



Legislation Text

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110326
SUBSTITUTE 2

THE CHAIR

A substitute ordinance relating to licensing procedures and standards for public entertainment premises.

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108-9-a ra
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108-17 am
108-18 cr
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108-23 rc

This ordinance eliminates various types of licenses, including licenses for bowling alleys, carnival sites, amusement machine or phonograph premises, pool and billiard halls, theaters and motion picture houses. It also eliminates the various types of tavern amusement licenses, including instrumental music, pre-recorded music machine, record spin, tavern amusement and tavern dance hall licenses, as well as special party permits. Henceforth, each of these entertainment activities would require either an annual or temporary “public entertainment premises” license. If alcohol beverages are served on the premises, a public entertainment premises license would be required in addition to a retail alcohol beverage license.

The public entertainment premises license replaces the current public entertainment club license (which is only for establishments that do not serve alcohol beverages) and the various types of tavern amusement licenses. The licensing procedures and regulations for a public entertainment premises are largely the same as the existing provisions for public entertainment club licenses. Among the most significant changes to the licensing provisions is that the following information will be required to be included in the floor or site plans and plans of operation that are submitted along with applications for public entertainment premises licenses:

1. A description of how patrons will enter the premises, the proposed location of the waiting line, estimated waiting time, and the location where security searches or identification verification will occur at the entrance to the premises.
2. A description of designated or likely outdoor smoking areas, the number and placement of exterior and interior trash receptacles, crowd control barriers and sanitation facilities, as well as a description of how applicable noise standards will be met for the premises to be licensed.
3. A description of any proposed security provisions for off-street parking and loading areas.
4. The number of security personnel expected to be on the premises, their responsibilities, the equipment they will use in carrying out their duties and their licensing, certification or training credentials.
5. A description of any provisions made for clean-up of the premises, including identification of the solid waste contractor to be used by the applicant.

This additional information will also be required on applications for retail alcohol beverage licenses.

This ordinance also provides that the common council shall authorize a specified occupancy for every establishment with a public entertainment premises license. In determining the specified occupancy, the council shall consider the maximum occupancy established by the commissioner of neighborhood services or specified in the plan of operation, as well as evidence concerning the character of the surrounding neighborhood, evidence concerning traffic and parking patterns and the

license applicant's floor plan or plan of operation.

Finally, this ordinance makes the costume regulations currently applicable to licensed alcohol beverage establishments applicable to all public entertainment premises and establishes different (earlier) closing times for outdoor public entertainment than indoor public entertainment.

This ordinance shall be effective March 1, 2012.

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

Part 1. Section 81-4 of the code is repealed and recreated to read:

81-4. Amusement Machine or Jukebox Distributor License. 1. Each amusement machine or jukebox distributor license shall be issued for the license year commencing July 1 and ending the following June 30.

2. The following fees shall be paid:

a. Amusement machine or jukebox distributor license, new or renewal: \$850.

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

c. Transfer of amusement machine or jukebox distributor license: \$20.

(See s. 107-13).

Part 2. Sections 81-13, 81-17, 81-62, 81-92.5, 81-98, 81-99, 81-101, 81-114.8, 81-119, 81-119.5, 81-120 and 81-127 of the code are repealed.

Part 3. Section 81-17.7 of the code is amended to read:

81-17.7. Center for the Visual and Performing Arts. Each center for the visual and performing arts license shall be issued and shall expire on the same date as the ~~[[tavern amusement]]~~ >>public entertainment premises<< license held by the same ~~[[premise]]~~ >>premises<< . The fee for each license shall be ~~[[\$300]]~~ >>\$2,000<< .

(See s. ~~[[90-37]]~~ >>90-71<< .)

Part 4. Section 81-101.2-0 and 1-a of the code is amended to read:

81-101.2 Public Entertainment >>Premises<< License.

