of less than one bushel dry capacity measure shall be in containers of the standard capacity of one quart, 2 quarts, 3 quarts, 4 quarts, 5 quarts, 6 quarts, 8 quarts, 16 quarts, or 24 quarts standard dry measure, and such receptacles shall in fact contain the full capacity of such fresh fruits or vegetables, or if in other than standard containers, such receptacles for fresh fruits or vegetables shall be plainly and conspicuously marked to indicate the true net weight, measure or numerical count of such fruits or vegetables. (*File #9722, Oct. 25, 1915.*)

82-9. Fruit and Berry Containers.

1. **STANDARDS.** All contracts for the sale of fruits, berries or vegetables by the barrel or crate, unless otherwise expressly stipulated in writing, shall be construed to mean barrels or crates of the capacity herein prescribed. The sealer of weights and measures shall not be required to seal the containers designated in this section.
2. **FULL CAPACITY.** It shall be and is declared unlawful for any person or persons to sell, offer for sale or otherwise dispose of for profit, unless otherwise expressly stipulated in writing, any berries or fruit within the city unless the crates, baskets, boxes, barrels or packages wherein the same are contained shall be of full interior capacity required for sale in the state of Wisconsin.
3. **PENALTY.** Any person violating this section shall forfeit a penalty of not less than \$25 nor more than \$100; and the illegal crates, boxes, barrels, packages or baskets, and the fruit or vegetables contained may be confiscated. (*File #9722, Oct. 25, 1915.*)

82-10. Weight to Mean Net Weight. When any commodity is sold by weight it shall be understood to mean net weight, and all contracts concerning goods or commodities sold by weight shall be construed accordingly unless such construction would be manifestly inconsistent with the special agreement of the parties contracting. When any commodity is sold by the ton, it shall be understood to mean the net weight of 2,000 avoirdupois pounds unless such construction would be manifestly inconsistent with the special agreement of the parties contracting. (*File #5723, Feb. 2, 1914.*)

82-11. Grain Measure, Bushel. No person shall sell, buy or receive in store for profit any grain at any weight or measure per bushel other than the standard weight or measure per bushel fixed by law, unless otherwise expressly stipulated in writing, and for any violation hereof the offender shall forfeit not less than \$5 nor more than \$50. (*File #5723, Feb. 2, 1914.*)

82-12. Sale of Fruits and Berries, Quality. All fruits and berries, fresh or dried, sold or offered for sale in the city in packages, shall be of equally good quality in every part of the package. Any person violating this section shall upon conviction thereof be fined not less than \$5 nor more than \$25.

82-13. Sale of Coal or Coke. 1. REGULATIONS. It shall be unlawful to sell or offer to sell in the city any coal, charcoal or coke in any other manner than by weights.

a. Receipt Required. No person, firm or corporation shall deliver any coal, charcoal, or coke without each such delivery being accompanied by a delivery ticket and a duplicate thereof, on each of which shall be in ink, or other indelible substance, distinctly expressed in pounds, the gross weight of the load, the tare of the delivery vehicle, and the quantity or quantities of coal, charcoal or coke contained in the cart, wagon or other vehicle used in such deliveries, with the name of the purchaser thereof, and the name of the dealer from whom purchased. One of these tickets shall be surrendered to the sealer of weights and measures, or his deputy or inspectors, upon demand, for his inspection, and the duplicate ticket or weight slip issued by the dealer shall be delivered to said purchaser of said coal, or his agent or representative, at the time of the delivery of the fuel.

b. Carry Out Purchase; Content. When the buyer carries away the purchase, a delivery ticket showing the actual number of pounds delivered over to the purchaser must be given to the purchaser at the time the sale is made. No coal or coke shall be sold in the city which contains more water or other liquid substance than that due to the natural condition of the coal or coke at the time the weight is taken for the purpose of sale.

