



Legislation Details (With Text)

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Date	Ver.	Action By	Action	Result	Tally
3/4/2014	0	COMMON COUNCIL	ASSIGNED TO		
4/4/2014	0	LICENSES COMMITTEE	HEARING NOTICES SENT		
4/8/2014	0	LICENSES COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	5:0
4/22/2014	0	COMMON COUNCIL	PASSED	Pass	14:0
4/28/2014	0	MAYOR	SIGNED		
5/8/2014	0	CITY CLERK	PUBLISHED		

131502
ORIGINAL

THE CHAIR
An ordinance relating to licensing procedures.

- 68-21-10 rc
- 81-4-2-c rp
- 81-22-3 rp
- 81-23-4 rp
- 81-24-3 rp
- 81-26-4 rp
- 81-27-4 rp
- 81-30.5-3 rp
- 81-70-1-a rc
- 81-78-7 rp
- 81-93-2 rc
- 81-101.2-1-c rp
- 81-104.6-3 rp
- 81-131.5 rp
- 84-7-10 rc
- 84-33-10 rc
- 84-45-6 rc
- 84-45-7 rp

85-1-1 am
85-2.7 cr
85-4-0 am
89-7-3-b rc
89-7-3-c rp
89-7-3-d rp
89-7-3-e rp
89-7-3-f rp
89-7-3-g rp
89-7-3-h rp
89-7-5 rp
89-9-3 rc
89-9-4 rp
92-2-5-a am
92-3-5-b rc
92-3-5-c rp
92-3-5-d rp
92-3-5-e rp
92-3-5-f rp
92-3-5-g rp
92-3-5-h rp
93-9 rc
95-14-6 rc
95-14-7 rp
100-50-9 rc
100-54-8 rc
107-13-4 rc
108-7-1 rc
275-20-5 rc

This ordinance repeals individually-specified transfer fees for various license types. The standard license transfer fee of \$25 shall apply to these licenses.

This ordinance also creates standard licensing committee hearing procedures that shall apply to applications for new licenses of all license types unless license-specific procedures are set forth elsewhere in the code. In conjunction with the establishment of these standard procedures, the ordinance repeals new-license hearing procedures for various types of licenses: food dealer, extended hours establishment, professional photographer, filling station, escort service, escort, secondhand dealer, junk collector/dealer, secondhand motor vehicle sales, auto wrecker, home improvement contractor/salesperson, public passenger vehicle, public passenger vehicle driver, amusement machine or jukebox distributor, public entertainment premises, and licensed dwelling facility.

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

Part 1. Section 68-21-10 of the code is repealed and recreated to read:

68-4. Food Dealer License.

10. PROCEDURE FOR DENIAL OR NONRENEWAL OF LICENSE. If there is an objection to an application for a new or renewal license, the application shall be subject to common council review

and approval in accordance with the provisions of ss. 85-2.7 to 85.5.

Part 2. Section 81-4-2-c of the code is repealed.

(Note: The provision being repealed reads as follows:

81-4. Amusement Machine or Jukebox Distributor License.

2. The following fees shall be paid:

c. Transfer of amusement machine or jukebox distributor license:\$20.)

Part 3. Section 81-22-3 of the code is repealed.

(Note: The provision being repealed reads as follows:

81-22. Class “A” Fermented Malt Beverage Retailer’s License (Package Store).

3. The fee to transfer a license shall be \$10.)

Part 4. Section 81-23-4 of the code is repealed

(Note: The provision being repealed reads as follows:

81-23. Class “A” Retailer’s Intoxicating Liquor License.

4. The fee to transfer a license shall be \$10.)

Part 5. Section 81-24-3 of the code is repealed.

(Note: The provision being repealed reads as follows:

81-24. Class “B” Fermented Malt Beverage Retailer’s License.

3. The fee to transfer a license shall be \$10.)

Part 6. Section 81-26-4 of the code is repealed.

(Note: The provision being repealed reads as follows:

81-26. Class “B” Retailer’s Intoxicating Liquor License.

4. The fee to transfer a license shall be \$10.)

Part 7. Section 81-27-4 of the code is repealed.

(Note: The provision being repealed reads as follows:

81-27. Class “B” Retailer’s Service Bar License.

