



Legislation Details (With Text)

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Sponsors: THE CHAIR

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| 5/13/2010 | 1 | CITY CLERK | Sponsor added | | |
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091371
Substitute 3

THE CHAIR

A substitute ordinance relating to restructuring and combining licenses for professional and street photographers, and public dance hall and shows and exhibitions, and repealing licenses for roller skate rentals on public premises and tag day permits.

81-39 rp
81-93 rc
81-94 rp
81-101.2 cr
81-103 rp
81-106 rp
81-118 rp
84-33 rc
84-34 rp
84-40 rp
84-41 rp
85-13-7 cr
108 rc
116-6 rp

This ordinance:

1. Combines the current licenses for professional photographers and street photographers.
2. Repeals provisions relating to a public dance license and a shows and exhibitions license; and creates a new public entertainment club license.
3. Repeals provisions relating to a temporary shows and exhibitions license, and creates a temporary public entertainment license in lieu thereof.
4. Repeals licenses for roller skate rentals on public premises and tag day permits.

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

Part 1. Section 81-39 of the code is repealed.

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

81-93. Photographer's License, Professional.

1. Each professional photographer's license shall be issued for a one-year period commencing on the date of the granting of the license.
2. a. The license fee for each separate place of business operated in connection with the occupation of professional photographer shall be \$100.
b. The fee for a license transferred from one premises to another shall be \$20.
3. The fee for a professional photographer's license for conducting business on city streets or highways shall be \$100.

Part 3. Section 81-94 of the code is repealed.

Part 4. Section 81-101.2 of the code is created to read:

81-101.2. Public Entertainment License.

1. REGULAR LICENSE. a. Each public entertainment license shall be issued for a one-year period commencing on the date of the granting of the license.
b. The fee for each license shall be \$250.
c. There shall be an additional fee of \$25 for the filing of a late renewal application.
2. TEMPORARY PERMIT. The fee for each temporary permit shall be as follows:
 - a. \$50, if the application is filed on or before the filing deadline established by the city clerk.
 - b. \$75, if the application is filed after the filing deadline established by the city clerk.

Part 5. Section 81-103 of the code is repealed.

Part 6. Section 81-106 of the code is repealed.

Part 7. Section 81-118 of the code is repealed.

Part 8. Section 84-33 of the code is repealed and recreated to read:

84-33. Professional Photographer. 1. DEFINITION. The term "professional photography" as used in this section:

- a. Means a business engaged in for profit by any person, firm or corporation, either as principal or agent, of taking, soliciting, coloring, finishing, processing, enlarging or selling finished still, motion picture or electronically recorded photographs.
- b. Includes the taking of pictures, photographs or snapshots by any process whatsoever for offering for sale to any person a copy of the picture so taken for consideration in any form. The passing out of written, printed, typewritten or mimeographed matter or the giving of any information orally concerning the means by which a copy of the picture so taken may be obtained is deemed to be an offer to furnish a copy of the picture taken for a consideration.
- c. Includes the taking of pictures, photographs or snapshots by any process whatsoever on city streets or highways for offering for sale to any person a copy of the picture so taken for a consideration in any form.

2. EXCLUSION. The term "professional photography" does not include the following:

- a. Any business in which the business of taking, soliciting, coloring, finishing, processing, enlarging or selling finished still, motion pictures or electronically recorded photographs is incidental to a part of any other type of business such as publishing or advertising.
- b. The development and processing of negatives taken by others.
- c. Coin-operated photo machines or the business of photography carried on solely for commercial purposes by commercial photographers.

3. LICENSE REQUIRED. No person, firm or corporation shall engage in the business of professional photography without first having obtained a license therefor.

4. QUALIFICATION. No professional photographer's license shall be granted to any person or agent of a corporation who is not 18 years of age or older and resident of the state of Wisconsin.

5. APPLICATION. Applications shall be filed with the city clerk on forms provided therefor. The application shall be signed and sworn to or affirmed by the applicant. The application shall require the following information:

- a. Name, home address and telephone number of the applicant and, if a corporation or an association, the names and home addresses of all the officers and of one or more persons whom the corporation association designates as the manager or agent.
- b. The address and location of the premises where the business will be carried on.
- c. A photograph of the applicant, if engaging in activities described under sub. 1-c.
- d. Such other reasonable and pertinent information as the common council or the license committee may from time to time require.
- e. A post office box number shall not be acceptable for a home address required on an application for a professional photographer's license.