1. REGULAR LICENSE.

a. Each public entertainment >>premises<< license shall be issued for a one-year period commencing on the date of the granting of the license. >>If a premises is also licensed as a retail alcohol beverage establishment, the public entertainment 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 retail alcohol beverage license.<<

Part 5. Section 81-101.2-1-b and c of the code is repealed and recreated to read:

b. The fee for each license shall be based on the maximum capacity of the premises established by the common council under s. 108-7-4:

b-1. 25 or fewer persons, or a premises without a specified capacity: \$150.

b-2. 26-79 persons: \$250.

b-3. 80-99 persons: \$375.

b-4. 100-149 persons: \$500.

b-5. 150-179 persons: \$700.

b-6. 180-299 persons: \$1,000.

b-7. 300-499 persons: \$1,500.

b-8. 500 or more persons: \$2,000.

c. The fee for the transfer of a license shall be \$125.

Part 6. Section 81-101.2-2-0 of the code is amended to read:

2. TEMPORARY PERMIT. The fee for each temporary permit >> per event not to exceed 4 days, except a carnival, which shall not exceed 14 days, << shall be as follows:

Part 7. Chapter 83 of the code is repealed.

Part 8. The title of chapter 84 is amended to read:

**CHAPTER 84
GENERAL LICENSING PROVISIONS [~~;~~ AMUSEMENT MACHINES]**

Part 9. Sections 84-50 to 84-74 of the code are repealed.

Part 10. Section 85-5-4-g of the code is created to read:

85-5. Council Action.

4. PROCEDURE AT MEETING OF THE COMMON COUNCIL.

g. If a retail alcohol beverage license for a premises is suspended and the licensee also holds a public entertainment premises license for the premises, the public entertainment premises license shall be suspended for the same time period as the alcohol beverage license.

Part 11. Chapter 87 of the code is repealed.

Part 12. Section 90-5-1-c-1-b and f of the code is amended to read:

90-5. Licensing.

1. APPLICATION: FORM AND CONTENTS.

c. Additional Requirements.

c-1. Floor Plan.

c-1-b. Locations of all entrances and exits to the premises. >>This shall include a description of how patrons will enter the premises, the proposed location of the waiting line, estimated waiting time, and the location where security searches or identification verification will occur at the entrance to the premises.<<

c-1-f. Locations and dimensions of any off-street parking >>and loading<< areas >>for patrons, employees and entertainers<< available at the premises.

Part 13. Section 90-5-1-c-2-e of the code is amended to read:

c-2. Plan of Operation.

c-2-e. What plans ~~[[, if any,]]~~ the applicant has to insure the orderly appearance and operation of the premises with respect to litter and noise. >>This shall include a description of designated or likely outdoor smoking areas, the number and placement of exterior and interior trash receptacles, crowd control barriers and sanitation facilities, as well as a description of how applicable noise standards will be met for the subject premises.<<

Part 14. Section 90-5-1-c-2-j of the code is renumbered 90-5-1-c-2-m.

Part 15. Section 90-5-1-c-2-j to L of the code is created to read:

c-2-j. A description of any proposed security provisions for off-street parking and loading areas.

c-2-k. The number of security personnel expected to be on the premises, their responsibilities, the equipment they will use in carrying out their duties and their licensing, certification or training credentials.

c-2-L. A description of any provisions made for clean-up of the premises, including identification of the solid waste contractor to be used by the applicant.

Part 16. Sections 90-22 and 90-33 to 90-36 of the code are repealed.

Part 17. Section 90-37-3-a of the code is repealed and recreated to read:

90-37. Center for the Visual and Performing Arts.

3. MINIMUM QUALIFICATIONS.

a. The operator of the premises shall hold a valid public entertainment premises license for the same premises issued under ch. 108.

Part 18. The title of chapter 107 of the code is amended to read:

GAMBLING, [[PHONOGRAPH]] >>AMUSEMENT<< MACHINES, >>JUKEBOXES,<< ETC.

Part 19. Section 107-13 of the code is repealed and recreated to read:

107-13. Amusement Machine or Jukebox Distributor License. 1. DEFINITIONS. a.