4. The fee to transfer a license shall be \$10.)

Part 8. Section 81-30.5-3 of the code is repealed.

(Note: The provision being repealed reads as follows:

81-30.5. Class “C” Wine Retailer’s License.

3. The fee to transfer a license shall be \$10.)

Part 9. Section 81-70-1-a of the code is repealed and recreated to read:

81-70. Loading Zone Permit.

1.

a. Any renewal application filed after the permit expiration date shall be subject to the late filing fee specified in s. 81-1-5.

Part 10. Section 81-78-7 of the code is repealed.

(Note: The provision being repealed reads as follows:

81-78. Newspaper Vending Box Permit.

7. The fee for transferring a newspaper box from one location to another location shall be \$35.)

Part 11. Section 81-93-2 of the code is repealed and recreated to read:

81-93. Photographer’s License, Professional.

2. The license fee for each separate place of business operated in connection with the occupation of a professional photographer shall be \$100.

Part 12. Section 81-101.2-1-c of the code is repealed.

(Note: The provision being repealed reads as follows:

81-101.2. Public Entertainment Premises License.

1. REGULAR LICENSE.

c. The fee for the transfer of a license shall be \$125.)

Part 13. Section 81-104.6-3 of the code is repealed.

(Note: The provision being repealed reads as follows:

81-104.6. Secondhand Motor Vehicle Dealer's License.

3. The fee for a license transferred from one premises to another shall be \$50.)

Part 14. Section 81-131.5 of the code is repealed.

(Note: The provision being repealed reads as follows:

81-131.5. Vehicle Replacement Fee. The fee for each public passenger vehicle transfer shall be \$125.

(See s. 100-50-8.))

Part 15. Section 84-7-10 of the code is repealed and recreated to read:

84-7. Extended Hours Establishments.

10. INVESTIGATION AND COMMON COUNCIL ACTION; APPLICATION FOR NEW LICENSE. Each application for a new license shall be referred to the chief of police, the commissioner of neighborhood services and the commissioner of health, each of whom shall cause an investigation to be made and report his or her findings to the licensing committee. If no objection to the granting of a license is filed with the city clerk, the license application shall be forwarded to the common council for approval. The common council may grant an extended hours establishment license prior to issuance of an occupancy certificate, but the extended hours establishment license shall not be issued until proof of the issuance of the occupancy certificate is provided. If an objection to the granting of the license is filed with the city clerk, the application shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 and 85-5.

Part 16. Section 84-33-10 of the code is repealed and recreated to read:

84-33. Professional Photographer.

10. COMMON COUNCIL ACTION; APPLICATION FOR NEW LICENSE. An application for a new professional photographer license shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 and 85-5. The common council may grant a professional photographer's license prior to issuance of an occupancy certificate, but the license shall not be issued until proof of the issuance of the occupancy certificate is provided.

Part 17. Section 84-45-6 of the code is repealed and recreated to read:

84-45. Filling Stations.

6. PROCEDURE FOR DENIAL OR NON-RENEWAL OF LICENSE. If there is an objection to an application for a new or renewal license, the commissioner shall so notify the city clerk. In the case of an application for a new license, the application shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 and 85-5. In the case of an application for renewal, the application shall be subject to common council review and approval in accordance with the provisions of ss. 85-3 to 85-5.

Part 18. Section 84-45-7 of the code is repealed.

Part 19. Section 85-1-1 of the code is amended to read:

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.

Part 20. Section 85-2.7 of the code is created to read:

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 3 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 3 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 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, if any, but shall not include the content of any music.
- 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. BASIS FOR RECOMMENDATION. The recommendations of the committee regarding the applicant shall not be based on evidence presented at the hearing related to type or content of any music.

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.

Part 21. Section 85-4-0 of the code is amended to read:

85-4. Hearing Procedure >> Non-Renewal, Suspension or Revocation<< .

Part 22. Section 85-4-4-c-0 of the code is amended to read:

4. GROUNDS FOR NON-RENEWAL, SUSPENSION OR REVOCATION.

c. If the activities of the applicant involve a licensed ~~[[premise, having]]~~ >>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:

Part 23. Section 89-7-3-b of the code is repealed and recreated to read:

89-7. Application for Escort Service License.