6. CHANGES TO BE REPORTED. 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 the notification in writing within 10 calendar days after the change occurs.

- 7. FINGERPRINTING.** a. All applicants for a professional photographer's license shall be fingerprinted. If the applicant is a corporation or limited liability company, the agent and each officer or member, as well as each stockholder owning 20% or more of the stock of the corporation, shall be fingerprinted. If the applicant is a partnership, each partner shall be fingerprinted.
- b. Exemption. The requirement that an applicant be fingerprinted shall not apply to a person already licensed by the city when that person is renewing the permit. The fingerprinting requirement shall also not apply to the officers and directors of nonprofit corporations which apply for a permit, except that the fingerprinting requirement shall apply to the agents of such corporations.
- c. Duplicate Sets Not Required. If a set of fingerprints is on file with the police department, an additional set shall not be required unless expressly requested by the police department for purposes of verification.
- 8. INVESTIGATION.** Applications shall be referred to the chief of police and the commissioner of neighborhood services who shall cause an investigation to be made and report their findings to the licensing committee.
- 9. LICENSE FEE; TERMS.** a. A license shall be obtained by the applicant for each place of business operated.
- b. See ch. 81 for the required license fee.
- 10. COMMITTEE ACTION; ISSUANCE.** a. Recommendation. The licensing committee shall make a recommendation on each new license which shall be forwarded to the common council for approval. The common council may grant a professional photographer's license prior to issuance of an occupancy certificate, but the license shall not be issued until proof of the issuance of the occupancy certificate is provided.
- b. Possibility of Denial. If there is a possibility of denial, no hearing shall be heard unless the city clerk's office has provided written notice to the applicant. The notice shall be served upon the applicant so that the applicant has at least 3 days' notice of the hearing. The notice shall contain:
- b-1 The date, time and place of the hearing.
- b-2. A statement to the effect that the possibility of denial of the license application exists and the reasons for possible denial.
- b-3. A statement that an opportunity will be given to the applicant to respond to and challenge any reason for denial and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.
- b-4. A statement that the applicant may be represented by an attorney of the applicant's choice at the applicant's expense, if the applicant so wishes.
- c. Hearing. If there is a possibility of denial at the hearing, the committee chair shall open the meeting by stating that a notice was sent and read the notice into the record unless the applicant admits notice. The chair shall advise the applicant that the applicant has an option to proceed with a due process hearing, represented by counsel, with all testimony both direct and cross-examination under oath, or that the applicant may simply make a statement to the committee.
- d. Due Process. A due process hearing shall be conducted in the following manner:
- d-1. All witnesses will be sworn in.
- d-2. The chair shall ask those opposed to the granting of the license to proceed first.
- d-3. The applicant shall be permitted an opportunity to cross-examine.
- d-4. After the conclusion of the opponent's testimony, the applicant shall be permitted to present the applicant's own witnesses, subject to cross-examination.
- d-5. Committee members may ask questions of witnesses.
- d-6. Both proponents and opponents shall be permitted a brief summary statement.
- e. Recommendations. The recommendations of the committee regarding the applicant must be based on evidence presented at the hearing. Probative evidence concerning whether or not the license should be granted may be presented on the following subjects:

- e-1. Whether or not the applicant meets the municipal requirements.
- e-2. Whether or not the applicant has been charged with or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the licensed activity.
- e-3. The appropriateness of the location and premises to be licensed.
- e-4. The fitness of the location of the premises to be maintained as the principal place of business to include whether there is an overconcentration of businesses licensed under this chapter.
- f. Committee Decision. The committee may make a recommendation immediately following the hearing or at a later date. Written notice of the committee's decision will be provided if the decision is made at a later date or if the applicant was not present or represented. The committee shall forward its recommendation in writing to the common council for vote at the next meeting at which such matter will be considered.