"Amusement machine" means any mechanical or electronic device operated or intended to be operated for amusement or skill where the use or operation of which is conditioned upon payment of a fee either by insertion of a coin, token or similar object in a slot, or otherwise. The term does not include a jukebox.

b. "Distributor" means any person who leases, rents, places or installs for use or operation, on a premises in the city not owned or leased by that person, one or more amusement machines or jukeboxes.

c. "Jukebox" means any electronic or mechanical device, or machine of any kind, nature or description, in which the operation is dependent upon the insertion of money, whether automatically or otherwise, which results in the playing of music of any type.

d. "Officer" means the president, vice president, secretary or treasurer, or his or her equivalent, of any corporation, association or other organization.

e. "Person" means any individual, partnership, firm, association, corporation or other legal entity.

2. GENERAL PROVISIONS. a. License Required. No person shall lease, rent, place or install amusement machines or jukeboxes for use by the public on any premises not owned or leased by that person without first having obtained an amusement machine or jukebox distributor license as provided in this section.

b. Conditions for Placement. No person owning or operating any premises shall place, or permit to be placed, on such premises for use by the public any amusement machines or jukeboxes unless the premises is licensed as a public entertainment premises under s. 108-7 and either of the following is true:

b-1. The amusement machines or jukeboxes are owned by the person owning or operating the premises.

b-2. The amusement machines or jukeboxes are obtained from a distributor who is duly licensed by the city.

c. Agent Not Eligible. No person shall make application for an amusement machine or jukebox distributor license acting as agent for, or in the employ of another, or for the use and benefit of

another person, except when the applicant is a corporation. In this case, the corporation shall 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.

3. APPLICATION PROCEDURE. a. Application. a-1. The application for a new or renewal amusement machine or jukebox distributor 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.

a-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 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.

a-3. The application shall state:

a-3-a. The license being applied for.

a-3-b. The name and permanent address of the applicant.

a-3-c. If the applicant is a corporation, the name of the corporation exactly as it is set forth in its articles of incorporation, together with the names and addresses of all officers, directors and designated managers.

a-3-d. If the application is a partnership, the names and resident addresses of all partners, including limited partners. If any of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the partner which is a corporation.

a-3-e. If the applicant is a club, association or other organization which is neither a corporation nor a partnership, the exact name of the entity together with the names and residence addresses of all officers.

a-3-f. If the application is for a noncorporate amusement machine or jukebox distributor license, whether the applicant has resided in this state for at least one year prior to the date of filing the application. If the license applicant is a corporation, whether the agent has resided in Milwaukee county for at least one year prior to the date of filing the application, and whether the officers and directors of the corporate applicant have resided in this state for at least one year prior to the date of filing the application.

a-3-g. All convictions, including ordinance violations exclusive of traffic violations, with a brief statement of the nature of the convictions and the jurisdiction in which the convictions occurred.

a-3-h. Any other reasonable and pertinent information the common council or the proper licensing committee of the common council may from time to time require.

b. Application Fee. Applications for new and renewal licenses are subject to the fees prescribed in s. 81-4, to be paid to the city treasurer at the time of filing.

c. Disclosure. c-1. An application for a new amusement machine or jukebox distributor license shall include disclosure, in a manner prescribed by the city clerk, of all amusement machines or jukeboxes currently placed or under agreement to be placed by the distributor within the city. Disclosure shall include the addresses of the premises where the amusement machines or jukeboxes are presently placed or are contracted to be placed, the number of machines or jukeboxes placed or to be placed at the premises, and the legal names of the entities with whom the machines or jukeboxes have been placed or are to be placed.

c-2. An application for the renewal of an amusement machine or jukebox distributor license shall include disclosure, in a manner prescribed by the city clerk, of all amusement machines or jukeboxes currently placed within the city. Disclosure shall include the addresses of the premises where the amusement machines or jukeboxes are placed, the number of machines or jukeboxes placed at the premises, and the legal names of the entities with whom the machines or jukeboxes have been placed.