2. VERIFICATION OF WEIGHT. a. Whenever the sealer or his deputy or inspectors shall demand that the weight shown by any coal delivery ticket be verified, it shall thereupon become the duty of the persons, firm or corporation delivering such fuel to convey the same forthwith to the nearest public scale, to be selected by the sealer, or his deputy, or inspectors in the particular locality where the coal or coke is to be delivered, or to the nearest scale in the particular locality where the owner thereof shall consent to such use, and permit the weighing of the coal or coke, together with the conveyance and equipment for the purpose of ascertaining the gross weight thereof, and shall, after the delivery of such fuel, return forthwith with the conveyance and equipment used in the delivery of such coal or coke to the same scale and permit the weighing of the said conveyance and equipment for the purpose of verifying the net weight of the coal or coke as shown by said ticket.

b. When any coal or coke is sold in bags or packages of any kind, such bags or packages shall have plainly marked thereon the quantity contained therein. In the event that coal or coke is sold or offered for sale by a peddler, such peddlers shall deliver to the purchaser or intended purchaser, or to the sealer of weights and measures, or his deputy or inspectors, upon his demand, a delivery ticket bearing the name of such peddler, his license number, if any, and showing the net weight of the fuel sold or offered for sale.

3. PENALTY. Any person who, either as principal, agent or servant, shall deliver or attempt to deliver a less quantity of coal or coke than that shown upon the delivery ticket in sub. 1-a shall forfeit to the city a penalty of not less than \$25 nor more than \$200; and any person who shall violate any of the provisions of this section shall forfeit to said city a penalty of not less than \$25 nor more than \$100. (*File #5723, Feb. 2, 1914.*)

82-14. Weighing or Measuring Device License. 1. REQUIRED.

a. General. No person, firm or corporation may operate or maintain weights and

82-14-2 Weights and Measures

measures, weighing or measuring devices and systems and accessories relating thereto which are used commercially within the city in determining the weight, measure or count of commodities or cost of services or things bought or sold or offered or exposed for sale on the basis of weight, measure or count unless each such device is specifically licensed, is accurate and is operated in compliance with this section. No device may be operated without a current license and seal.

2. EXEMPTIONS. The following shall be exempt from the license requirement of this section:

b-1. A vehicle scale licensed under ch. ATCP 92.31, Wis. Adm. Code.

b-2. A public utility system that operates meters, other weighing and measuring devices and is regulated by the Wisconsin public service commission as set forth in s. 196.16, Wis. Stats.

b-3. Postal scales under the control of the state or federal government.

b-4. A vehicle tank meter licensed under ch. ATCP 92.50, Wis. Adm. Code.

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 license required under this section shall be accompanied by a completed plan of operation on a form provided therefor by the city clerk.

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. 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.

9. INVESTIGATION. Each application for a new license shall be referred to the commissioner of health in accordance with s. 85-21.

10. 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 permit 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, police 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.

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

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

13. TRANSFERABILITY. Licenses are not transferable between owners, meters, vehicles, vehicle scales or establishments. No device may be moved or transferred to another premises in the city and put into service, whether operated by the same owner or not, unless application is made first, a new fee paid and a license issued. See s. 85-19 for additional provisions relating to the transfer of a license and change of licensee names.

14. 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 commissioner of health. 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 an objection to renewal of the license, the procedure for considering the renewal application shall be as specified in ss. 85-3 to 85-5.

15. 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. *(History: Section 82-14 cr. File #84-1062, Nov. 13, 1984.*

82-14-1-a am. File #882269, May 16, 1989; eff. June 3, 1989.

82-14-1 am. File #910063, Jan. 21, 1992; eff. Feb. 7, 1992.

82-14-3 am. File #881803, Jan. 24, 1989; eff. Feb. 11, 1989.

82-14-3 m. File #882269, May 16, 1989; eff. June 3, 1989.

82-14-3-b cr. File #882269, May 16, 1989; eff. June 3, 1989.

82-14-5 am. File #130790, Nov. 1, 2013; eff. Jan. 1, 2014.)

82-14-5 am. File #160192, Sept. 20, 2016; eff. Oct. 7, 2016.

82-14 rc. File #131559, May 13, 2014; eff. Oct. 1, 2014.)