3. INVESTIGATION; HEARING.

b. An application for an escort service license shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 and 85-5.

Part 24. Section 89-7-3-c to h of the code is repealed.

Part 25. Section 89-7-5 of the code is repealed.

Part 26. Section 89-9-3 of the code is repealed and recreated to read:

89-9. Application for Escort License.

3. INVESTIGATION; COMMON COUNCIL ACTION. Each application for an escort license shall be referred to the chief of police, who shall cause an investigation to be made and report his or her findings to the common council licensing committee. The application shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 and 85-5.

Part 27. Section 89-9-4 of the code is repealed.

Part 28. Section 92-2-5-a of the code is amended to read:

92-2. Secondhand Dealer's License.

5. ISSUANCE; TERMS.

a. The common council may authorize or deny the license >>in accordance with the appropriate provisions of ss. 85-2.7 to 85.5<< .

Part 29. Section 92-3-5-b of the code is repealed and recreated to read:

92-3. Junk Collectors and Dealers.

5. INVESTIGATION; HEARING.

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

Part 30. Section 92-3-5-c to h of the code is repealed.

Part 31. Section 93-9 of the code is repealed and recreated to read:

93-9. Common Council Action; Application for New License. An application for a new license of a type issued under this chapter shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 and 85-5.

Part 32. Section 95-14-6 of the code is repealed and recreated to read:

95-14. Home Improvement Contractor and Salesperson Licenses.

6. INVESTIGATION AND COMMON COUNCIL ACTION; APPLICATION FOR NEW LICENSE. Each license application shall be referred to the chief of police, who shall cause an investigation to be made and report his or her findings to the city clerk. If the chief files no written report summarizing the arrests and convictions of the application which could form a basis for denial, the city clerk shall issue the license. If the chief files a written report summarizing the arrests and convictions of the applicant which could form a basis for denial, the application shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 and 85-5.

Part 33. Section 95-14-7 of the code is repealed.

Part 34. Section 100-50-9 of the code is repealed and recreated to read:

100-50. Public Passenger Vehicle Permits.

9. COUNCIL ACTION. If the chief of police files no written report summarizing the arrests and convictions of the applicant which could form a basis for denial, the city clerk shall issue the permit in accordance with sub. 11. If the chief of police files a written report summarizing the arrests and convictions of the applicant which could form a basis for denial, the application shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 and 85-5.

Part 35. Section 100-54-8 of the code is repealed and recreated to read:

100-54. Public Passenger Vehicle Driver's License.

8. COMMON COUNCIL ACTION; APPLICATION FOR NEW LICENSE. If the police chief files no objection to an application for a new license, the city clerk shall issue the license in accordance with sub. 9. If the police chief files an objection, the application shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 and 85-5.

Part 36. Section 107-13-4 of the code is repealed and recreated to read:

107-13. Amusement Machine or Jukebox Distributor License.

4. COMMON COUNCIL ACTION; APPLICATION FOR NEW LICENSE. An application for a new amusement machine or jukebox distributor license shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 and 85-5.

Part 37. Section 108-7-1 of the code is repealed and recreated to read:

108-7. Issuance of License.

1. COMMON COUNCIL ACTION; APPLICATION FOR NEW LICENSE. An application for a new public entertainment premises license shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 and 85-5.

Part 38. Section 275-20-5 of the code is repealed and recreated to read:

275-20. Licensing of Licensed Dwelling Facilities.

5. OBJECTION TO NEW LICENSE; COMMITTEE ACTION. A sworn written objection to issuance of a new licensed dwelling facility license may be filed with the city clerk by the chief of police, local common council member, commissioner of health, commissioner of neighborhood services or any interested party, provided that the objection is filed no later than 30 calendar days following submission of the application to the commissioner. When an objection is filed, the city clerk shall notify the commissioner of such objection and the licensing committee shall hold a hearing on whether or not to grant the license in accordance with the provisions of s. 85-2.7.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

City Clerk

LRB149684-1

Jeff Osterman

02/07/2014

clerical correction -- 9/4/2015 -- lp