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080009
SUBSTITUTE 1

THE CHAIR
A substitute ordinance relating to standardizing license and permit procedures for hearings and appeals.
68-4-3-a am
68-4-10-a am
68-4-10-d am
68-4-10-e am
68-4-10-f am
68-4-14 am
68-4-15 rc
68-4-16 am
84-7-12-b rc
84-7-14 rc
84-40-12-b rc
84-40-12-c rp
84-40-12-d rn
84-40-12-e rn

84-40-13-c rc
84-40-13-d rp
84-40-13-e rp
84-40-13-f rp
84-40-14 rc
84-45-4-b-7 am
84-45-6-a am
84-45-6-d am
84-45-6-e rc
84-45-6-f rc
84-45-6-g rp
84-45-6-h rn
84-45-11 am
84-45-12 rc
84-45-13 am
84-45-15 am
85 cr
89-23-2 rc
89-23-3 rp
89-23-4 rp
89-23-5 rp
89-23-6 rp
89-23-7 rp
90-4-7-g-1 am
90-4-7.8-d am
90-4-7.8-e am
90-10-8-b am
90-11-2-a-1 am
90-11-2-c-2 am
90-11-2-d-2 am
90-11-2-d-3 am
90-11-3-a am
90-12-5-c-2 rc
90-12-5-c-3 rc
90-12-5-d-1 rc
90-12-7-a am
90-13 am
90-35-3-b am
90-35-4-a am
90-35-4-b am
90-35-9-a am
90-35-11-a am
92-3-5-0 am
92-3-5-a am
92-3-9-b rc
92-3-9-c rc
92-3-9-d rc
92-3-9-e cr
92-3-9-f cr

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93-7-5 am
93-11 rc
93-13 rp
95-14-6 am
95-14-9-0 rc
95-14-9-b rc
95-14-9-c rc
95-14-9-d rc
95-14-9-e rc
95-14-9-f cr
95-14-9-g cr
95-14-9-h cr
95-14-10 rp
95-14-11 rp
100-50-16 rc
100-54-7 rc
101-23.7-5-c-0 am
101-23.7-7-a am
101-23.7-7-b rc
101-23.7-8 rc
101-23.7-9 rc
101-23.7-10 am
105-75-7-b rc
105-75-7-c rc
105-75-7-d rc
105-75-7-e rp
105-75-8 rc
105-75-9 rp
108-5-3-b-11 am
108-9-2 rc
108-11-1 rc
108-11-4 cr
108-11-5 cr
108-13 rp
275-20-3-e am
275-20-4 am
275-20-5-a-1
275-20-6-b am
275-20-7-p-3 am
275-20-9 rc
275-20-10 am

This ordinance amends various code provisions to clarify and make consistent the procedures of licensing committees and the common council in matters involving license and permit applications, renewals, non-renewals, suspensions and revocations.

The proceedings affected by these changes include the denial of a food dealer license and the non-renewal, revocation or suspension of the licenses of: food dealers, extended hours establishments, shows and exhibitions, filling stations, escorts and escort services, alcohol beverage establishments,

junk collectors and junk dealers, secondhand motor vehicle and auto wreckers, home improvement contractors and salespersons, public passenger vehicle drivers, alarm businesses, dance halls and dwelling facilities. Procedures relating to the non-renewal or revocation of loading and unloading zone permits are also revised, as are the procedures relating to non-renewal, suspension and revocation of public passenger vehicle permits.

This ordinance amends these license and permit provisions to provide uniformity in references currently made to the terms “written objections” and “written exceptions.” The ordinance further provides for the filing of a written statement in response to committee reports and recommendations that includes objections, exceptions and arguments of law and fact.

The ordinance specifies the individuals who may be permitted to make an oral presentation to the common council on behalf of an applicant, licensee or permittee. Persons who make an appearance before the common council and who require the services of an interpreter are uniformly advised that they may obtain an interpreter at their own expense.

The ordinance also removes references in the procedures for food dealer licenses, extended hours establishment licenses, filling station licenses, home improvement contractors and salespersons, public passenger vehicle driver licenses, and licenses of licensed dwelling facilities that authorize the assessment of costs against a complainant whose complaint is found to be malicious and without probable cause.
The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 68-4-3-a of the code is amended to read:

68-4. Food Dealer License.

3. PROCEDURE FOR ISSUING NEW OR RENEWAL LICENSE. a. The commissioner shall issue a license to each applicant for a new or renewal license who meets all the requirements of this section and has paid to the city treasurer the fee required in s. 60-21 unless there is an objection by the commissioner, the department of neighborhood services, the common council member in whose district the food establishment is located, or any [[~~neighbor or other interested person~~]]>>person affected by the operation or proposed operation of the applicant<<. If there is an objection to the issuance or renewal of a license, the procedure for considering the license application shall be as specified in sub. 10.