82-14-2-b-1 rc File #180529, July 31, 2018; eff. August 17, 2018.

82-14-2-b-4 rc File #180529, July 31, 2018; eff. August 17, 2018.

82-16. Sale of Firewood. 1. STANDARD CORD. The standard measurement of a cord of firewood is fixed and established at 128 cubic feet. (File #9722, Oct. 25, 1915.)

2. DELIVERY TICKET. It shall be unlawful to sell or offer for sale or expose for sale within the city any wood designed for fuel purposes in any other manner than by weight or measure. No person, firm or corporation shall deliver any firewood without such delivery being accompanied by a delivery ticket and duplicate thereof, which delivery ticket shall distinctly express in cords or fractional parts thereof or, if sold by weight, distinctly express in pounds the gross weight of the load, the tare of the delivery vehicle, the quantity or quantities of wood contained in the vehicle used in such deliveries, together with the name of the purchaser thereof and the name of the dealer from whom purchased. One of these tickets shall be tendered to the sealer of weights and measures or his deputies or inspectors upon demand for his inspection, and the duplicate ticket issued by the dealer shall be delivered to said purchaser of said wood or his agent or representative at the time of the delivery of the said wood. When the buyer carries away the purchase, a delivery ticket showing the actual number of pounds or cords or fractional parts of cords delivered over to the purchaser must be given to the purchaser at the time of the sale.

3. PENALTY. Any person, firm or corporation violating this section shall forfeit to the city a penalty of not less than \$25 nor more than \$100. (File #41176, Apr. 8, 1929.)

82-19. Coin-in-the-slot Machine, Maintenance.

1. TO BE KEPT IN WORKING ORDER. No person, firm or corporation shall erect, operate or maintain, or cause to be erected, operated or maintained, any coin

operated machine or automatic vending device without placing in charge thereof some person. The person in charge of such machine or device shall be held responsible for maintaining or operating, or causing to be maintained or operated, any such machine or device which is not in perfect working order. No such machine or device shall be maintained for use when the same is not in perfect working order. (File #73-2157, May 21, 1974.)

2. PLACARDING. a. Name of Owner, Person in Charge, etc. Except as otherwise specifically provided in pars. b and c, a placard shall be placed on every such machine or device in a conspicuous place which shall contain the name of the owner and the name of the person in charge, if different than the owner, of such machine or device including the current address of such persons and the telephone number at which the person in charge can be reached during normal daytime working hours and shall also state that the person in charge of such machine or device will refund to any person money deposited for which service has not been received, and it is made the duty of such person to do so. On premises having an attendant on duty at all times it is open to the public, the placard required above may, in lieu of stating a telephone number for refund purposes, state that the attendant may be contacted for reimbursements if the owner has authorized this practice. Such attendant must be easily identified and readily available. (File #75-1037, Sept. 30, 1975.)

b. Multiple Machines. Whenever multiple coin-operated machines are located in the same room and all such machines are owned or operated by the same owner or person in charge, one or more placards, containing the information required in par. a and which information is prominent and easily read from the entire working area of that room, may be posted and substituted for individual placards on each machine. (File #74-1946, May 6, 1975.)

c. Exception. An exception will be granted to the following types of establishments whereby the name and address of the owner or the person in charge referred to in par. a need not be posted, however the method for reimbursement and all other information required in par. a shall be posted: Self-service laundries as regulated in s. 75-1. (File #75-1037, Sept. 30, 1975.)

82-20 Weights and Measures

63. PENALTY. Any person, firm or corporation violating this section shall forfeit to the city a penalty of not less than \$10 nor more than \$100, and in default of payment thereof shall be imprisoned in the county jail or house of correction of Milwaukee county not less than 10 nor more than 30 days. (*File #73-2157, May 21, 1974*)

82-20. Scanning Devices. 1. LICENSE REQUIRED. All business establishments, stores, corporations or other parties selling goods or products shall obtain an annual license for each premises on which an electronic scanning device is used to determine or record the sale price of any item. Electronic scanning devices shall be subject to inspection prior to the issuance of a license and may be reinspected at such times as the department determines.

