



Legislation Details (With Text)

File #: 160192 **Version:** 1

Type: Ordinance **Status:** Passed

File created: 6/14/2016 **In control:** COMMON COUNCIL

On agenda: **Final action:** 9/20/2016

Effective date:

Title: A substitute ordinance relating to temporary changes to plans of operation.

Sponsors: THE CHAIR

Indexes: LICENSES

Attachments: 1. Fiscal Note, 2. Notice Published on 10-6-16

Date	Ver.	Action By	Action	Result	Tally
6/14/2016	0	COMMON COUNCIL	ASSIGNED TO		
9/6/2016	1	LICENSES COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	4:0
9/20/2016	1	COMMON COUNCIL	PASSED	Pass	15:0
9/28/2016	1	MAYOR	SIGNED		
10/6/2016	1	CITY CLERK	PUBLISHED		

160192

SUBSTITUTE 1

THE CHAIR

A substitute ordinance relating to temporary changes to plans of operation.

68-11-5 rp
68-21-6-a am
68-21-6-d cr
68-31-1-b-1 am
75-1-6 rc
75-21-6 rc
75-23-8 rc
81-56-1-d rp
81-121-2-c am
81-126.5 rc
82-14-5 rc
84-7-8 rc
84-20-5 rc
84-43-5 rc
84-45-6 rc
85-2-3.5 am
85-35 cr
85-36 rn
85-37 cr
85-39 cr
90-4-2-c-2 am

90-4-7.8	rp
90-5-13	rc
92-1-3-e	rn
92-1-3-e	cr
92-1-5-f	cr
92-2-3-e	rn
92-2-3-e	cr
92-2-5-f	cr
92-3-11	rc
92-10-5-h	cr
93-29-1	rc
108-5-4	rc
108-5-5-a	am
115-32.6-5	rc
275-20-5	rc

Currently, certain businesses wishing to temporarily deviate from their plans of operation may be required to obtain any combination of the following: a temporary deviation (alcohol licenses, ch. 90 of the code of ordinances), a temporary extension (food or alcohol licenses, chs. 68 and 90), or a temporary public entertainment premises permit (ch. 108).

This ordinance consolidates current code provisions relating to temporary changes to plans of operation and creates a temporary change of plan permit to allow any business to obtain one permit instead of multiple permits or licenses when making temporary changes to its plan of operation. The fee for the new temporary change of plan permit is \$50, the same fee required previously for temporary extensions of alcohol beverage license premises for special events.

Finally, this ordinance consolidates and standardizes language relating to changes to applications and permanent changes to plans of operation.

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

Part 1. Section 68-11-5 of the code is repealed.

Part 2. Section 68-21-6-a of the code is amended to read:

68-21. Food Dealer License.

6. CHANGES TO BE REPORTED.

a. ~~[[A licensee shall notify the city clerk whenever there is a change in any information that is reported in the application form or renewal application form. The licensee shall make this notification in writing within 10 days after the change occurs.]]~~ Changes in the food facility or operational plan submitted as part of a supplemental application shall be submitted in accordance with s. 68-11.

Part 3. Section 68-21-6-d of the code is created to read:

d. See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

Part 4. Section 68-31-1-b-1 of the code is amended to read:

68-31. Temporary Food Dealer License.

1. LICENSES.

b. Exemption.

b-1. A licensed food establishment that extends its operation to the outside on a temporary basis and has obtained a temporary ~~[[extension license]]~~ >>change of plan permit<<

Part 5. Section 75-1-6 of the code is repealed and recreated to read:

75-1. Self-service Laundries; Hours.

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

Part 6. Section 75-21-6 of the code is repealed and recreated to read:

75-21. Massage Establishment Regulation.

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

Part 7. Section 75-23-8 of the code is repealed and recreated to read:

75-23. Tattooing and Body-Piercing.

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

Part 8. Section 81-56-1-d of the code is repealed.

Part 9. Section 81-121-2-c of the code is amended to read:

81-121. Tattooing and Body-Piercing Establishments.

2. BODY-PIERCING ESTABLISHMENT LICENSE.

c. The fee for a temporary ~~[[tattoo]]~~ >>body-piercing<< establishment license shall be \$175.

Part 10. Section 81-126.5 of the code is repealed and recreated to read:

81-126.5. Temporary Change of Plan Permit. The fee for a temporary change of plan permit shall be \$50.

Part 11. Section 82-14-5 of the code is repealed and recreated to read:

82-14. Weighing or Measuring Device License.

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

Part 12. Section 84-7-8 of the code is repealed and recreated to read:

84-7. Extended Hours Establishments.

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

Part 13. Section 84-20-5 of the code is repealed and recreated to read:

84-20. Parking Lots or Places.

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

Part 14. Section 84-43-5 of the code is repealed and recreated to read:

84-43. Cigarette and Tobacco License.

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

Part 15. Section 84-45-6 of the code is repealed and recreated to read:

84-45. Filling Stations.

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

Part 16. Section 85-2-3.5 of the code is amended to read:

85-2. Definitions.

