



Legislation Details (With Text)

File #: 101560 **Version:** 0
Type: Ordinance **Status:** Passed
File created: 4/12/2011 **In control:** LICENSES COMMITTEE
On agenda: **Final action:** 5/3/2011
Effective date:

Title: An ordinance relating to placement, licensing and permitting of amusement machines and phonograph machines and increasing license and permit fees.

Sponsors: THE CHAIR

Indexes: FEES, LICENSE FEES, LICENSES

Attachments: 1. Hearing Notice List, 2. Notice Published on 5-19-11

Date	Ver.	Action By	Action	Result	Tally
4/12/2011	0	COMMON COUNCIL	ASSIGNED TO		
4/15/2011	0	LICENSES COMMITTEE	HEARING NOTICES SENT		
4/15/2011	0	LICENSES COMMITTEE	HEARING NOTICES SENT		
4/18/2011	0	LICENSES COMMITTEE	RECOMMENDED FOR PASSAGE		5:0
4/18/2011	0	LICENSES COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	5:0
5/3/2011	0	COMMON COUNCIL	PASSED	Pass	15:0
5/10/2011	0	MAYOR	RETURNED NOT SIGNED		
5/19/2011	0	CITY CLERK	PUBLISHED		

101560
ORIGINAL

THE CHAIR

An ordinance relating to placement, licensing and permitting of amusement machines and phonograph machines and increasing license and permit fees.

81-4-1 am

81-4-2-a am

81-4-2-b am

81-4-2-c rp

81-4-2-d ra

81-4-2-e rn

81-4-2-e cr

81-92.5-1 am

81-92.5-2-a am

81-92.5-2-b rp

81-92.5-2-c ra

81-92.5-2-d rn

81-92.5-2-d cr

84-50-9 rp

84-50-10 rn
84-54-4 rp
84-54-5 ra
84-58-3 am
84-62-1-a rn
84-62-1-b rp
84-64 rc
84-67 cr
84-68-1-0 am
84-68-1-a am
84-68-2 am
84-68-3 am
84-70 rc
84-72-5 am
107-13-1-b rp
107-13-1-c rn
107-13-1-d rn
107-13-1-e rn
107-13-2-c am
107-13-3-b rc
107-13-5 rp
107-13-6 rn
107-13-7 rn
107-13-8 rn
107-13-9 rn

Licensing code provisions currently require that operators of premises on which amusement machines such as video games and pin-ball machines are operated, or on which phonograph machines are operated, must post a premises license and must also apply a permit tag for each authorized machine.

This ordinance eliminates requirements that amusement machines and phonographs be individually permitted and identified with individual tags.

In addition, this ordinance:

1. Requires licensed distributors of amusement machines and phonographs to file disclosures with the city clerk identifying the numbers of machines placed with any premises.
2. Increases the fee for a videogame center license from \$450 to \$575.
3. Increases the fee for an amusement machine premises license and for a phonograph premises permit from \$55 to \$100.
4. Increases the fee for an amusement machine distributor license and for a phonograph distributor license from \$700 to \$850.

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

Part 1. Section 81-4-1 of the code is amended to read:

81-4. Amusement Premises, Distributors, Machines and Videogame Centers. 1. Each videogame center license, amusement machine distributor's license, amusement machine premises license ~~[[,]]>>and<< amusement machine premises license transfer [[and amusement machine permit (tag)]]~~, with the exception of videogame centers and amusement machine premises covered by Class "A" and Class "B" retailer's intoxicating liquor and fermented malt beverage retailer's licenses, shall be issued for the license or permit year commencing July 1 and ending the following June 30. ~~[[Where]]>>If<<~~ a premises is licensed as a Class "A" or Class "B" retail intoxicating liquor or fermented malt beverage retail establishment and also as a videogame center or amusement machine premises, the videogame center or amusement machine premises license shall be issued for one year or part thereof, effective from the date ~~[[such]]>>the<<~~ license is granted and shall expire on the same date the Class "A" or Class "B" license expires.

Part 2. Section 81-4-2-a and b of the code is amended to read:

- a. Videogame center license: ~~[[\$450]]>>\$575<<~~.
- b. Amusement machine premises license ~~[[\$55]]>>\$100<<~~.

Part 3. Section 81-4-2-c of the code is repealed.

Part 4. Section 81-4-2-d of the code is renumbered 81-4-2-c and amended to read:

- c. Amusement machine distributor's license: ~~[[\$700]]>>\$850<<~~.

Part 5. Section 81-4-2-e of the code is renumbered 81-4-2-d.

Part 6. Section 81-4-2-e of the code is created to read:

- e. Late filing of updated disclosure information: \$25.