11. REGULATIONS. a. Placing of License. Every license shall, while the same is in force, be posted in a conspicuous place at or near the principal entrance to the premises for which it is issued so that the license may be easily seen and read by any person passing in or out of the entrance. This provision shall not apply to a professional photographer who is solely engaged in activities described in sub. 1-c.

b. Businesses Outside City Limits. Every person, firm or corporation whose place of business is located outside of the limits of the city and who shall conduct any part of his or her business within the city shall obtain a license in accordance with this section, except that no investigation and report by the commissioner of neighborhood services shall be required. The applicant shall, however, have an established place of business. In lieu of posting the license in a conspicuous place on the premises, it shall be carried on the person of the individual while engaged in carrying on such business within the city. For such licensees, the city clerk shall issue a form of license that can be conveniently carried on the person.

c. Littering Prohibited. Littering the street or highway with cards, circulars or literature or any other paper or material shall be prohibited.

d. Literature. Any literature, card, circular or paper passed out shall include the name and bona fide permanent street address within the city of the licensee.

e. License Card and Badge. The licensee shall carry the license card and wear the badge with the photograph of the photographer plainly displayed on the badge, which license card and badge in suitable form shall be issued to each licensee by the city clerk, while engaged in activities described in sub. 1-c.

12. TRANSFER OF LICENSE. A professional photographer's license may be transferred when there is a change in location by the licensee upon proper application, investigation and report by the commissioner of neighborhood services, recommendation by the licensing committee and approval by the common council and the payment of a fee, as provided for in ch. 81 for each license transferred.

13. RENEWAL OF LICENSES. a. Renewal. Application for the renewal of a professional photographer's license shall be made to the city clerk. The clerk shall refer the application to the chief of police and the commissioner of neighborhood services for review. If the chief of police and the commissioner of neighborhood services indicate that the applicant still meets the licensing qualifications, the application shall be referred to the common council for approval unless an objection has been filed with the city clerk at least 45 days prior to the date on which the license expires, provided that the renewal was filed by the date established by the city clerk. This objection may be filed by any interested person. If an objection is filed, or if a determination is made that the applicant no longer meets the licensing qualifications, the application shall be forwarded to the licensing committee for a hearing on whether the application should be recommended for approval or denial to the common council.

b. Procedure for Nonrenewal. If there is a possibility that the committee will not recommend renewal of a license, the procedures for notice, committee hearing and review by the common council provided in sub. 13 shall govern.

14. NOTICE AND SERVICE. a. Notice of the possibility of nonrenewal, suspension or revocation of a license shall be provided to the applicant in accordance with the procedures provided under s. 85-3. Service of notices of meetings and other documents, including committee reports and recommendations shall also be made upon any party entitled to such notice and shall be made in accordance with s. 85-3.

15. NONRENEWAL, SUSPENSION OR REVOCATION OF LICENSES.

a. Procedures for Revocation or Suspension.

a-1. 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.

a-2. 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.

b. Request To Surrender A License Or To Withdraw A Renewal Application. If a licensee wishes to surrender his or her license or withdraw a renewal application after receiving a notice for a hearing on nonrenewal, revocation or suspension, the procedure provided under s. 85-13-7 shall govern.

c. Grounds For Nonrenewal, Suspension or Revocation. The recommendation of the committee regarding the licensee shall be based on evidence presented at the hearing. Probative evidence concerning nonrenewal, suspension or revocation may include evidence of circumstances cited in s. 85-4-4.

16. COUNCIL ACTION. Following the receipt of a report and recommendations of the committee, the common council shall consider the report and recommendations pursuant to the procedures provided in s. 85-5.

17. DISQUALIFICATION. Whenever any application is denied, or license not renewed, revoked or surrendered, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall govern.

18. PENALTY. Any person who shall violate this section shall upon conviction therefor forfeit not more than \$500 for each offense together with the costs of prosecution, and in default of payment thereof be imprisoned in the county jail or house of correction of Milwaukee county for not more than 20 days.

Part 8. Section 84-34 of the code is repealed.

Part 9. Section 84-40 of the code is repealed.

Part 10. Section 84-41 of the code is repealed.

Part 11. Section 85-13-7 of the code is created to read:

85-13. Disqualification of a License.

