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Title: A substitute ordinance relating to the procedures for the licensing of licensed dwelling facilities.

Sponsors: ALD. MURPHY

Indexes: LICENSED DWELLINGS

Attachments: 1. Hearing Notice List, 2. Notice Published on 10-10-13

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6/11/2013	0	COMMON COUNCIL	ASSIGNED TO		
7/22/2013	1	CITY CLERK	DRAFT SUBMITTED		
9/5/2013	1	LICENSES COMMITTEE	HEARING NOTICES SENT		
9/5/2013	1	LICENSES COMMITTEE	HEARING NOTICES SENT		
9/10/2013	1	LICENSES COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	4:0
9/24/2013	1	COMMON COUNCIL	PASSED	Pass	15:0
9/27/2013	1	MAYOR	SIGNED		
10/10/2013	1	CITY CLERK	PUBLISHED		

130299
SUBSTITUTE 1

ALD. MURPHY

A substitute ordinance relating to the procedures for the licensing of licensed dwelling facilities.

275-20-3-0 am

275-20-4 am

275-20-5-0 am

275-20-5-a-1 am

275-20-5-a-3 rp

275-20-5-c-1-0 am

275-20-6-0 am

275-20-6-a am

275-20-6-c am

275-20-6-f rp

275-20-7-p rp

275-20-7-q rp

275-20-8 cr

275-20-8.2 cr

275-20-8.5 cr

275-20-9 rc

This ordinance revises the procedures for the licensing of licensed dwelling facilities, including application procedures for both new and renewal licenses, objection procedures, and the procedures for granting, denying, not renewing, suspending and revoking licenses. This revision is primarily for the purpose of clarifying the procedures (e.g., to distinguish between new-license procedures and renewal-license procedures) and to eliminate redundant and inconsistent code provisions.

This ordinance also makes a number of minor substantive changes to the licensing procedures:

1. The deadline for filing a written objection to issuance of a new license is changed from 14 days after submission of the license application to the commissioner of neighborhood services to 30 days.
2. Application for renewal shall be made no later than 120 days prior to the expiration of a license, rather than no later than 90 days before expiration.
3. The investigation conducted by the chief of police following receipt of a new or renewal license application shall include not only an investigation of the applicant, but an investigation of calls for service and incidents of criminal activity at the premises to be licensed.

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

Part 1. Section 275-20-3-0 of the code is amended to read:

275-20. Licensing of Licensed Dwelling Facilities.

3. APPLICATION >> NEW LICENSE<< . Application for a >>new licensed dwelling facility<< license shall be made to the commissioner upon forms furnished by the commissioner. The building owner or operator shall file with the license application an approved occupancy permit issued by the commissioner for the operation of the licensed dwelling facility >>, as well as the license fee specified in s. 200-33<< . ~~[[The]]~~ >>Application<< forms shall contain the following information:

Part 2. Section 275-20-4 of the code is amended to read:

4. INVESTIGATIONS TO BE MADE >> NEW LICENSE<< . ~~[[License applications]]~~ >>An application for a new license<< shall be referred by the commissioner to the chief of police, the ~~[[concerned]]~~ >>local<< common council member and the commissioner of health. The commissioner of neighborhood services shall investigate the dwelling facility to be licensed, and the commissioner of health shall inspect departmental records to determine if there are any outstanding health violations at the dwelling facility to be licensed. The chief of police shall investigate the applicant, operator, the local representative of the applicant, all partners or limited partners of a partnership or limited partnership and all of the officers and directors of a corporation. >>The chief of police shall also investigate the calls for service and incidents of criminal activity at the premises to be licensed.<< The commissioner of health and chief of police shall report their findings to the commissioner of neighborhood services. ~~[[However, if]]~~ >>If<< as a result of such investigation, the commissioner of neighborhood services, commissioner of health or chief of police objects to issuance of a license, the report shall also be submitted to the licensing committee.