c-3. Each 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. 81-4-2-b.

d. Qualifications. An amusement machine or jukebox distributor license may be denied to any applicant who is not of good professional character or who has been convicted of a felony, misdemeanor or other offense, the circumstances of which substantially relate to the circumstances of being a distributor. In this subdivision, "applicant" includes any individual or partner, and any officer, director or agent of any corporate applicant.

e. Fingerprinting. e-1. All new applicants shall be fingerprinted by the police department. This requirement shall not apply to a person already licensed by the city when that person is renewing the license. If a set of fingerprints is on file with the police department, an additional set shall not be required unless expressly requested by the department for verification.

e-2. If the applicant is a corporation or association, the agent shall be fingerprinted. If the applicant is a partnership, each partner shall be fingerprinted. If the applicant is an individual, the individual shall be fingerprinted.

e-3. If there is a change of agent manager by the licensee, the new agent shall be fingerprinted within 10 days of the change.

f. Investigation. All applications for new amusement machine or jukebox distributor licenses shall be referred to the chief of police and the commissioner of neighborhood services, both of whom shall investigate and report their findings to the proper licensing committee of the common council.

4. COUNCIL APPROVAL. a. Committee Action. a-1. Whenever the application for a new license conforms in all respects to sub. 3, the city clerk shall submit the application to the common council for

referral to the proper licensing committee.

a-2. After receiving and giving consideration to the reports of the chief of police and the commissioner of neighborhood services, the licensing committee shall report its findings and recommendation for the issuance or denial of the license to the common council.

b. Council Action. A majority vote of the common council members present shall authorize the issuance or denial of a license, but a $\frac{3}{4}$ -vote of the council-elect shall be required to reverse any recommendation of the proper licensing committee of the common council as to whether a license shall be issued or denied.

5. ISSUANCE; TERMS. a. Approval of Licenses. All new distributor licenses shall be issued by the city clerk after having been referred to the proper licensing committee and approved by the common council. Renewal licenses may be issued by the city clerk without referral to the committee.

b. Proof of Fee Payment. The city clerk shall not issue a new or renewal license unless the applicant files with the city clerk a receipt showing payment of the fee required by s. 81-4 to the city treasurer.

c. Term; Expiration Date. See s. 81-4 for the license term and date of expiration.

d. Report Changes. Whenever any fact set forth in the application under sub. 3 changes, the licensee shall file a written notice of the change with the city clerk within 10 days.

e. Identification Tags or Stickers. Each licensee shall affix, to each amusement machine or jukebox placed on a premises by the licensee, an identification tag measuring at least 2 inches by 2 inches providing the name, telephone number of license number of the licensee. Each tag or sticker shall be placed in a location which is readily visible to the general public without requiring movement of the machine or jukebox.

6. DAMAGE TO MACHINES PROHIBITED. No person shall willfully or maliciously remove, destroy, tamper, injure, mutilate or alter any amusement machine or jukebox or insert any slug, token or counterfeit coin in any amusement machine or jukebox.

7. TRANSFER OF LICENSE. a. General. No person-to-person transfer of an amusement machine or jukebox distributor license shall be permitted unless the licensee dies, in which case the 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 according to the court order, the license may be transferred to the spouse from whom the licensee is separated or divorced. In this 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.

b. Application and Fee. Each license transfer shall be made upon proper application of the spouse and approval by the common council, and payment of a fee for each license transferred as provided in s. 81-4.