7. REQUEST TO SURRENDER A LICENSE OR TO WITHDRAW A RENEWAL APPLICATION.

a. If a licensee wishes to surrender his or her license or withdraw a renewal application after receiving a notice for a hearing on nonrenewal, revocation or suspension, the licensee shall request, in writing, permission from the licensing committee to do so prior to the commencement of the

hearing. The committee may approve the request, or deny the request and proceed with the hearing. If a licensee who has surrendered his or her license wishes to have the surrendered license returned, regardless of whether the license was surrendered, the licensee shall 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, provided that the period for which the license was originally granted has not expired, or make a recommendation to the common council to deny the request based on the same grounds set forth for nonrenewal or revocation of the license. If the committee makes a recommendation to deny the request for the return of the license, all committee recommendations shall be prepared and common council actions conducted in the same manner set forth for nonrenewal or revocation.

Part 12. Chapter 108 of the code is repealed and recreated to read:

CHAPTER 108
PUBLIC ENTERTAINMENT CLUBS

TABLE

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108-1. Findings. The common council finds that various public entertainment clubs can be a source of noise, litter, large and unruly congregations of people, traffic and parking congestion that adversely affects the health, safety and welfare of the people of the city of Milwaukee. This chapter is established pursuant to the responsibility of the common council to legislate and license for the protection of the health, safety and welfare of the people of the city of Milwaukee and to diminish the undesirable secondary effects that can result from these operations.

108-3. Definitions. In this chapter:

- 1. LICENSING COMMITTEE** means the standing committee of the common council which is assigned jurisdiction over licensing matters.
- 2. PERSON** means any individual, firm, corporation, limited liability company, partnership or association acting in a fiduciary capacity.
- 3. PUBLIC ENTERTAINMENT** means any entertainment of any nature or description to which the

public generally may gain admission, either with or without the payment of a fee. Any entertainment operated commercially for gain by membership, season ticket, invitation or other system open or offered to the public generally shall be deemed to constitute a public entertainment. This definition includes dances, shows and exhibitions provided for a fee including plays, skits, musical revues, children's theater, dance productions, public dance, musical concerts, opera and the production or provision of sights or sounds or visual or auditory sensations which are designed to or may divert, entertain or otherwise appeal to members of the public who are admitted to a place of entertainment, which is produced by any means, including radio, phonograph, television, video reproduction, tape recorder, piano, orchestra or band or any other musical instrument, slide or movie projector, spotlights, or interruptible or flashing light devices and decoration.

4. PUBLIC ENTERTAINMENT CLUB means any room, place or space in which public entertainment is held, and includes any room, place or space in which activities described in sub. 3 are conducted.

108-5. License Required. 1. REQUIREMENT. a. No person may conduct or operate public entertainment within the city without first securing either an annual license or permit therefor.

b. A public entertainment club license shall entitle the holder to permit dancing by patrons upon the premises to prerecorded music, and to permit the holding of shows and exhibitions as described in s. 108-3-3.

c. Any nonprofit organization which leases its premises for the purpose of holding public entertainment shall first obtain a public entertainment club license.

2. EXEMPTION. No public entertainment club license shall be required for the following:

a. Any premises holding an alcohol beverage license under ch. 90.

b. Organizations formed exclusively for the purpose of ballet performance and instruction and which have received tax-exempt status from the United States internal revenue service.

c. A permanent theater or any establishment holding a theater license issued pursuant to s. 83-1.

d. Any public show or exhibition conducted exclusively by charitable, eleemosynary, educational or religious organizations on their own premises.

e. Any dance studio, which means a room, place or space in which dancing classes are held and dancing instruction is given for hire.

3. APPLICATION. a. Filing. Application for a public entertainment club license shall be filed with the city clerk on a form provided therefor. The application shall be signed by the applicant, if an individual, or by a duly authorized agent or officer of a corporation or limited liability company, and sworn to by the applicant.

b. Content. The application shall require:

b-1. The name and permanent address of the applicant.

b-2. The name and address of the premise for which the license or permit is to be granted, including the aldermanic district in which it is situated.

b-3. If the applicant is a corporation, the name of the corporation shall be set forth exactly as it is set forth in its articles of incorporation, together with the name and address of each of its officers, directors and designated managers, if any; the application shall be verified by an officer of the corporation.