Part 3. Section 275-20-5-0 and a-1 of the code is amended to read:

5. OBJECTION >> TO NEW LICENSE<< ; COMMITTEE ACTION. a. Notice. a-1. 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 ~~[[such]]~~ >>the<< objection is filed no later than ~~[[14]]~~ >>30<< calendar days following >>submission of the<< application ~~[[with]]~~ >>to<< the commissioner. ~~[[The]]~~ >>When an objection is filed, the<< city clerk shall notify the commissioner of such objection ~~[[.The]]~~ >>and the<< licensing committee shall hold a hearing on whether or not to ~~[[issue each new]]~~ >>grant the<< license. No hearing shall be ~~[[heard]]~~ >>held<< unless the city clerk's office has provided written notice to the applicant of the hearing and the basis of any objection. The notice shall be served upon the applicant by United States first class prepaid mail at least 5 business days prior to the date set for the hearing.

Part 4. Section 275-20-5-a-3 of the code is repealed.

(Note: The provision being repealed reads as follows:

a-3. If it appears for the first time at the hearing that there will be objections, the matter shall be laid over until the next meeting, prior to which proper notice will be given.)

Part 5. Section 275-20-5-c-1-0 of the code is amended to read:

c. Recommendations.

c-1. The recommendations of the committee regarding the ~~[[applicant]]~~ >>granting of the license<< 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:

Part 6. Section 275-20-6-0, a and c of the code is amended to read:

6. ~~[[NEW LICENSES]]~~ >>ISSUANCE; NEW LICENSE<< . a. Issuance ~~[[of Licenses]]~~ >>; **No Objection<< .** Whenever there is no objection to issuance of a license by any party, the commissioner shall issue a license to the person, firm or corporation applying therefor.

c. License Requirements. ~~[[In addition to payment of the license fee specified in s. 200-33, the]]~~ >> **The<<** license shall be issued >>only<< when the building, structure or premises for which the license is sought ~~[[shall conform]]~~ >>conforms<< in all respects to the provisions of this section and to the laws of this state and the ordinances of the city applying to such building, structures or premises.

Part 7. Section 275-20-6-f of the code is repealed.

(Note: The provision being repealed reads as follows:

f. License Fee. See s. 200-33 for the required license fee.)

Part 8. Section 275-20-7-p and q of the code is repealed.

Part 9. Section 275-20-8, 8.2 and 8.5 of the code is created to read:

8. RENEWAL OF LICENSE. a. Deadline for Application Submittal. Application for renewal shall be made no later than 120 days prior to the expiration of a license. An applicant shall be notified on the

renewal form that a license may lapse if application for renewal is not made at least 120 days prior to expiration of the license. If any license lapses, no activities for which a license is required shall be conducted at the dwelling facility until the common council grants and the commissioner issues another license for the licensed dwelling facility.

b. Application. Application for the renewal of a license issued under this section shall be made to the commissioner upon forms provided by the commissioner. The commissioner shall refer the application to the chief of police, commissioner of health and local common council member.

c. Investigation. The chief of police shall investigate the applicant, the operator, the local representative of the applicant, all partners or limited partners of a partnership or limited partnership and all of the officers and directors of a corporation. The chief of police shall also investigate the calls for service and incidents of criminal activity at the premises to be licensed. The commissioner of health and chief of police shall report their findings to the commissioner of neighborhood services. If, as a result of the investigation, the commissioner of neighborhood services, commissioner of health or chief of police objects to issuance of a license, the reports shall also be submitted to the licensing committee.

d. Objection. A sworn written objection to renewal of a 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 such objection is filed at least 60 days prior to the expiration of the license. Any objection to renewal of a license issued under this section shall be based on reasons specified in sub. 8.5.

e. Committee Hearing. If an objection to renewal of a license is filed in a timely manner, the licensing committee shall hold a hearing concerning possible non-renewal of the license in accordance with the provisions of sub. 9 prior to recommending any action to the common council. The hearing shall be held so that common council action can be completed before expiration of the current license, unless the application for renewal is late under the terms of par. b.

f. Issuance. If there is no objection to renewal of a license, or if there is an objection but the common council decides to grant renewal of the license, the commissioner shall issue the license.