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

8. REVOCATION. a. Causes. Any license issued under this section may be revoked for cause by the common council after notice to the licensee and a hearing. Licenses may be revoked for the following causes:

a-1. The making of any material false statement in any application.

a-2. The conviction of the licensee, his or her agent or employee of any offense under the ordinances of the city, or the statutes of the state of Wisconsin, the circumstances of which are substantially related to the licensed activity.

a-3. For any reasonable cause which is in the best interests and good order of the city.

b. Procedures. The procedures for the due process hearing and notice of license revocation shall be the same as those set forth in s. 90-12-4 and 5 governing the commencement of proceeding, notice and hearing, and common council decision.

c. Renewal After Revocation. No person whose amusement machine or jukebox distributor license has been revoked may obtain another distributor license within a period of one year from the date of revocation.

d. Surrender of Licenses and Permits. d-1. Upon revocation of any amusement machine or jukebox distributor license, the license 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, the number of the license and the basis for the revocation.

d-2. No licensee shall refuse to surrender the license upon request by the common council. Each day of refusal shall constitute a separate offense.

d-3. A reversal of a judgment or conviction upon appeal, and the filing of a certified copy of the 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, and the city clerk shall thereupon return to the licensee the license pursuant to this paragraph.

9. PENALTY. Any person who violates this section shall be fined not less than \$25 nor more than \$500 or, in default of payment thereof, be imprisoned in the county jail or house of correction of Milwaukee county not more than 90 days for each offense, and a separate offense shall be regarded as committed each day the violation continues.

Part 20. The title of ch. 108 is amended to read:

CHAPTER 108
PUBLIC ENTERTAINMENT ~~[[CLUBS]]~~ >>PREMISES<<

Part 21. Section 108-1 of the code is amended to read:

108-1. Findings. The common council finds that various public entertainment ~~[[clubs]]~~ >>premises << can be a source of noise, litter, large and unruly congregations of people, traffic and parking congestion that adversely affect 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.

Part 22. Section 108-3 of the code is repealed and recreated to read:

108-3. Definitions. In this chapter:

1. BILLIARD TABLE means any table, coin operated or not, surrounded by a ledge or cushion with or without pockets upon which balls are impelled by a stick or cue and which includes all forms of games known as "carom, billiards, pocket billiards, 3-cushion billiards, English billiards" and all other games played on a billiard, pool or snooker table and which also includes the games known as "15-ball pool, 8-ball pool, bottle pool, pea pool" and all other games played on a so-called billiard table and also all games played on a so-called "pigeon-hole table."
2. CARNIVAL means the temporary setting up, maintaining or operating of mechanical rides such as ferris wheels, merry-go-rounds, bumper cars, etc., for the use of which a fee is charged.
3. LICENSING COMMITTEE means the standing committee of the common council which is assigned jurisdiction over licensing matters.
4. MOTION PICTURE HOUSE means any building, or parts thereof, used for the purpose of exhibiting motion pictures of any kind for admission to which remuneration or any other consideration is paid, charged or received.
5. PERSON means any individual, firm, corporation, limited liability company, partnership or association acting in a fiduciary capacity.
6. 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, 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, jukebox, 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. This term includes a carnival, motion picture house or theater and, when offered to the public for a fee, bowling, billiard tables or amusement machines as defined in s. 107-13.
7. PUBLIC ENTERTAINMENT PREMISES 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. 6

are conducted.

8. THEATER means any building, or parts thereof, used for dramatic or operatic or other exhibitions, plays or performances for admission to which remuneration or any other consideration is paid, charged or received.

Part 23. Section 108-5-1-b and c of the code is amended to read:

108-5. License Required.

1. REQUIREMENT.

b. A public entertainment ~~[[club]]~~ >>premises<< license shall entitle the ~~[[holder]]~~ >>licensee<< 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]]~~ >>s. 108-3-6<< .

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

Part 24. Section 108-5-2-0 of the code is amended to read:

2. EXEMPTION. No public entertainment ~~[[club]]~~ >>premises<< license shall be required for the following:

Part 25. Section 108-5-2-a and c of the code is repealed and recreated to read:

a. A theater or motion picture house at which the only person or organization providing motion pictures or theater performances is the person or organization that owns the premises.

c. Billiard tables provided on the premises of bona fide clubs or social organizations not operating for private profit which provide other membership privileges and activities, even though there is a charge for playing billiards.