b-4. If the applicant is a partnership, the application shall set forth the name and resident address of each of the partners, including limited partners, and the application shall be verified by each partner. If one or more of the partners is a corporation, the provisions of this paragraph pertaining to a corporate applicant shall apply to the corporate partners.

b-5. If the applicant is a club, association or other organization which is neither a corporation or partnership, the application shall set forth the exact name of the entity together with the names and resident addresses of all officers and be verified by an officer of the club, association or organization.

b-6. All convictions, including ordinance violations exclusive of traffic violations, with a brief

statement of the nature of the convictions and the jurisdictions in which the convictions occurred.

b-7. The date of birth of the applicant.

b-8. A completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall require:

b-8-a. The planned hours of operation for the premises.

b-8-b. The number of patrons expected on a daily basis at the premises.

b-8-c. The legal occupancy limit of the premises.

b-8-d. The number of off-street parking spaces available at the premises.

b-8-e. Whether or not the public entertainment club will make use of sound amplification equipment and, if so, what kind.

b-8-f. What plans, if any, the applicant has to provide security for the premises.

b-8-g. What plans, if any, the applicant has to insure the orderly appearance and operation of the premises with respect to litter and noise.

b-8-h. Any other licenses held by the applicant or attached to the premises.

b-8-i. A description, with particularity, of the type of entertainment, exhibition, music, dancing, singing, floor show or other performances to be held on the premises, in order for the common council to determine whether or not the applicant's proposed operations are basically compatible with the neighborhood in which the licensed premises is to be located.

b-9. Such other reasonable and pertinent information the common council or the proper licensing committee may from time to time require.

c. Fingerprinting. All applicants shall be fingerprinted. If the applicant is a corporation, the agent and all the officers and directors as well as the stockholders owning 20% or more of the stock of the corporation shall be fingerprinted. If the applicant is a partnership, each partner shall be fingerprinted. The requirement that an applicant be fingerprinted shall not apply to a person already permitted by the city when that person is renewing a license. The fingerprinting requirement shall not apply to the officers and directors of nonprofit corporations which apply for a license, except that the fingerprinting requirement shall apply to the agents of these corporations.

d. Investigation. Applications shall be referred to the chief of police and the commissioner of neighborhood services both of whom shall cause an investigation to be made and report their findings to the licensing committee. The commissioner of neighborhood services shall include information regarding whether the location is located in a residential district.

4. CHANGES TO BE REPORTED. 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.

5. TEMPORARY PUBLIC ENTERTAINMENT PERMIT. a. Authority. The granting of a temporary public entertainment permit shall authorize the permit holder to operate public entertainment lasting no longer than 72 consecutive hours irrespective of the entertainment's schedule. 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.

b. Application. Application for a temporary public entertainment permit and the review of the permit application shall be conducted as set forth in sub. 3 provided that application for a public entertainment permit shall be made to the city clerk by the filing deadline established by the city clerk for the date for which the permit is sought.

c. Approval by Council Member. The completed application shall be referred to the common council member representing the district in which the site for which the permit is sought is located. The common council member shall determine whether to grant each permit and shall inform the city clerk of his or her decision. In making his or her determination, the common council member shall consider the following factors:

c-1. The appropriateness of the location and site for which the permit is sought and whether the

event for which the permit is sought will create undesirable neighborhood problems.

c-2. The hours during which the public entertainment would be operated on the site and the likely effect of the event on the surrounding area.

c-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.

c-4. Whether the applicant has been charged or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the activity for which the permit is sought.

c-5. Any other factors which reasonably relate to the public health, safety and welfare.

d. The decision of the council member regarding the applicant shall not be based on the type or content of any music or entertainment that will be provided at the event for which a permit is sought.

e. Committee Action. e-1. If the common council member grants the application for a temporary public entertainment 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 permit shall be in effect. The document shall also contain any restrictions or conditions which the common council may place on approvals. 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 permit was issued.

e-2. If an application filed prior to the deadline set by the city clerk is denied by a common council member under par. c, the city clerk shall forward the application to the licensing committee for a hearing on the appeal of the decision of a common council member.

e-3. Notwithstanding the provisions of sub. 1, if a written objection to the application is filed by an interested person, the city clerk shall forward the application to the licensing committee for a hearing.