Part 2. Section 68-4-10-d to f of the code is amended to read:

10. PROCEDURE FOR DENIAL OR NON-RENEWAL OF LICENSE.

d. Where it is impractical for the [[~~utilities and licenses~~]]>>licensing<< 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~~]]>>a<< hearing officer is employed, he or she shall prepare written findings of fact and conclusions of law which shall be simultaneously transmitted to the [[~~utilities and licenses~~]] committee as well as the licensee, the licensee’s agent, manager, operator or any other employe of the licensee and to the person bringing the complaint or objection. The chair of the [[~~utilities and licenses~~]] 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 of the hearing officer. Notice of the [[~~utilities and licenses~~]] committee hearing on

the report shall be given to all parties. The [[~~utilities and licenses~~]] committee may take and reserve additional evidence at the time of said hearing. The [[~~utilities and licenses~~]] committee may accept or reject the report of the hearing officer and 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 [[~~utilities and licenses~~]] committee shall transmit its recommendation to the [[~~full~~]] common council for action.

e. Whenever the [[~~utilities and licenses~~]]>>licensing<< committee recommends non-renewal of an existing license, the applicant shall be given no less than 5 >>working << days notice of the date set for hearing by the common council. >>An applicant whose existing license has been recommended for non-renewal may submit a written statement containing objections, exceptions and arguments of law and fact, if any. If the committee hearing was initiated upon the objection of an interested party who has appeared and offered evidence, the objector may also submit a written statement or response. Any written statement or response shall be filed in the office of the city clerk before the close of business on a day that is 3 working days before the day set for hearing by the council.<<

f. At the meeting of the common council, the chair shall allow oral argument by an applicant >>for a renewal license and by an objector under sub.3-a, if any,<< who [[~~, at least 2 days prior to the date of the meeting, has presented written objections to the recommendation of the utilities and licenses committee~~]] >>has timely filed a written statement or response to the report and recommendations of the licensing committee. An applicant for license renewal shall appear in person or by counsel. A corporate licensee shall appear only by its designated agent or by counsel. A partnership shall appear only by a partner or by counsel. A limited liability company shall appear only by its designated agent or by counsel. Any person making an appearance before the council pursuant to this paragraph and who requires the services of an interpreter shall obtain one at his or her own expense <<. The city attorney shall also be permitted to make a statement. Oral arguments shall be limited to 5 minutes on behalf of each party.

Part 3. Section 68-4-15 of the code is repealed and recreated to read:

15. PROCEDURE FOR REVOCATION OR SUSPENSION. a. Notice and Service. Whenever either sworn written charges or a sworn written complaint are filed with the commissioner setting forth specific charges against a licensee relating to any of the causes for revocation or suspension of a license set forth in sub. 11, the procedures for notice and service of notice provided in s. 85-3 shall apply.

b. Committee Hearing. The licensing committee shall convene and hear the matter upon the complaint for revocation or suspension filed and noticed under par. a in the manner provided in s. 85-4-1 and 2 and shall prepare and submit a report as required by ss. 85-4-5 and 85-5-1. Grounds for revocation and suspension shall be those provided in sub. 11.

c. Council Action. Written statements in response to the findings and recommendations of the licensing committee shall be filed with the city clerk in the manner provided in s. 85-5-2, and copies shall be provided to common council members in the manner provided in s. 85-5-3. The procedures provided in s. 85-5-4 shall govern the conduct of the meeting of the common council.

Part 4. 68-4-16 of the code is amended to read:

16. REQUEST TO SURRENDER A LICENSE. [[~~In the event that~~]]>>If<< a licensee wishes to

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surrender his or her license after receiving a notice for a hearing on possible revocation or suspension under this section, the licensee shall request, in writing, permission from the [[~~utilities and licenses~~]] >>licensing<< committee [[~~of the common council~~]] to do so prior to the commencement of the hearing. The committee may approve the request, or deny the request and proceed with the suspension or revocation hearing.

Part 5. Section 84-7-12-b of the code is repealed and recreated to read:

b. Procedure for Non-renewal. If there is a possibility that the licensing committee will not renew the license, the procedures for notice and committee hearing and for the committee report, recommendations and common council consideration provided in
s. 85-3 to 5 shall apply.

Part 6. Section 84-7-14 of the code is repealed and recreated to read:

14. HEARING PROCEDURE. a. Committee Procedure. The licensing committee shall conduct hearings with respect to the non-renewal, suspension or revocation of a license in the manner provided in ss. 85-3 and 85-4 relating to notice, conduct of the hearing, preparation of the record and s. 85-5-1 relating to the preparation and submission of a report.

b. Grounds for Non-Renewal, Suspension or Revocation. The recommendation of the committee regarding the licensee shall be based on evidence presented at the hearing. Probative evidence concerning non-renewal, suspension or revocation may include evidence of:
b-1. Failure of the licensee to meet the municipal qualifications.
b-2. 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 activity, by the licensee or by any employe of the licensee.
b-3. The licensed premise, between the hours of 12 a.m. and 5 a.m., having been the source of congregations of persons which have resulted in one or more of the following:
b-3-a. Disturbance of the peace.
b-3-b. Illegal drug activity.
b-3-c. Public drunkenness.
b-3-d. Drinking in public.
b-3-e. Harassment of passers-by.
b-3-f. Gambling.
b-3-g. Prostitution.
b-3-h. Sale of stolen goods.
b-3-i. Public urination.
b-3-j. Theft.
b-3-k. Assaults.
b-3-L. Battery.
b-3-m. Acts of vandalism, including graffiti.
b-3-n. Excessive littering.
b-3-o. Loitering.
b-3-p. Illegal parking.
b-3-q. Loud noise at times when the licensed premise is open for business.
b-3-r. Traffic violations.
b-3-s. Curfew violations.
b-3-t. Lewd conduct.

b-3-u. Display of materials harmful to minors, pursuant to s. 106-9.6.
b-3-v. Any other factor which reasonably relates to the public health, safety and welfare.

c. Council Action. The common council shall consider the matter of non-renewal, revocation or suspension of the license in the manner provided in s. 85-5.