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

3. 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.

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

5. 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.

6. 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.

7. INVESTIGATION. Each application for a new license shall be referred to the commissioner of health in accordance with s. 85-21.

8. 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 permit 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.

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. 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 commissioner of health. 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 an 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. 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.

13. EMERGENCY SUSPENSION. The emergency suspension procedures of s. 75-23-19 may be applicable to a scanning device license if the situation warrants an emergency suspension. (*History: Section 82-20 cr. File #090259, July 28, 2009, eff. Jan. 1, 2010.*

Section 82-20 rc. File #131559, May 13, 2014; eff. Oct. 1, 2014.

Section 82-20-13 am. File #151320, Jan. 19, 2016; eff. Feb. 5, 2016.)

82-22. Penalty, General. Any persons or corporation who shall violate any of the provisions of this chapter for which a specific penalty is not hereinbefore imposed shall upon conviction thereof be punished by a fine of not less than \$10 nor more than \$500 for each offense, and in the default of payment thereof shall be imprisoned in the house of correction of Milwaukee county for not less than 10 nor more than 90 days. Any person convicted of the violation of any section of this chapter for which a specific penalty is provided in said section shall upon default of payment of such fine or penalty be imprisoned in the house of correction of Milwaukee county for not less than 10 nor more than 90 days. (*File #48-2622, Feb. 14, 1949.*)

SUBCHAPTER 2
WEIGHTS AND MEASURES PROGRAM

82-41. Weights and Measures Program. There is created in the health department a program which shall be known as the weights and measures program. The program shall be under the administrative control and direction of the commissioner of health. The commissioner shall have as assistants as many inspectors and such other assistants as the common council may from time to time determine.

(HISTORY: Section 82-41 m. from 2-170, File #881930, March 7, 1989; eff. March 25, 1989.

82-41 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-45. Inspectors. Inspectors shall be appointed by the commissioner of health pursuant to the civil service laws.

(HISTORY: Section 82-45 m. from 2-172, File #881930, March 7, 1989; eff. March 25, 1989.

82-45 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-47. Oath of Office. Each inspector shall, before entering upon their duties as an employee of the city, take the oath of office required by the city charter.

(HISTORY: Section 82-47 m. from 2-173, File #881930, March 7, 1989; eff. March 25, 1989.

82-47 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-49. Duties of Inspectors. The inspectors shall perform such duties as the commissioner of health shall direct.

(HISTORY: Section 82-49 m. from 2-174, File #881930, March 7, 1989; eff. March 25, 1989.

82-49 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-51. Official Standards of Weights and Measures. 1. The common council shall procure at the expense of the city and shall keep at all times a complete set of weights and measures, scales and beams in exact conformity with the state standards kept by the state superintendent of weights and measures, and the health department shall cause the same to be tried, proven, sealed and certified by the state superintendent of weights and measures. Said set of weights and measures, scales and beams shall be deposited with and preserved by the commissioner of health, and shall be the public standards for the city.

2. The weights and measures described by the laws of the state of Wisconsin are declared to be the standard weights and measures of the city.

(HISTORY: Section 82-51 m. from 2-176, File #881930, March 7, 1989; eff. March 25, 1989.

82-51 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-53. Inspection of Weights and Measures; Right of Entry. 1. RIGHT OF ENTRY. The commissioner of health shall have the power within the city to inspect, test, try and ascertain if they are correct, all weights, scales, beams, measures of every kind, instruments or mechanical devices for measurement, and tools, appliances or accessories connected with any or all such instruments or mechanical devices for measurement, kept, offered or exposed for sale or sold.

2. AUTHORITY TO TEST. The commissioner shall within the city inspect, try and ascertain if they are correct, all weights, scales, beams, measures of every kind, instruments or mechanical devices for measurement, and tools, appliances or accessories connected with any or all such instruments or mechanical devices for measurement, used or employed within the city by any owner, agent, lessee or employee in determining the weight, size, quantity, extent, area or measurement of persons, quantities, services, things, produce or articles of any kind offered for distribution, consumption, transportation, sale, barter, exchange, hire or award.