8.2. SUSPENSION OR REVOCATION OF LICENSE. Any license issued under this section may be revoked or suspended for cause by the common council.

Proceedings for the suspension or revocation of a licensed dwelling facility license may be initiated by the chief of police, local common council member, commissioner of health, commissioner of neighborhood services or any interested party. Written charges shall be verified and filed with the city clerk by the person bringing the complaint.

8.5. CAUSES FOR NONRENEWAL, SUSPENSION OR REVOCATION. A license issued under this section may be denied renewal, suspended or revoked for cause by the common council for any of the following reasons:

a. A conviction of the licensee, the licensee's agent, manager, operator or any other employe for keeping a gambling house or house of prostitution or for any violation of law, the circumstances of which are substantially related to the circumstances of the operation of the licensed dwelling facility.

- b. The licensed dwelling facility is operated in such a manner that it generates complaints from neighbors or residents relating to, but not limited to, loud and raucous noise, undesirable activities of residents or guests of residents, and has a substantial adverse effect upon the health, safety, convenience or property interests of the surrounding neighborhood.
- c. The conviction of the licensee, local representative of the licensee or the officers or directors of a corporation, or any employee for any felony, misdemeanor or civil forfeiture the circumstances of which substantially relate to the operation of the licensed dwelling facility.
- d. The police department receives calls for service at the licensed dwelling facility for such reasons and in such numbers as to indicate the dwelling facility constitutes a threat to the health, safety, convenience or property interests of the surrounding neighborhood.
- e. The licensed dwelling facility is in violation of this code or has had separate orders to correct violations issued on substantially the same code violations within an 18-month period.
- f. The licensed dwelling facility is operated in such a manner that it constitutes a public or private nuisance or that conduct on or by the residents and guests of the licensed premises has had a substantial adverse effect upon the health, safety, convenience or property interests of the immediate neighborhood.
- g. The licensed building, structure or licensed dwelling facility does not conform or has not conformed in all respects to the building and zoning code, the Wisconsin Administrative Code, and all other ordinances, laws and lawful orders relating to the construction, maintenance, use or occupancy of such building, structure or premises.
- h. The licensee, any employee, resident or guest of a resident of the licensee has had persons who, while going to, remaining at, or leaving that premises, violates any laws of the United States, state of Wisconsin or ordinances of the city.
- i. The licensee, any employee, resident or guest of a resident of the licensed dwelling facility has had persons who have generated nuisances or engaged in disorderly conduct or disturbance of the peace while going to, remaining at or leaving the licensed dwelling facility.
- j. The license was procured by fraudulent conduct or false statement of a material fact.
- k. The licensed dwelling facility is housing more residents than can be conveniently and appropriately housed and has an adverse effect on the public health safety, welfare or property interests of the adjoining property owners.

Part 10. Section 275-20-9 of the code is repealed and recreated to read:

9. PROCEDURE FOR NON-RENEWAL, SUSPENSION OR REVOCATION OF LICENSE. a. Due Process and Common Council Review. If objection to renewal of a licensed dwelling facility license is filed pursuant to sub. 8-c or suspension or revocation proceedings are initiated in accordance with sub. 8.2, the procedures for notice and committee hearing and for the committee report, recommendations and common council consideration provided in ss. 85-3 to 85-5 shall apply.

b. Evidence and Committee Recommendation. Notwithstanding the provisions of s. 85-4-4, the recommendation of the committee may also be based upon evidence of any of the causes for suspension or revocation of a license set forth in sub. 8.5.

c. Suspension Period. A license may be suspended for not less than 5 calendar days nor more than 120 calendar days, with the suspension taking effect 60 days following the final action of the common council.

d. Effective Date of Revocation. Revocation of a license shall take effect 60 days following the final action of the common council.

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: _____

LRB147210-2

Jeff Osterman

06/19/2013