Part 7. Section 84-40-12-b of the code is repealed and recreated to read:

84-40. Shows or Exhibitions.

12. RENEWAL OF LICENSES.

b. Procedure for Non-renewal. If there is a possibility that the licensing committee will not renew the license, 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

Part 8. Section 84-40-12-c of the code is repealed.

Part 9. Section 84-40-12-d and e of the code is renumbered 84-40-12-c and d.

Part 10. Section 84-40-13-c of the code is repealed and recreated to read:

13. REVOCATION OR SUSPENSION OF LICENSES.

c. Whenever either sworn written charges or a sworn written complaint are filed with the city clerk setting forth specific charges against a licensee involving conduct which would violate ordinances that are grounds for revocation or suspension of a license 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. Grounds for non-renewal, suspension or revocation of a shows or exhibitions license are those provided in sub. 14.

Part 11. Section 84-40-13-d to f is repealed.

Part 12. Section 84-40-14 is repealed and recreated to read:

14. GROUNDS FOR NON-RENEWAL, SUSPENSION OR REVOCATION. The recommendation of the licensing committee regarding the licensee shall be based on evidence presented at the hearing. Probative evidence concerning non-renewal, suspension or revocation may include evidence of:

a. Failure of the licensee to meet municipal qualifications.

b. Pending charges 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 activity, by the licensee, his or her employes, or patrons.

c. Failure to abide by conditions imposed by the common council pursuant to sub. 7-c.

d. Neighborhood problems due to management or location.

e. Any other factor or factors which reasonably relate to the public health safety and welfare or which demonstrate that the establishment has generated undesirable secondary effects set forth in sub. 1.

Part 13. Section 84-45-6-e and f of the code is repealed and recreated to read:

84-45. Filling Stations.

6. PROCEDURE FOR DENIAL OF LICENSE.

e. Whenever the licensing committee recommends non-renewal of an existing license, a report and recommendations shall be prepared and submitted to the common council in the manner provided in s. 85-4-5.

f. The common council shall consider the report and recommendations of the licensing committee in the manner provided in s. 85-5.

Part 14. Section 84-45-6-g of the code is repealed.

Part 15. Section 84-45-6-h of the code is renumbered 84-45-6-g.

Part 16. Section 84-45-12 of the code is repealed and recreated to read:

12. PROCEDURES FOR REVOCATION OR SUSPENSION. Whenever any person files either sworn written charges or a sworn written complaint with the commissioner setting forth specific charges against a licensee involving conduct which would violate statutes or ordinances that are grounds for revocation or suspension of a license as provided in sub. 7, the procedures for notice and committee hearing and for the committee report, recommendations and common council consideration provided at
ss. 85-3 to 85-5 shall apply.

Part 17. Chapter 85 of the code is created to read:

CHAPTER 85
DUE PROCESS PROCEDURES APPLICABLE TO
LICENSE AND PERMIT DETERMINATIONS

TABLE

85-1 Purpose and Scope
85-2 Definitions
85-3 Notice and Service
85-4 Hearing Procedure
85-5 Council Action

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 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.

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

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.

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.

85-4. Hearing Procedure. 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.

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. 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. A stenographic record shall be made of all proceedings before the committee and before the common council when written responses or statements have been timely filed by the licensee, permittee or complainant or objector, if any. Any interested party may at any stage of the proceedings order a copy of the transcript of the record or portions thereof at his or her own expense.

4. GROUNDS FOR NON-RENEWAL, SUSPENSION OR REVOCATION. The recommendations of the committee regarding the applicant shall be based on 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 employe or other agent of the applicant.

c. If the activities of the applicant involve a licensed premise, having 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.

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

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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 employe 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 full 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. 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 timely filed by the applicant, or by a complainant 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 of license renewal. A license or permit may be suspended for not less than 10 days and no longer than 90 days.

Part 18. Section 89-23-2 of the code is repealed and recreated to read:

89-23. Procedures for Renewal, Non-renewal, Revocation or Suspension of Licenses.

2. NON-RENEWAL, SUSPENSION OR REVOCATION. a. Procedure. If there is a possibility that the licensing committee will not recommend renewal of the license, or if revocation or suspension proceedings are initiated, 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. Revocation or Suspension Proceedings. Any license issued under this section may be suspended or revoked for cause. Suspension or revocation proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police, or upon a sworn written complaint filed with the city clerk by any interested party.

c. Grounds for Non-renewal, Suspension and Revocation. The recommendation of the committee regarding the licensee must be based upon evidence presented at the hearing. Probative evidence concerning non-renewal, suspension or revocation may include evidence of:

c-1. Failure of the licensee to meet the municipal qualifications or any of the terms of this section.

c-2. 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 activity, by the licensee, his or her employes, or frequenters.

c-3. Failure to abide by conditions imposed by the common council pursuant to s. 89-7-3-h.

c-4. Neighborhood problems due to management or the appropriateness of the location and premises where the principal business is located.

c-5. Any other factor or factors which reasonably relate to the public health, safety and welfare or which demonstrate that the premises where the place of business is located has generated the undesirable secondary effects.

d. Disqualification. d-1. Whenever a license is denied renewal or is revoked for a reason not relating to the fitness of the location of the premises, it shall be entered on the record by the city clerk and no escort service license shall be granted to the same person for a period of 12 months following the date of non-renewal.

d-2. Whenever any license is denied renewal or is revoked for a reason relating to the fitness of the location of the premises, it shall be entered on the record by the city clerk and no other application for an escort service license involving the location shall be recommended for approval by the licensing committee within 3 years of the date of non-renewal or revocation unless the applicant has demonstrated a change of circumstances since the revocation as set forth in s. 89-7-4.

e. Surrender. Unless otherwise expressly provided, if a licensee wishes to surrender his or her license after receiving a notice of a hearing on non-renewal, revocation or suspension, the licensee must request permission from the licensing committee to do so prior to commencement of the hearing. The committee may approve the request or deny the request and proceed with the hearing. When any license is surrendered in lieu of a pending non-renewal, revocation or suspension hearing, no other escort service or escort license shall be granted to the same person for a period of 12 months following the date of its surrender.