Part 7. Section 81-92.5-1 of the code is amended to read:

81-92.5. Phonograph Distributor's, Premises and Machine Licenses and Permits. 1. Each phonograph distributor license, phonograph premises permit ~~[[,]]>>and<< phonograph premises permit transfer [[and phonograph machine permit (tag)]]~~ shall be issued for the license or permit year commencing July 1 and ending the following June 30. Where a premises is also licensed as a Class "A" or Class "B" retail intoxicating liquor or fermented malt beverage retail establishment, the phonograph premises license shall be issued for one year or part thereof, effective from the date the license is granted and shall expire on the same date as the Class "A" or Class "B" license.

Part 8. Section 81-92.5-2-a of the code is amended to read:

- a. Phonograph premises permit: ~~[[\$55]]>>\$100<<~~.

Part 9. Section 81-92.5-2-b of the code is repealed.

Part 10. Section 81-92.5-2-c of the code is renumbered 81-92.5-2-b and amended to read:

- b. Phonograph distributor license: ~~[[\$700]]>>\$850<<~~.

Part 11. Section 81-92.5-2-d of the code is renumbered 81-92.5-2-c.

Part 12. Section 81-92.5-2-d of the code is created to read:

d. Late filing of updated disclosure information: \$25.

Part 13. Section 84-50-9 of the code is repealed.

Part 14. Section 84-50-10 of the code is renumbered 80-50-9.

Part 15. Section 84-54-4 of the code is repealed.

Part 16. Section 84-54-5 of the code is renumbered 84-54-4 and amended to read:

84-54. Licenses and Permits Required.

4. LICENSE~~[[, PERMIT, OR TAG ARE NONASSIGNABLE]]>>~~**NOT ASSIGNABLE**~~<<.~~ No license issued under subch. 2 shall be used by any person other than the one to whom it was issued, unless it has been transferred by the city clerk pursuant to s. 84-64. ~~[[No tag shall be attached to an amusement machine other than the one for which it was issued.]]~~

Part 17. Section 84-58-3 of the code is amended to read:

84-58. Application Procedures.

3. PAYMENT OF FEE. Before filing an application with the city clerk, each applicant shall deposit with the city treasurer the full amount of the fee required in ch. 81 for the license applied for. No fee shall be required of any governmental agency applying for a license ~~[[or permit]]~~ under ~~[[ss.]]~~ subch. 2.

Part 18. Section 84-62-1-a is renumbered 84-62-1-0.

Part 19. Section 84-62-1-b of the code is repealed.

Part 20. Section 84-64 of the code is repealed and recreated to read:

84-64. Transfer of License. 1. Except as provided in subs. 2 to 4, videogame center, amusement machine distributor and amusement machine premises licenses may not be transferred from person to person nor from place to place.

2. Amusement machine premises licenses may be transferred when there is a change in location by the licensee upon proper application and approval by the common council and the payment of a fee, as provided for in ch. 81 for each license transferred.

3. If the licensee dies, a videogame center, amusement machine distributor or amusement machine premises license may be transferred to the personal representative or next of kin. In the case of a legal separation or divorce of the licensee and his or her spouse by court order, and pursuant to the court order, the license may be transferred to the spouse from whom the licensee is separated or

divorced. In any such case, the personal representative, next of kin or spouse respectively may continue to operate under the existing license for a period not to exceed 60 days, during which time period the proper transfer application may be filed. Each such license transfer shall be made upon proper application of the spouse and approval by the common council, and payment of a fee for each such license transferred as provided in ch. 81.

4. If a videogame center or amusement machine premises licensee becomes bankrupt or makes an assignment for the benefit of creditors, the receiver or creditor may continue to sell said business. The transfer of a license under such circumstances may be made only if it is approved by the common council and the new licensee is in compliance with subch. 2.

5. The city clerk shall notify the police department and the proper licensing committee of the common council of any license transfer.

Part 21. Section 84-67 of the code is created to read:

84-67. Disclosure By Amusement Machine Distributors. 1. An application for a new amusement machine distributor license shall include disclosure, in a manner prescribed by the city clerk, of all amusement machines currently placed or under agreement to be placed by the distributor within the city. Disclosure shall include the addresses of the premises where the machines are presently placed or are contracted to be placed, the number of machines placed or to be placed at the premises and the legal name of the entity with whom the machines are to be placed.

2. An application for the renewal of an amusement machine distributor license shall include disclosure, in a manner prescribed by the city clerk, of all amusement machines currently placed within the city. Disclosure shall include the addresses of the premises where the machines are placed, the number of machines placed at the premises and the legal name of the entity with whom the machines are to be placed.

3. Each amusement machine distributor shall file an updated disclosure with the city clerk on or before December 31 of each calendar year in a manner prescribed by the city clerk identifying changes in the disclosures previously filed under this section subject to the fee for late filing established in s. 81-4-2-e.

Part 22. Section 84-68-1-0 and a of the code is amended to read:

84-68. Revocation. 1. CAUSES. Any license ~~[[or permit]]~~ issued under s. 84-62 may be revoked for cause by the common council after notice to the licensee and a hearing. Licenses ~~[[and permits]]~~ may be revoked for any of the following causes:

a. The making of any material false statement in any application for a license~~[[or permit]]~~.