3. INSPECTION. a. The commissioner shall, as often as the commissioner may deem necessary, see that all weights, measures and weighing and measuring apparatus used in the city are correct. The commissioner and inspectors may, for the purpose stated in sub. 2, and in the performance of their official duties, with or without formal warrant, enter or go in or upon any stand, place, building or premises, and may stop any vendor, peddler, dealer or vehicle for the purpose of making the proper tests.

82-55 Weights and Measures

b. The commissioner shall from time to time weigh or measure and inspect packages or amounts of commodities of whatsoever kind, kept for the purpose of sale, offered or exposed for sale, or sold, or in the process of delivery, in order to determine whether the same contain the amounts represented and whether they be offered for sale or sold in a manner in accordance with the law.

(HISTORY: Section 82-53 rn. from 2-177, File #881930, March 7, 1989; eff. March 25, 1989.

82-53 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-55. Procedure in Case of Violation of Laws; Sealing. Whenever the commissioner of health finds a violation of the statutes or code provisions relating to weights and measures, the commissioner shall cause the violator to be prosecuted. Whenever an inspector compares weights and measures and finds that they correspond, or causes them to correspond with the standards in his possession, the inspector shall seal or mark the same with appropriate devices to be approved by the state superintendent of weights and measures. Inspectors shall condemn or seize, and may destroy incorrect weights and measures, and weighing or measuring instruments which cannot be repaired, or which have been falsified; and such as are incorrect and yet may be repaired, shall be marked or tagged as condemned for repairs, in a manner prescribed by the state superintendent of weights and measures. The owner thereof shall, within 10 days thereafter, have the same properly adjusted and sealed, and said inspectors may, at any time after the expiration of such period, seize or destroy all such weights, measures, weighing and measuring instruments which have not been corrected.

(HISTORY: Section 82-55 rn. from 2-178, File #881930, March 7, 1989; eff. March 25, 1989.

82-55 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-57. Authority to Make Arrest; Badges.

There is conferred upon the commissioner and inspectors police power, and in the exercise of their duties they shall wear badges bearing their photograph, name and official designation, and they are empowered and authorized to make arrests, with or without formal warrant, of any person violating the provisions of any statute or the code relating to weights and measures.

(HISTORY: Section 82-57 rn. from 2-179, File #881930, March 7, 1989; eff. March 25, 1989.

82-57 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000)

82-59. Alteration of Weights and Measures.

Every person who shall, with intent to use the same for weighing or measuring, alter or permit to be altered, or shall use or permit to be used after the same shall have been altered, any weight, measure, scale beam, steel yard, automatic or computing scale, or other instrument for weighing or measuring, after the same shall have been tested, marked and sealed as aforesaid, which by reason of such alteration shall not conform to the city standards, shall upon conviction be punished by a fine of not less than \$25 nor more than \$100, and every person who shall alter or detach any seal or tag impressed or attached by the inspectors shall upon conviction thereof be punished by a fine of not less than \$5 nor more than \$100.

(HISTORY: Section 82-59 rn. from 2-180, File #881930, March 7, 1989; eff. March 25, 1989.

82-59 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-61. Refusal to Exhibit Weights and Measures.

Any person who shall refuse to exhibit any weight, measure, scale, scale beam, patent balance, steel yard, automatic or computing scale or other instrument used for weighing or measuring to said inspectors, for the purpose of having it inspected and examined, shall forfeit a penalty of not less than \$5 nor more than \$100 for each offense.

(HISTORY: Section 82-61 rn. from 2-181, File #881930, March 7, 1989; eff. March 25, 1989.

82-61 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-63. Interference with Officers. Any person who shall in any way or manner impersonate, obstruct, hinder or molest the inspectors in the performance of their duties shall forfeit a penalty of not less than \$10 nor more than \$100 for each offense.

(HISTORY: Section 82-63 rn. from 2-182, File #881930, March 7, 1989; eff. March 25, 1989.