Part 19. Section 89-23-3 to 7 of the code is repealed.

Part 20. Section 90-11-2-c-2, d-2 and d-3 of the code is amended to read:

90-11. Renewal of License

2. PROCEDURE FOR NON-RENEWAL.

c. Recommendation.

c-2. The committee may make a recommendation immediately following the hearing or at a later date. The committee may recommend that the license be renewed or not renewed. In addition, if the committee determines that circumstances warrant it, the committee may recommend that the license be renewed conditioned upon a suspension of the license for a defined period of time. When the committee elects to recommend that a license be renewed with a period of suspension, the license

may be suspended for not less than 10 days and no longer than 90 days. Such suspension shall commence on the effective date of the license renewal. Following the hearing, the committee shall submit a report to the common council, including findings of fact, conclusions of law and a recommendation as to what action, if any, the council should take. The committee shall provide the complainant and applicant with a copy of the report. The applicant >>and complainant, if any,<<may file a written [[~~objection~~]]>>statement in response to the report including objections, exceptions and arguments of law and fact<< [[~~to the report to the common council~~]]. [[~~The objections shall be concisely stated and shall include supporting arguments. Written objections~~]]>>A written statement<< must 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.

d-2. At the meeting of the common council, the chair[[~~, in his or her discretion, may~~]] >>shall<< allow oral argument by an applicant or complainant who has [[~~presented written objections~~ ~~together with supporting arguments~~]]>>timely submitted a written statement in response<< to the recommendations of the licensing committee. The city attorney shall also be permitted a statement. Oral arguments shall not exceed 5 minutes on behalf of any party. Applicants shall appear only in person or by counsel. Corporate applicants shall appear only by the agent or by counsel. Partnerships shall be represented only by a partner or by counsel. Limited liability companies shall be represented only by the agent or by counsel. Complainants shall appear only in person or by counsel. Any person making an appearance before the council pursuant to this subsection and who requires the services of an interpreter shall obtain one at his or her own expense.

d-3. Prior to voting on the committee's recommendation, all members of the council who are present shall signify that they have read the recommendation and report of the licensing committee and any [[~~objections~~]]>>written statements in response<< that have been filed thereto. If they have not, the [[~~chairman~~]]>>chair<< shall allocate time for the members to do so. If they have read the report and recommendation, then a roll call vote shall be taken as to whether or not the recommendation of the committee shall be accepted. The applicant shall be provided with written notice of the results of the vote taken by the full common council.

Part 21. Section 90-12-5-c-2, c-3 and d-1 of the code is repealed and recreated to read:

90-12. Revocation or Suspension of Licenses.

5. PROCEDURES FOR REVOCATION OR SUSPENSION.

c. Committee Report.

c-2. The committee shall provide the licensee, and the complainant, if any, with a copy of the report. The licensee and complainant, may file a written statement or response including objections, exceptions and arguments of law and fact to the report to the common council. A written statement or response must 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.

c-3. Any written statement or response to the report and recommendations of the committee shall be filed by the close of business on the day that is 3 working days prior to the date on which the matter is to be heard by the common council. Copies of written statements 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.

d. Council Action. d-1. 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. Not less than 5 working days prior to the hearing before the common council, the city clerk shall notify the licensee and complainant by United States first class mail, postage prepaid, sent to the last known address of the licensee and complainant, and shall also notify the city attorney, of the time and place that the common council will convene. 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 written statements or responses are timely filed to a committee report and recommendations that the license be suspended or revoked, each member of the common council shall be asked to affirm that he or she has read the statements or responses. If members of the council have not read the recommendations and report of the committee and any statements or responses that have been filed, the chair shall allocate time for the members to do so. Oral argument in support of the report and recommendations presented by the city attorney, oral argument on behalf of the licensee in opposition to the report and recommendations and oral argument by the complainant objecting to the report and recommendations shall be permitted where written statements or responses have been timely filed. Argument shall be limited to 5 minutes and the arguments shall be limited to the subject matter of the report and recommendations and the written exceptions. Licensees shall appear only in person or by counsel. Corporate licensees shall appear only by the agent or by counsel. Partnerships shall be represented only by a partner or by counsel. Limited liability companies shall be represented only by the agent or by counsel. Complainants shall appear only in person or by counsel. Any person making an appearance before the council pursuant to this subsection and who requires the services of an interpreter shall obtain one at his or her own expense.

Part 22. Section 92-3-9-b to d of the code is repealed and recreated to read:

92-3. Junk Collectors and Dealers.