Part 26. Section 108-5-2-f of the code is created to read:

f. Recorded background music which is incidental to operation of the establishment located on the premises and is either:

f-1. In the case of a licensed alcohol beverage premises, operated by the licensee, manager or bartender.

f-2. In the case of a premises without an alcohol beverage license, operated by a regular employee of the establishment.

Part 27. Section 108-5-3-a of the code is amended to read:

3. APPLICATION.

a. Filing. Application for a public entertainment ~~[[club]]~~ >>premises<< 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.

Part 28. Section 108-5-3-b-7-e, f and g of the code is amended to read:

b-7-e. Whether or not the public entertainment ~~[[club]]~~ >>premises<< will make use of sound amplification equipment and, if so, what kind.

b-7-f. What plans ~~[[, if any,]]~~ the applicant has to provide security for the premises. >>This shall include a description of any proposed security provisions for off-street parking and loading areas, the number of security personnel expected to be on the premises, their responsibilities of these guards, the equipment they will use in carrying out their duties and their licensing, certification or training credentials.<<

b-7-g. What plans ~~[[, if any,]]~~ the applicant has to insure the orderly appearance and operation of the premises with respect to litter and noise. >>This shall include a description of designated or likely outdoor smoking areas, the number and placement of exterior and interior trash receptacles, crowd control barriers and sanitation facilities, as well as a description of how applicable noise standards will be met for the subject premises.<<

Part 29. Section 108-5-3-b-7-j and k of the code is created to read:

b-7-j. A description of any provisions made for clean-up of the premises, including identification of the solid waste contractor to be used by the applicant.

b-7-k. For a carnival to be held outside, what plans the applicant has in the event of inclement weather, including alternative dates and times during which the carnival may be set up, maintained or operated.

Part 30. Section 108-5-3-b-8 of the code is renumbered 108-5-3-b-9.

Part 31. Section 108-5-3-b-8 of the code is created to read:

b-8. A site plan showing:

b-8-a. The locations of all entrances and exits. This shall include a description of how patrons will enter and leave the premises, the proposed location of the waiting line, estimated waiting time, and the location where security searches or identification verification will occur at the entrance to the premises.

b-8-b. The locations and dimensions of any off-street parking and loading areas for customers and entertainers available at the premises.

Part 32. Section 108-5-4 of the code is repealed and recreated to read:

4. CHANGES TO BE REPORTED. a. General. A licensee shall notify the city clerk whenever there

is a change in any information , not including a change in the plan of operation, 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.

b. Change in Plan of Operation. If, after the license has been granted or issued, the licensee wishes to substantially 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 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 s. 108-7-1-d-2, that the new entertainment is compatible with the normal activity of the neighborhood in which the licensed premises is located.

Part 33. Section 108-5-5-0, a and b 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 ~~[[72 consecutive hours irrespective of the entertainment's schedule]]~~ >>4 consecutive days, except in the case of a carnival, in which case the public entertainment may be offered up to 14 consecutive days, but only between the hours of 10 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.

b. Application. Application for a temporary public entertainment >>premises<< permit and the review of the permit application shall be conducted as set forth in sub. 3 provided that application for a >>temporary<< public entertainment >>premises<< 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.

Part 34. Section 108-5-5-e-1 of the code is amended to read:

e. Committee Action. e-1. If the common council member grants the application for a temporary public entertainment >>premises<< 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.

Part 35. Section 108-5-5-g of the code is repealed and recreated to read:

g. Limit. No more than 4 temporary public entertainment premises permits shall be issued for the same premises in any calendar month. No more than 20 temporary public entertainment premises permits shall be issued for the same premises in any license year.

Part 36. Section 108-5-5-h and i of the code is created to read:

h. New Year's Holiday. No permit shall be required for entertainment, exhibitions or dancing on New Year's Eve or New Year's Day.

i. Display of Permit. i-1. Every person issued a temporary public entertainment premises permit pursuant to this subsection shall post the permit in a conspicuous place in the premises during those times when entertainment, exhibitions or dancing is taking place.

i-2. It shall be unlawful for any person to post a permit or certificate or to be permitted to post a permit or certificate upon premises other than those mentioned in the application, or knowingly to deface or destroy a permit.

i-3. Failure to appropriately post a permit or certificate shall be treated in the same manner as operating without a permit.