Part 23. Section 84-68-2 and 3 of the code is amended to read:

2. SURRENDER OF LICENSES ~~[[AND PERMITS]]~~. a. Upon revocation of any license ~~[[or permit]]~~, the license~~[[or permit]]~~ shall be immediately surrendered by the licensee to the police department, to be returned to the city clerk with a certificate notifying the city clerk in writing of the name and address of the licensee~~[[or permittee]]~~, the numbers of the licenses~~[[or permits]]~~, and the basis for the revocation.

b. No licensee shall refuse to surrender the license~~[[or permit]]~~ upon request following revocation by the common council. Each day of the refusal shall constitute a separate offense.

c. A reversal of a judgment of conviction upon repeal, and the filing of a certified copy of such judgment of appeal and reversal with the city clerk, by the chief of police or any interested party, shall operate as a reinstatement of the license~~[[or the permit (tag)]]~~ and the city clerk shall thereupon return the >>surrendered<< license ~~[[or permit surrendered pursuant to this subsection]]~~.

3. PROCEDURE. The procedures for the due process hearing and notice of license ~~[[or permit]]~~ revocation shall be the same as those set forth in s. 90-12-4 and 5 which governs the commencement of proceeding, notice and hearing and common council decision.

Part 24. Section 84-70 of the code is repealed and recreated to read to read:

84-70. Display of License. Each valid license for a videogame center, an amusement machine distributor or an amusement machine premises shall be posted permanently in a conspicuous place on the licensed premises.

Part 25. Section 84-72-5 of the code is amended to read:

5. DAMAGE TO MACHINES PROHIBITED. No person shall ~~[[willfully]]~~ >>wilfully<< or maliciously remove, destroy, tamper, injure, mutilate or alter any amusement machine~~[[or its tag]]~~, or insert any slug, token, or counterfeit coin in any licensed amusement machine. (See also s. 110-1).

Part 26. Section 107-13-1-b of the code is repealed.

Part 27. Section 107-13-1-c to e is renumbered 107-13-1-b to d.

Part 28. 107-13-2-c of the code is amended to read:

107-13. Phonograph Distributors, Premises, and Machines; Licenses and Permits.

2. LICENSES AND PERMITS.

c. Agent Not Eligible. No person shall make application for a distributor's license or ~~[[phonograph machine]]~~ >>premises<< permit acting as agent for, or in the employ of another, or for the use and benefit of another person, except in those instances when the applicant is a corporation. In such case, the corporation must appoint an agent and invest in the agent by properly authorized and executed written delegation full authority and control of the premises described in the application of the corporation and of the conduct of all business therein, as the licensee itself could in any way have and exercise if it were a natural person resident in the state.

Part 29. Section 107-13-3-b of the code is repealed and recreated to read:

3. DISTRIBUTOR'S LICENSE.

b. Application. b-1. The application for a distributor's license shall be in writing on a form furnished by the city clerk and shall state that the application for a license is not made for and on behalf of any

other person and that the applicant is not acting as an agent for, or in the employ of another.

b-2. The application shall be in a form prescribed by the city clerk including information related to the qualifications and history of the applicant. The application shall be subscribed and sworn to before any notary public or other person authorized by law to administer oaths, and shall be filed with the city clerk. Applications are to be completed by the person to be licensed including the principal officers of a limited liability company, the partners in a partnership or the duly authorized agent of a corporation or other legal entity. An agent for any legal entity other than a corporation shall be subject to the prohibitions in sub. 2-c.

b-3. Applications for new and renewal applications are subject to the fees prescribed in s. 81-92.5 to be paid to the city treasurer at the time of filing.

b-4. An application for a new phonograph distributor license shall include disclosure, in a manner prescribed by the city clerk, of all phonograph machines currently placed or under agreement to be placed by the distributor within the city. Disclosure shall include the addresses of the premises where the phonograph machines are presently placed or are contracted to be placed, the number of machines placed or to be placed at the premises and the legal name of the entity with whom the machines are to be placed.

b-5. An application for the renewal of a phonograph distributor license shall include disclosure, in a manner prescribed by the city clerk, of all phonograph machines currently placed within the city. Disclosure shall include the addresses of the premises where the phonograph machines are placed, the number of machines placed at the premises and the legal name of the entity with whom the machines are to be placed.

b-6. Each phonograph machine distributor shall file an updated disclosure with the city clerk on or before December 31 of each calendar year in a manner prescribed by the city clerk identifying changes in the disclosures previously filed under this paragraph subject to the fee for late filing provided in s. 81-92.5-2-d.

Part 30. Section 107-13- 5 of the code is repealed.

Part 31. Section 107-13- 6 to 9 of the code is renumbered 107-13-5 to 8.

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: _____

LRB121331-2
Richard L. Withers
3/31/2011

clerical correction -- 5/18/11 -- lp