f. Hearing Procedure. f-1. Any hearing required under the subsection shall be conducted in the manner provided in s. 108-7-1-b and c. No hearing shall be heard unless the city clerk provides the applicant written notice in the manner provided in s. 108-7-1-a so that the applicant has at least 3 days' notice of the hearing.

f-2. The committee may make a recommendation immediately following the hearing or on a later date. In making the recommendation, committee members may consider the factors set forth in par. c.

f-3. Written notice of the committee's recommendation shall be provided if the decision is made at a later date or if the applicant was not present. The recommendation of the licensing committee shall be final, and the applicant shall have no right to be heard before the common council.

g. Limit. No person may receive more than 4 temporary public entertainment permits in a calendar year.

6. FEE. All applications shall be accompanied by the fee specified in s. 81-101.2.

7. QUALIFICATION. No public entertainment club license shall be granted to any person who is not a resident of the state of Wisconsin.

108-7. Issuance of License. 1. ISSUANCE. a. Hearing. The licensing committee shall make a recommendation on whether or not to grant each new license. If there is a possibility of denial, the licensing committee shall hold a hearing. No hearing shall be heard unless the city clerk's office has provided written notice to the applicant. The notice shall be served upon the applicant so that the applicant has at least 3 days' notice of the hearing. The notice shall contain:

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

a-2. A statement to the effect that the possibility of denial of the license application exists and the reasons for possible denial. If the possibility of denial is based on the fitness of the location of the premises to be licensed, the notice shall also be served upon the owner of the premises so that the

owner has at least 3 days' notice of the hearing. Notice to the owner of the premises shall contain the same information and statements included under this paragraph related to the notice to the applicant.

a-3. A statement that an opportunity will be given to the applicant to respond to and challenge any reason for denial and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

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

b. Possibility of Denial. If there is a possibility of denial, at the hearing the committee chair shall open the meeting by stating that a notice was sent and read the notice into the record unless the applicant admits notice. The chair shall advise the applicant that the applicant has an option to proceed with a due process hearing, represented by an attorney, with all testimony both direct and cross-examination under oath, or that the applicant may simply make a statement to the committee.

c. Due Process. A due process hearing shall be conducted in the following manner:

c-1. All witnesses shall be sworn in.

c-2. The chair shall ask those opposed to the granting of the license to proceed first.

c-3. The applicant shall be permitted an opportunity to cross-examine.

c-4. After the conclusion of the opponent's testimony, the applicant shall be permitted to present the applicant's own witnesses, subject to cross-examination.

c-5. Committee members may ask questions of witnesses.

c-6. Both proponents and opponents shall be permitted brief summary statements.

d. Recommendation. The recommendation of the committee regarding the applicant shall be based on evidence presented at the hearing. Probative evidence concerning whether or not the license should be granted may be presented on the following subjects:

d-1. Whether or not the applicant meets the municipal requirements.

d-2. The appropriateness of the location and premises where the entertainment club is to be located and whether the club will create undesirable neighborhood problems. Probative evidence relating to these matters may be taken from the plan of operation submitted pursuant to s. 108-5-3-b-8, but not the content of any music.

d-3. The fitness of the location of the premises to be maintained as the principal place of business to include whether there is an overconcentration of businesses licensed under this chapter.

d-4. The applicant's record in operating similarly licensed premises.

d-5. Whether or not the applicant has been charged with or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the permitted activity.

d-6. Any other factors which reasonably relate to the public health, safety and welfare.

e. Basis for Recommendation. The recommendations of the committee regarding the applicant shall not be based on evidence presented at the hearing related to type or content of any music.

f. Committee Decision. The committee may make a recommendation immediately following the hearing or at a later date. Written notice of the committee's decision will be provided if the decision is made at a later date or if the applicant was not present or represented. The committee shall forward its recommendation in writing to the common council for vote at the next meeting at which such matter will be considered.

g. Document. If the common council grants the application for a public entertainment license, the city clerk shall issue an appropriate document to the applicant confirming that fact. The document shall also contain any restrictions or conditions which the common council may place on approval.

2. DISQUALIFICATION. Whenever any application is denied, or license non-renewed, revoked or surrendered, or renewal application withdrawn, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall govern.