3.5. LICENSEE or PERMITTEE means a person licensed ~~[[or permitted]]~~ >> permitted or otherwise approved<< under the provisions of this code to operate a particular type of business or to conduct a certain activity for which the code requires that a license ~~[[or permit]]~~ >> permit or other approval<< be granted or issued by the city before any person may operate that type of business or conduct that activity.

Part 17. Section 85-35 of the code is created to read:

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

Part 18. Section 85-36 is renumbered 85-41.

Part 19. Section 85-37 of the code is created to read:

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

Part 20. Section 85-39 of the code is created to read:

85-39. Changes to Plan of Operation, Temporary.

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

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

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

b. Application for the temporary change of plan permit shall be filed on or before the deadline established by the city clerk on forms provided by the city clerk. The application shall include:

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

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

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

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

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

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

4. APPROVAL BY COUNCIL MEMBER. a. The completed application shall be referred to the

common council member representing the district in which the premises for which the permit is sought is located. The common council member shall determine whether to approve the permit and shall inform the city clerk of his or her decision.

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

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

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

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

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

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

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

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

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

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

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

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

8. ON-PREMISES SALE. a. A licensee granted a temporary change of plan permit and in possession of a current Class "B" tavern license, Class "B" fermented malt beverage retailer's license, or Class

“C” wine retailer’s license may not sell any alcohol or non-alcohol beverages for consumption in bottles, cans and glass containers in the temporary location of the change of plan. Beverages may only be sold in single-service cups for on-premises consumption in the location of the temporary extension of the licensed premises.

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

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

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

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

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

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

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

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

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

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

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

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

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

Part 21. Section 90-4-2-c-2 of the code is amended to read:

90-4. Classification of Licenses.

2. CLASS "B" RETAILER'S INTOXI-CATING LIQUOR LICENSE.

c. License Restrictions.

c-2. No patron shall be suffered or permitted by any person licensed under this chapter to remove intoxicants or fermented malt beverages in open containers, whether in bottles, cans, or glasses, from the Class "B" licensed tavern, except in the case where the licensed tavern premises is contiguous to another licensed tavern premises, both licensed tavern premises are contiguous to a recognized festival being held and at least one of the licensed tavern premises has been granted a temporary ~~[[extension of licensed premises for special events]]~~ >>change of plan permit<<.

Part 22. Section 90-4-7.8 of the code is repealed.

Part 23. Section 90-5-13 is repealed and recreated to read:

90-5. Licensing.

13. CHANGE IN PLAN OF OPERATION. See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

Part 24. Section 92-1-3-e of the code is renumbered 92-1-3-f.

Part 25. Section 92-1-3-e of the code is created to read:

92-1. Pawnbroker's License.

3. APPLICATION.

e. A completed plan of operation on a form provided by the city clerk.

Part 26. Section 92-1-5-f of the code is created to read:

5. ISSUANCE; TERMS.

f. See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

Part 27. Section 92-2-3-e of the code is renumbered 92-2-3-f.

Part 28. Section 92-2-3-e of the code is created to read:

92-2. Secondhand Dealer's License.

3. APPLICATION.

e. A completed plan of operation on a form provided by the city clerk.

Part 29. Section 92-2-5-f of the code is created to read:

5. ISSUANCE; TERMS.

f. See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

Part 30. Section 92-3-11 of the code is repealed and recreated to read:

92-3. Secondhand Motor Vehicle Dealers.

11. CHANGES TO BE REPORTED.

a. See s. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

b. See s. 85-19 for provisions relating to the transfer of licenses and change of licensee names.

Part 31. Section 92-10-5-h of the code is created to read:

92-10. Precious Metal and Gem Dealer's License.

5. ISSUANCE; TERMS.

h. See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

Part 32. Section 93-29-1 of the code is repealed and recreated to read:

93-29. Changes to be Reported.

1. APPLICATION; PLAN OF OPERATION. See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

Part 33. Section 108-5-4 of the code is repealed and recreated to read:

108-5. License Required.

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

Part 34. Section 108-5-5-a of the code is amended to read:

5. TEMPORARY PUBLIC ENTERTAINMENT PREMISES PERMIT.

a. Authority. The granting of a temporary public entertainment premises permit shall authorize the permit holder to operate public entertainment lasting no longer than 4 consecutive days, except in the case of a carnival or festival, in which case the public entertainment may be offered up to 14 consecutive days, but only between the hours of 8 a.m. and midnight. This authority shall be contingent upon the permit holder also obtaining any other special privileges or licenses required for the conduct of a public entertainment. >>An existing public entertainment premises license holder seeking a temporary change of plan shall comply with s. 85-39.<<

Part 35. Section 115-32.6-5 of the code is repealed and recreated to read:

115-32.6. Sidewalk Area Dining Facilities; Permits.

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

Part 36. Section 275-20-5 of the code is repealed and recreated to read:

275-20. Licensing Of Licensed Dwelling Facilities.

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

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-License Division

LRB159927-2

Andrew VanNatta

08/30/2016