9. PROCEDURES FOR RENEWAL, NON-RENEWAL, REVOCATION OR SUSPENSION.

b. Revocation or Suspension. Any license issued under this section may be revoked or suspended for cause by the common council. Suspension or revocation proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police, or upon a sworn written complaint filed with the city clerk by any interested party.

c. Due Process Hearing and Common Council Review. If there is a possibility that the licensing committee will not recommend renewal of the license, or if revocation or suspension proceedings are initiated, 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.

d. Grounds for Non-renewal, Revocation or Suspension. The recommendation of the committee regarding the licensee must be based on evidence presented at the hearing. Probative evidence concerning non-renewal, suspension or revocation may include evidence of:

d-1. Failure of the licensee to meet the municipal qualifications or any of the terms of this section.

d-2. 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 activity, by the licensee, his or her employes, or frequenters.

d-3. Failure to abide by conditions imposed by the common council pursuant to sub. 5-h-1.

d-4. Failure to abide by provisions of the building and zoning code relating to the deposit of junk and the parking of commercial vehicles.

d-5. Neighborhood problems due to management or the appropriateness of the location and premises where the principal business or additional storage yard is located.

d-6. A showing that the premises where the principal place of business or additional storage yard is located has been the source of one or more of the following: disturbance of the peace; sale or purchase of stolen goods; excessive littering; loud noise at times when the operation is open for business; traffic violations.

d-7. Any other factor which reasonably relates to the public health, safety and welfare or which demonstrate that the premises where the principal place of business or additional storage yard is located has generated undesirable secondary effects.

Part 23. Section 92-3-9-e and f of the code is created to read:

e. Disqualification. e-1. Whenever a license is denied renewal or is revoked for a reason not relating to the fitness of the location of the premises, it shall be entered on the record by the city clerk and no license shall be granted to the same person for a period of 12 months following the date of non-renewal.

e-2. Whenever any license is denied renewal or is revoked for a reason relating to the fitness of the location of the premises, it shall be entered on the record by the city clerk and no other application for a junk dealer or junk collector license involving the location shall be recommended for approval by the licensing committee within 3 years of the date of non-renewal or revocation unless the applicant has demonstrated a change of circumstances since the revocation as set forth in sub. 7.

f. Surrender. If a licensee wishes to surrender his or her license after receiving a notice of a hearing on non-renewal, revocation or suspension, the licensee must request permission from the licensing committee to do so prior to commencement of the hearing. The committee may approve the request or deny the request and proceed with the hearing. When any license is surrendered in lieu of a pending non-renewal, revocation or suspension hearing, no other license shall be granted to the same person for a period of 12 months following the date of its surrender.

Part 24. Section 93-11 of the code is repealed and recreated to read:

93-11. Renewal, Non-renewal, Revocation or Suspension of License.

1. APPLICATION FOR RENEWAL. Application for renewal of a license shall be made to the city clerk and forwarded to the licensing committee for its recommendation to the common council after reports, to be issued within 15 days, by the police department, the department of neighborhood services and the health department indicating that the applicant still meets all of the licensing qualifications.

2. REVOCATION OR SUSPENSION. Any license issued under this section may be revoked or suspended for cause by the common council. Suspension or revocation proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police, or upon a sworn written complaint filed with the city clerk by any interested party.

3. DUE PROCESS AND COMMON COUNCIL REVIEW. If there is a possibility that the licensing committee will not recommend renewal of the license, or if revocation or suspension proceedings are initiated, 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.

4. GROUNDS FOR NON-RENEWAL, REVOCATION OR SUSPENSION. The recommendation of the committee regarding the licensee shall be based on evidence presented at the hearing. Probative evidence concerning non-renewal, suspension or revocation may include evidence of:

a. Failure of the licensee to meet the municipal qualifications or any of the terms of this section.

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 activity, by the licensee, his or her employes, or patrons other than those specified in s. 218.0116, Wis. Stats., as amended.

c. Neighborhood problems due to management or the appropriateness of the location and premises where the principal business or additional storage yard is located.

d. Failure to abide by the plan of operation submitted pursuant to s. 93-7-2-h.

e. A showing that the premises where the principal place of business or additional storage yard is located has been the source of one or more of the following: disturbance of the peace; sale or purchase of stolen goods; excessive littering; loud noise at times when the operation is open for business; traffic violations.

f. If the licensee is a firm, corporation or limited liability company, it shall be sufficient cause for denial, suspension or revocation of a license that any officer, director, trustee or manager of the firm, corporation or limited liability company, or any member in case of a partnership, has been guilty of any act or omission which would be cause for non-renewal, suspension or revocation of a license to that party as an individual. Each licensee shall be responsible for the acts of any or all of his or her employes while acting as his or her agent.

g. Any other factor or factors which reasonably relate to the public health, safety and welfare or which demonstrate that the premises where the principal place of business or additional storage yard is located has generated undesirable secondary effects.

5. DISQUALIFICATION. a. Whenever a license is denied renewal or is revoked for a reason not relating to the fitness of the location of the premises, it shall be entered on the record by the city clerk and no secondhand motor vehicle and auto wrecker license shall be granted to the same person for a period of 12 months following the date of non-renewal.

b. Whenever any license is denied renewal or is revoked for a reason relating to the fitness of the

location of the premises, it shall be entered on the record by the city clerk and no other application for a secondhand motor vehicle and auto wrecker license involving the location shall be recommended for approval by the licensing committee within 3 years of the date of non-renewal or revocation unless the applicant has demonstrated a change of circumstances since the non-renewal or revocation in the manner set forth in sub. 9-4-b.