3. CHANGE IN PLAN OF OPERATION. If, after the license has been granted or issued, the licensee wishes to deviate from the plan of operation as submitted with the original application, the licensee shall file a sworn, written request with the city clerk which states the nature of the change. No change shall take place until the request has been approved by the common council. The common council's approval shall be given only if it determines, in the manner set forth in sub. 1-d-2, that the change is compatible with the normal activity of the neighborhood in which the premises is located.

108-9. Renewal Of Licenses. a. Procedure for Renewal. Applications for the renewal of a public entertainment license shall be made to the city clerk. The clerk shall refer the application for license renewal to the chief of police and the commissioner of neighborhood services for review. If the chief of police and the commissioner of neighborhood services indicate that the applicant still meets the licensing qualifications, the application shall be referred to the common council for approval unless a written objection has been filed with the city clerk at least 45 days prior to the date on which the license expires, provided that the renewal was filed by the date established by the city clerk. If the applicant fails to file within the time frame established by the city clerk, an objection may be filed within the 45-day period prior to the date of the expiration of the license. An objection may be filed by any interested person. If a written objection is filed, or if a determination is made that the applicant no longer meets the licensing qualifications, the application shall be forwarded to the licensing committee for its recommendation to the common council.

b. Procedure for Nonrenewal. 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 govern.

108-11. Nonrenewal, Revocation or Suspension of Licenses.

1. PROCEDURE. a. Procedures for Revocation or Suspension. Any license issued under this chapter 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.

2. REQUEST TO SURRENDER A LICENSE OR WITHDRAW A RENEWAL APPLICATION.

Whenever any licensee wishes to surrender a license or withdraw a renewal application, the procedures for disqualification of a license provided in s. 85-13 shall apply.

3. GROUNDS FOR NONRENEWAL, SUSPENSION OR REVOCATION. The recommendation of the committee regarding the licensee shall be based on evidence presented at the hearing. Probative evidence concerning nonrenewal, suspension or revocation may include evidence of circumstances cited in

s. 85-4-4.

4. COUNCIL ACTION. Following the receipt of a report and recommendation of the committee, the common council shall consider the report and recommendations pursuant to the procedures provided in s. 85-5.

108-15. Alteration of Premises. Any alteration, change or addition resulting in expansion of a licensed premises shall be approved by the licensing committee prior to issuance of a license, pursuant to s. 200-24, by the department of city development. An applicant whose application has

been denied by the committee may appeal the decision to the common council.

108-17. Public Entertainment Club License; Posting. Each public entertainment club license and permit shall be posted in a conspicuous place within the club in which the public entertainment is held.

108-19. Supervision of Public Entertainment Club Premises. The public entertainment club licensee shall be responsible for the adequate supervision of the premises, and such supervision shall consist of persons 21 years of age or older.

108-21. Announcement of Curfew Hours. An announcement shall be made 20 minutes prior to the beginning of curfew hours specified in s. 106-23 to provide for the exit of those persons subject to s. 106-23. All entertainment shall cease for the 20-minute period prior to curfew.

108-23. Closing Hour. All public entertainment clubs shall be discontinued and all public entertainment clubs located in residential zoning districts as established under subch. 5 of ch. 295 shall be closed no later than 12:30 a.m. If a public entertainment club is located in a zoning district other than a residential district established under subch. 5 of ch. 295, such dances shall be discontinued and such public entertainment clubs shall be closed no later than 1:00 a.m. on weekdays and 1:30 a.m. on Saturdays and Sundays, and shall not reopen before 10:30 a.m. The chief of police, upon application made to the chief not less than 5 days prior to the date of the holding of such public entertainment, may fix the closing not later than 3:00 a.m.

108-25. Penalty. Any person convicted of violating this chapter shall forfeit not less than \$500 nor more than \$2,000 for each violation, plus costs of prosecution, and, in default thereof, be imprisoned for a period not to exceed 80 days, or until forfeiture costs are paid.

Part 12. Section 116-6 of the code is repealed.

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: _____

LRB10048-5

TWM:lp

4/29/2010

LRB10048-6

RLW

6/3/2010

clerical correction -- 6/11/10 -- lp