Part 37. Section 108-5-7 of the code is amended to read:

7. QUALIFICATION. No public entertainment ~~[[club]]~~ >>premises<< license shall be granted to any person who is not a resident of the state of Wisconsin.

Part 38. Section 108-7-1-d-2 of the code is amended to read:

108-7. Issuance of License.

1. ISSUANCE.

d. Recommendation.

d-2. The appropriateness of the location and premises where the entertainment ~~[[club]]~~ >>premises<< is to be located and whether ~~[[the club]]~~ >>use of the premises for public entertainment<< 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.

Part 39. Section 108-7-1-g of the code is amended to read:

g. Document. If the common council grants the application for a public entertainment >>premises<< 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.

Part 40. Section 108-7-3 of the code is repealed and recreated to read:

3. AUTHORIZED OCCUPANCY. Every premises authorized for a public entertainment premises license shall, notwithstanding the legal occupancy limit of the premises specified on the plan of operation under s. 108-5-3-b-8-c, be authorized by the common council to serve a specified occupancy. In determining the specified occupancy, the council shall consider the legal occupancy limit set forth on the plan of operation, other information provided in the plan of operation, evidence concerning the character of the surrounding neighborhood and evidence concerning traffic and parking patterns. The council shall authorize one of the following occupancies for each licensed premises:

- a. 25 or fewer persons, or a premises without a specified capacity.
- b. 26-79 persons.
- c. 80-99 persons.
- d. 100-149 persons.
- e. 150-179 persons.
- f. 180-299 persons.
- g. 300-499 persons.
- h. 500 or more persons.

Part 41. Section 108-7-4 of the code is created to read:

4. TRANSFERABILITY. Every public entertainment premises license issued under this chapter may be transferred from one premises to another within the city upon the approval of the common council and the payment of the transfer fee required in ch. 81, but no licensee shall be entitled to more than one transfer in any one license year. The new premises shall comply in all respects with this chapter as if a new application were being made.

Part 42. Section 108-9-a of the code is renumbered 108-9-1 and amended to read:

108-9. Renewal of Licenses. 1. PROCEDURE FOR RENEWAL. Applications for the renewal of a public entertainment >>premises<< 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]]~~ >>10 days of the filing of the renewal application<< . 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.

Part 43. Section 108-9-b of the code is renumbered 108-9-2.

Part 44. Section 108-11-5 of the code is created to read:

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

5. WHEN ALCOHOL BEVERAGE LICENSE SUSPENDED. If a retail alcohol beverage license for a

premises is suspended and the licensee also holds a public entertainment premises licenses for the premises, the public entertainment premises license shall be suspended for the same time period as the alcohol beverage license.

Part 45. Sections 108-17 and 108-19 of the code are amended to read:

108-17. Public Entertainment ~~[[Club]]~~ >>Premises<< License; Posting. Each public entertainment ~~[[club]]~~ >>premises<< license ~~[[and]]~~ >>or<< permit shall be posted in a conspicuous place ~~[[within the club in]]~~ >>on the premises on<< which the public entertainment is held.

108-19. Supervision of Public Entertainment ~~[[Club]]~~ Premises. ~~[[The public entertainment club]]~~ >>On any licensed public entertainment premises with an authorized occupancy of 150 or more persons under s. 108-7-3, the<< licensee shall be responsible for the adequate supervision of the premises, and ~~[[such]]~~ >>the<< supervision shall consist of persons 21 years of age or older.

Part 46. Sections 108-18, 108-20 and 108-22 of the code are created to read:

108-18. Minors; Billiards. It shall be unlawful for any person who has not attained the age of 16 years to play billiards in a licensed premises unless accompanied by a parent or guardian. It shall further be unlawful to permit any person who has not attained the age of 16 years to play billiards in a licensed premises unless that person is accompanied by a parent or guardian.