6. SURRENDER. If a licensee wishes to surrender his or her license after receiving a notice of a hearing on non-renewal, revocation or suspension, the licensee must request permission from the licensing committee to do so prior to commencement of the hearing. The committee may approve the request, or deny the request and proceed with the hearing. When any license is surrendered in lieu of a pending non-renewal, revocation or suspension hearing, no other secondhand motor vehicle and auto wrecker license shall be granted to the same person for a period of 12 months following the date of its surrender.

Part 25. Section 93-13 of the code is repealed.

Part 26. Section 95-14-9-0 and b to e of the code is repealed and recreated to read:

95-14. Home Improvement Contractor and Salesperson Licenses.

9. PROCEDURES FOR NON-RENEWAL, REVOCATION OR SUSPENSION OF LICENSE.

b. Revocation or Suspension. Any license issued under this section may be revoked or suspended for cause by the common council. Suspension or revocation proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police, or upon a sworn written complaint filed with the city clerk by any interested party.

c. Due Process Hearing and Common Council Review. If there is a possibility that the licensing committee will not recommend renewal of the license, or if suspension proceedings are initiated, 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.

d. Grounds for Non-renewal, Revocation or Suspension. The recommendation of the committee regarding the licensee must be based on evidence presented at the hearing. Probative evidence concerning non-renewal, suspension or revocation may include evidence of:

d-1. Failure of the licensee to meet the municipal qualifications or any of the terms of this section.

d-2. 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 activity, by the licensee, his or her employes, subcontractors or customers.

d-3. Failure to obtain any permit required under the ordinances of the city or the laws of the state of Wisconsin, or employing persons not authorized to do any specific work as required under the ordinances of the city or laws of the state of Wisconsin.

d-4. Whether the licensee, or his or her employes, has violated any of the required and prohibited practices set forth in this section.

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d-5. Whether the licensee has been issued a warning letter or had the imposition of administrative sanctions by the Wisconsin department of agriculture, trade and consumer protection.

d-6. Whether a judgment has been rendered against the licensee by any court of competent jurisdiction regarding violations of ordinances of the city or laws of the state of Wisconsin the nature of which substantially relate to the particular activity for which the license is issued, or a judgment has been rendered against the licensee.

d-7. Any other factor which reasonably relates to the public health, safety and welfare.

e. Evidence of Quality of Workmanship Excluded. The recommendations of the committee regarding the licensee shall not be based on evidence presented at the hearing related to quality of workmanship.

Part 27. Section 95-14-9-f to h of the code is created to read:

f. Disqualification. Whenever a license is denied renewal or is revoked, it shall be entered on the record by the city clerk and no home improvement or salesperson license shall be granted to the same person for a period of 12 months following the date of non-renewal.

g. Surrender. If a licensee wishes to surrender his or her license after receiving a notice for a hearing on non-renewal, revocation or suspension, the licensee must request permission from the licensing committee to do so prior to commencement of the hearing. The committee may approve the request, or deny the request and proceed with the hearing. When any license is surrendered in lieu of a pending non-renewal, revocation or suspension hearing, no other home improvement contractor or salesperson license shall be granted to the same person for a period of 12 months following the date of its surrender.

h. Request to Surrender a License. If a licensee who has surrendered his or her license wishes to have the surrendered license returned, the licensee must request, in writing, 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. The committee may approve the request and return the license without further action by the common council, or make a recommendation to the common council to deny the request based on the same grounds set forth in this section for non-renewal or revocation. 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 in this section for non-renewal or revocation.

Part 28. Section 95-14-10 and 11 of the code is repealed.

Part 29. Section 100-50-16 of the code is repealed and recreated to read:

100-50. Public Passenger Vehicle Permits.

16. PROCEDURE FOR NON-RENEWAL, REVOCATION OR SUSPENSION.
a. Applicable Procedures. If there is a possibility that the licensing committee will not recommend renewal of the permit, or if revocation or suspension proceedings are initiated, 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. Grounds for Non-renewal, Suspension or Revocation. The recommendation of the committee regarding the permittee shall be based upon evidence presented at the hearing. Probative evidence concerning non-renewal, suspension or revocation may include evidence of:

b-1. Failure of the permittee to meet the municipal qualifications or any of the licensing requirements of this chapter.

b-2. 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 activity, by the permittee, or by any employe, driver or lessee of the permittee.

b-3. The permittee, or any employe, driver or lessee of the permittee, having violated any of the operating regulations and prohibited practices set forth in this chapter.

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

Part 30. Section 100-54-7 of the code is repealed and recreated to read:

100-54. Driver's License.

7. PROCEDURE FOR NON-RENEWAL, REVOCATION OR SUSPENSION.
a. Applicable Procedures. If there is a possibility that the licensing committee will not recommend renewal of the license, or if revocation or suspension proceedings are initiated, the procedures for notice and committee hearing and for the committee report, recommendations and common council consideration provided in ss. 85-3 to 5 shall apply.

b. Grounds for Non-renewal, Suspension or Revocation. The recommendation of the committee regarding the licensee must be based on evidence presented at the hearing. Probative evidence concerning non-renewal, suspension or revocation may include evidence of:

b-1. Failure of the licensee to meet the municipal qualifications of this chapter.

b-2. 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 activity, by the licensee.

b-3. Violations of rules or regulations of this chapter.

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

Part 31. Section 101-23.7-7-b of the code is repealed and recreated to read:

101-23.7. Loading and Unloading Zone Permits.