82-63 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

82-65. Department Employees not to Vend Weights and Measures. It shall be unlawful for the commissioner of health or any person employed in the department to vend any weights, measures, scales, scale beams, patent balances, steel yards, automatic or computing scales, or other instruments to be used for the purpose of weighing or measuring, or to offer or expose the same for sale, or be interested directly or indirectly in the sale of the same in the city under a penalty of \$50 for every such offense.

(HISTORY: Section 82-65 m. from 2-183, File #881930, March 7, 1989; eff. March 25, 1989.

82-65 am. File #961523, Feb. 11, 1997; eff. Feb. 28, 1997.

82-65 am. File #980963, Dec. 18, 1998; eff. Jan. 1, 1999.)

82-67. Record of Weights and Measures Inspected; Reports. It shall be the duty of the commissioner of health to keep a record of all weights, measures, scales, scale beams, patent balances, steel yards, computing and automatic scales, and other instruments used for weighing or measuring, inspected by the commissioner, in which the commissioner shall state the name of the owner of the same and whether they are conformable to the city standards. The commissioner shall also keep a complete record of the work done by the commissioner and the inspectors.

(HISTORY: Section 82-67 m. from 2-184, File #881930, March 7, 1989; eff. March 25, 1989.

82-67 am. File #991247, Nov. 29, 1999; eff. Jan. 1, 2000.)

Subch. 2 rp. File #180529, July 31, 2018; eff. August 17, 2018.

Subch. 3 m to Subch. 2 File #180529, July 31, 2018; eff. August 17, 2018.)

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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

84-7. 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.

84-10 Miscellaneous Licenses

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. 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. 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.

Miscellaneous Licenses 84-20

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. **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.

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.

84-20-1.5 Miscellaneous Licenses

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

Miscellaneous Licenses 84-20-5

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.

84-20-7 Miscellaneous Licenses

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

84-45 Miscellaneous Licenses

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.

Miscellaneous Licenses 84-49

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.

84--Miscellaneous Licenses

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

Pages 308 to 322 blank.

CHAPTER 85
LICENSE AND PERMIT PROCEDURES

TABLE

SUBCHAPTER 1
PROCEDURES FOR COMMITTEE HEARINGS
AND COMMON COUNCIL REVIEW

85-1	Purpose and Scope
85-2	Definitions
85-2.5	Notice of Hearing Upon Council Member Request
85-2.7	Hearing Procedure, New License
85-3	Notice and Service
85-4	Hearing Procedure; Non-Renewal Suspension or Revocation
85-5	Council Action

SUBCHAPTER 2
ADMINISTRATIVE PROCEDURES
APPLICABLE TO LICENSE AND
PERMIT APPLICATIONS

85-11	Purpose and Scope
85-12	Contents of Application
85-12.5	Issuance of License or Permit; Duplicate Required
85-12.7	Scheduling of Committee Hearing
85-13	Disqualification for License
85-14	Insurance Required
85-15	Change of Circumstances
85-17	Request to Surrender a License
85-18	License or Permit Not Issued
85-19	Transfer of License or Permit or Change of Name
85-20	Provisional Renewal Licenses
85-21	Fingerprinting and Investigation Required
85-23	Maximum Authorized Occupancy for Certain Licensed Establishments
85-24	Issuance and Transfer of License
85-25	Display of License or Permit
85-26	Application for Renewal
85-27	Revocation of Licenses
85-29	Discrimination by License Holders
85-30	Collusive Agreements Prohibited
85-32	Operation of Public Utilities on Licensed Premises
85-34	Truth of Statements and Affidavits
85-35	Changes to Application
85-37	Changes to Plan of Operation, Permanent
85-39	Changes to Plan of Operation, Temporary
85-41	Penalty, General

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 nonrenewal, 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.

85-4 License and Permit Procedures

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.

85-5 License and Permit Procedures

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.

85-12.7 License and Permit Procedures

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.

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

85-18 License and Permit Procedures

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.

85-23 License and Permit Procedures

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

85-29 License and Permit Procedures

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.

85-39-5 License and Permit Procedures

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.

85 - - License and Permit Procedures

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