108-20. Gambling Prohibited. No dice shall be thrown for money, and no cards, raffles or other games of chance involving money, or gambling in any form, shall be permitted, in any licensed public entertainment premises.

108-22. Costume Regulations. 1. CERTAIN COSTUMES PROHIBITED. No licensee, either personally or through his or her agent or employee, shall furnish entertainment or permit the performance of any act, stunt or dance by dancers, performers or entertainers, whether the dancers, performers or entertainers are employed by the licensee or through his or her agent or not, and no entertainer or employee shall furnish any entertainment or perform any act, stunt or dance unless the dancers, performers or entertainers shall meet the following wearing apparel standards when performing or when present upon the premises:

a. That portion of every costume to be worn by dancers, performers or entertainers covered by this subsection and which relates to the breast or chest area, or to the area of the sex organs and buttocks, shall be of nontransparent material.

b. The top portion of the costume worn by a female dancer, performer or entertainer or a female impersonator shall be so conformed, fabricated and affixed to the body so as to keep the areola and the nipple of the breast completely covered at all times.

c. The lower portion of the costume worn by a female dancer, performer or entertainer, or a female impersonator shall encircle the body at the area of the sex organs and buttocks. This portion of the costume shall be of such dimensions and so conformed, fabricated and affixed to the body so as to completely cover the sex organs, the pubic hair and the cleavage of the buttocks at all times. An animal fur piece or other device simulating the hair surrounding the pubic area shall not constitute

compliance with the costume requirements of this section.

d. The lower portion of the costume worn by a male dancer, performer or entertainer shall encircle the area of the sex organs and the buttocks. This portion of the costume shall be of such dimensions and so conformed, fabricated and affixed to the body so as to completely cover the pubic hair, sex organ and the cleavage of the buttocks at all times.

2. EXEMPTIONS. The provisions of sub. 1 do not apply to a licensed public entertainment premises that offers live dance, ballet, music or dramatic performances of serious artistic merit on a regular basis, provided:

a. The predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to the customers.

b. The public entertainment offered on the premises is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

3. DISORDERLY CONDUCT BY PATRONS PROHIBITED. No licensee, either personally or through his agent or employee, shall permit any patron to participate in any act, stunt or dance in violation of this section.

4. REVOCATION FOR NONCOMPLIANCE. The common council may revoke any license issued under this chapter at any time for any violation of this section. Notice and hearing on such revocation shall be conducted in accordance with s. 108-11.

Part 47. Section 108-23 of the code is repealed and recreated to read:

108-23. Hours for Public Entertainment. 1. PREMISES WITH ALCOHOL BEVERAGE LICENSE.

a. Indoor Public Entertainment. Indoor public entertainment shall be discontinued no later than the closing time for the alcohol beverage establishment, unless an earlier time of discontinuation is established by the common council in its approval of the licensee's plan of operation.

b. Outdoor Public Entertainment. Outdoor public entertainment shall be discontinued no later than 10:00 p.m. Sunday through Thursday nights and no later than 12:00 a.m. on Friday and Saturday nights, unless a different time of discontinuation, either earlier or later, is established by the common council in its approval of the licensee's plan of operation.

2. PREMISES WITHOUT ALCOHOL BEVERAGE LICENSE. a. Indoor public entertainment shall be discontinued no later than 1:00 a.m. Sunday through Thursday nights and 1:30 a.m. on Friday and Saturday nights, and shall not resume before 10:30 a.m., unless an earlier time of discontinuation is established by the common council in its approval of the licensee's plan of operation.

b. Outdoor Public Entertainment. Outdoor public entertainment shall be discontinued no later than 10:00 p.m. Sunday through Thursday nights and no later than 12:00 a.m. on Friday and Saturday nights, unless a different time of discontinuation, either earlier or later, is established by the common council in its approval of the licensee's plan of operation.

Part 48. This ordinance takes effect March 1, 2012.

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 Attorney
LRB125526-4
Jeff Osterman
10/26/2011