7. RENEWAL OF PERMITS.

b. Procedure for Non-renewal. If there is a possibility that the committee will not recommend renewal

of a permit, the procedures for notice, hearing and review by the common council provided in sub. 9 shall govern.

Part 32. Section 101-23.7-8 and 9 of the code is repealed and recreated to read:

8. REVOCATION OF PERMITS. Any permit issued under this section may be revoked or suspended for cause by the common council. Suspension or revocation proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police, or upon a sworn written complaint filed with the city clerk by any interested party.

9. DUE PROCESS HEARING AND COMMON COUNCIL REVIEW. a. Committee Hearing and Review. If there is a possibility that the permitting committee will not recommend renewal of the permit, or if revocation or suspension proceedings are initiated, 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. Grounds for Non-renewal. The recommendation of the committee regarding the permit shall be based on evidence presented at the hearing. Probative evidence concerning non-renewal or revocation may include evidence of:

b-1. Failure of the permittee to meet the municipal qualifications.

b-2. Permitting the loading and unloading zone to be used as a parking space by vehicles not actually engaged in loading or unloading.

b-3. The death of the disabled person for whom the loading and unloading zone permit was issued.

b-4. Evidence related by the department of public works that the circumstances for which the permit was first issued no longer pertain.

b-5. Any other factor which reasonably relates to the public health, safety and welfare.

Part 33. Section 105-75-7-b to d of the code is repealed and recreated to read:

105-75. Private Alarm Systems and Regulations.

7. RENEWAL AND NON-RENEWAL.

b. Non-renewal. If there is a possibility that the committee will not recommend renewal of a permit, the procedures for notice, hearing and review by the common council provided in sub. 8 shall govern.

c. Disqualification. Whenever any license is denied renewal, it shall be entered on the record by the city clerk and no license granted under this section shall be granted to the same applicant for a period of 12 months following the date of non-renewal.

d. Surrender. When any license is surrendered in lieu of a pending non-renewal proceeding, no other license granted under this section shall be granted to the same person for a period of 12 months following the date of its surrender.

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Part 34. Section 105-75-7-e of the code is repealed.

Part 35. Section 105-75-8 of the code is repealed and recreated to read:

8. PROCEDURES FOR NON-RENEWAL, SUSPENSION OR REVOCATION. a. Any license issued under this section may be non-renewed, suspended or revoked for cause by the common council after notice to the licensee and a hearing.

b. Non-renewal, suspension or revocation proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police or upon a sworn written complaint filed with the city clerk by any interested party.

c. Due Process Hearing and Review by the Common Council. If there is a possibility that the licensing committee will not recommend renewal of the license, or when revocation or suspension proceedings are initiated, 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 govern.

d. Grounds for Non-renewal or Revocation. The recommendation of the committee regarding the licensee shall be based on evidence presented at the hearing. Probative evidence concerning non-renewal or revocation may include evidence of:

d-1. Failure of the licensee to meet the municipal qualifications.

d-2. 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 licensed activity, by the licensee or by any employe of the licensee.

d-3. Failure of the alarm company to keep adequate records as to the locations where alarm systems are installed as well as the name, home or billing address, and telephone numbers of the purchaser or subscriber or alarm systems or service.

d-4. Relaying excess false alarms from customers' premises to the fire or police department.

d-5. Failure of the licensee to obtain, in the case of a burglary alarm, a verified response that an attempted or actual crime has occurred at the alarm site before the alarm signal is transmitted to the police department.

d-6. Failure to provide a private first responder service, as required by sub. 14-f.

d-7. Any other factor which reasonably relates to the public health, safety and welfare.

Part 36. Section 105-75-9 of the code is repealed.

Part 37. Section 108-9-2 of the code is repealed and recreated to read:

108-9. Renewal of Licenses.

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2. PROCEDURE FOR NON-RENEWAL. If there is a possibility that the committee will not recommend renewal of a permit, the procedures for notice, committee hearing and review by the common council provided in s. 108-11 shall govern.

Part 38. Section 108-11-1 of the code is repealed and recreated to read:

108-11. Non-renewal, Revocation or Suspension of Licenses.

1. PROCEDURE. Procedures for Revocation or Suspension. a. Any license issued under this section may be revoked or suspended for cause by the common council. Suspension or revocation proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police, or upon a sworn written complaint filed with the city clerk by any interested party.

b. Due Process Hearing and Common Council Review. If there is a possibility that the licensing committee will not recommend renewal of the license, or if revocation or suspension proceedings are initiated, 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 govern except that oral argument before the common council shall only be permitted at the discretion of the chair.

Part 39. Section 108-11-4 and 5 of the code is created to read:

4. REQUEST TO SURRENDER A LICENSE. a. If a licensee wishes to surrender his or her license after receiving a notice for a hearing on non-renewal, revocation or suspension, the licensee must request, in writing, permission from the licensing committee to do so prior to the commencement of the hearing. The committee may approve the request, or deny the request and proceed with the hearing.
b. In the event 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 par. a, the licensee must request, in writing, 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. The committee may approve the request and return the license without further action by the common council, or make a recommendation to the common council to deny the request based on the same grounds set forth in this chapter for non-renewal or revocation. 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 in this chapter for non-renewal or revocation.

5. GROUNDS FOR NON-RENEWAL, SUSPENSION OR REVOCATION. The recommendation of the committee regarding the licensee must be based on evidence presented at the hearing. Probative evidence concerning non-renewal, suspension or revocation may include evidence of:

a. Failure of the licensee to meet the municipal qualifications or any of the terms of this chapter.

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 activity, by the licensee, his or her employes, or patrons.

c. Failure to abide by conditions imposed by the common council pursuant to s. 108-7-1-i.

d. Neighborhood problems due to management or the appropriateness of the location and premises where the public dance hall is located.

e. A showing that the licensed premises has been the source of congregations of persons which have resulted in one or more of the following:
e-1. Disturbance of the peace.
e-2. Illegal drug activity.
e-3. Public drunkenness.
e-4. Drinking in public.
e-5. Harassment of passers-by.
e-6. Gambling.
e-7. Prostitution.
e-8. Sale of stolen goods.
e-9. Public urination.
e-10. Theft.
e-11. Assaults.
e-12. Battery.
e-13. Acts of vandalism, including graffiti.
e-14. Excessive littering.
e-15. Loitering.
e-16. Illegal parking.
e-17. Loud noise at times when the licensed operation is open for business.
e-18. Traffic violations.
e-19. Curfew violations.
e-20. Lewd conduct.
e-21. Display of materials harmful to minors, pursuant to s. 106-9.6.
e-22. Cruising.

f. Any other factor which reasonably relates to the public health, safety and welfare or which demonstrate that the establishment has generated the undesirable secondary effects set forth in s. 108-1.

g. The recommendations of the committee regarding the applicant must not be based on evidence presented at the hearing related to type or content of any music.

Part 40. Section 108-13 of the code is repealed.

Part 41. Section 275-20-9 of the code is repealed and recreated to read:

275-20. Licensing Of Licensed Dwelling Facilities.

9. PROCEDURE FOR NON-RENEWAL, REVOCATION, SUSPENSION OF LICENSES.

a. Proceedings. Denial of renewal, suspension or revocation proceedings may be instituted by the commissioner of health, the commissioner of neighborhood services, the chief of police, any resident or neighbor of the licensed dwelling facility, any city resident, any building owner affected by the activity of the licensed dwelling facility, or by the licensing committee or a common council member.

Written charges shall be verified and filed with the city clerk by the person bringing the complaint. Written charges relating to renewal of a license shall be verified and filed no later than 60 days prior to the expiration of the license.

b. Revocation or Suspension. Any license issued under this section may be revoked or suspended for cause by the common council. Suspension or revocation proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police, or upon a sworn written complaint filed with the city clerk by any interested party.

c. Due Process and Common Council Review. If there is a possibility that the licensing committee will not recommend renewal of the license, or if revocation or suspension proceedings are initiated, the procedures for notice and committee hearing and for the committee report, recommendations and common council consideration provided in s. 85-3 to 85-5 shall apply.

d. Evidence and Committee Recommendation. Notwithstanding the provisions of s. 85-4-4, the recommendation of the committee may also be based upon evidence including the following:

d-1. 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.

d-2. 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.

d-3. The conviction of the licensee, agent of the licensee or the officers or directors of a corporation, or any employe, for any felony, misdemeanor or civil forfeiture the circumstances of which substantially relate to the operation of the licensed dwelling facility.

d-4. 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.

d-5. 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.

d-6. 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.

d-7. 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.

d-8. The licensee, any employe, resident or guest of a resident of the licensee has had persons who, while going to, remaining at, or leaving that premises, violate any laws of the United States, state of Wisconsin or ordinances of the city.

d-9. The licensee, any employe, 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.

d-10. The license was procured by fraudulent conduct or false statement of a material fact.

d-11. The licensed dwelling facility is incapable of 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.

e. Suspension Period. Licenses shall be suspended for not less than 5 calendar days nor more than 120 calendar days and shall take effect 60 days following the final action of the common council.

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

Part 42. Whenever the term “common council licensing committee” appears in the following sections, the term “licensing committee” is substituted:

92-3-5-0
92-3-5-a

Part 43. Whenever the term “licensing committee of the common council” appears in the following sections of the code, the term “licensing committee” is substituted:

90-4-7-g-1
90-11-3-a
101-23.7-5-c-0
101-23.7-7-a

Part 44. Whenever the term “licensing committee of the council” appears in the following sections of the code, the term “licensing committee” is substituted:

101-23.7-10

Part 45. Whenever the term “proper licensing committee” appears in the following sections of the code, the term “licensing committee” is substituted:

90-35-3-b
108-5-3-b-11

Part 46. Whenever the term “proper licensing committee of the common council” appears in the following sections of the code, the term “licensing committee” is substituted:

90-4-7.8-d

90-10-8-b
90-12-7-a
90-35-4-a
90-35-4-b
90-35-11-a
95-14-6

Part 47. Whenever the term “utilities and licenses committee” appears in the following sections of the code, the term “licensing committee” is substituted:

68-4-10-a
84-45-6-a
84-45-6-d
84-45-11
90-13
90-35-9-a
275-20-3-e
275-20-5-a-1
275-20-6-b
275-20-7-p-3

Part 48. Whenever the term “utilities and licenses committee of the common council” appears in the following sections of the code, the term “licensing committee” is substituted:

68-4-14
84-45-4-b-7
84-45-13
84-45-15
90-4-7.8-d
90-4-7.8-e
90-11-2-a-1
93-7-5
275-20-4
275-20-10

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: _____

LRB06239-9
RLW

5/2/2008

Clerical edits -- jro -- 05/19/08
Clerical edits -- lme -- 5/20/08
Clerical edits -- jro -- 05/29/08