



Legislation Text

File #: 171057, **Version:** 1

171057 SUBSTITUTE

THE CHAIR

An ordinance relating to regulations, requirements, and procedures for various licenses and permits.

68-11-8-c am
75-21-1-c am
75-21-17 rc
75-23-2-h cr
75-23-7.5 cr
81-41-2 rc
81-41-3 rc
81-106.7 rc
90-4-11-c-6 am
90-6-4-a am
92-10-2-b-5 am
92-10-2-b-6 am
95-1-1-a rp
95-1-2-b am
95-1-3-d am
95-1-7-c am
95-2-10-a am
95-14-5 rc
108-5-2-d am
108-14-5 am
108-23 rc
115-32.6-7 rc
116-12-2 rc

This ordinance revises and updates various code provisions relating to licenses and permits. This ordinance:

1. Standardizes proof-of-insurance requirements for various license and permit applications to require proof solely at the time of application.
2. Streamlines the process for a food establishment to obtain a variance by requiring approval only by the health department.
3. Establishes a variance procedure for tattoo establishments.
4. Clarifies the definition of a “massage establishment.”
5. Creates a new application fee of \$15 and waives the renewal fee for nonprofit organizations applying for a direct sellers permit. The current new application fee is \$129, and the current renewal fee is \$50.

6. Corrects the fee schedule for a sidewalk area dining permit.
7. Amends requirements of the Class “D” provisional operator’s license to remove enrollment in a responsible beverage server course as satisfaction of the requirement to complete such course. This ordinance also allows the course to be completed online.
8. Standardizes the definition of the term “nonprofit organization” in code provisions relating to licenses or permits issued by the city clerk.

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

Part 1. Section 68-11-8-c of the code is amended to read:

68-11. Plan Examination; Site Evaluation; Variance.

8. VARIANCE.

c. A variance shall be considered a change to a food operation or establishment’s operational plan requiring review and approval. No variance application shall be considered complete until the applicant has~~[[, obtained approval by the common council member in whose district the food establishment is located, and]]~~ paid the application fee specified in s. 81-55.3.

Part 2. Section 75-21-1-c of the code is amended to read:

75-21. Massage Establishment Regulation.

1. DEFINITIONS.

c. “Massage establishment” means a place where ~~[[the primary or secondary function is to offer]]~~ massage >>, as defined in sub. b, is performed<<.

Part 3. Section 75-21-17 of the code is repealed and recreated to read:

75-21. Massage Establishment Regulation.

17. INSURANCE. Every license applicant shall, at the time of applying for the license, file with the city clerk a certificate of general liability and property damage insurance in the sum of not less than \$25,000 per person~~[[,]]~~ >>/_<< \$50,000 per accident~~[[,]]~~ bodily injury liability or combined single limit of not less than \$60,000 per occurrence.

Part 4. Section 75-23-2-h of the code is created to read:

75-23. Tattooing and Body-Piercing.

2. DEFINITIONS.

h. “Variance” means a written document approved by the department that authorizes a modification or waiver of one or more regulatory requirements, if in the opinion of the department the modification will not result in a health hazard or nuisance.

Part 5. Section 75-23-7.5 of the code is created to read:

7.5. VARIANCE. a. At the commissioner's discretion, if strict adherence to any state regulation adopted in s. 75-23-3 is impractical for a particular tattoo or body-piercing operation, the commissioner may approve a variance for that tattoo or body-piercing operation if the commissioner is provided with satisfactory proof that the granting of the variance will not jeopardize public health, safety, or welfare.

b. Application for a variance shall be submitted in writing to the commissioner on a form provided by the department. The application shall be accompanied by the documentation specified in par. e.

c. Upon receipt of a complete application, the commissioner shall review the request and grant or deny the request in writing within 30 days. If a variance is granted, the commissioner shall maintain a copy of the variance in the tattoo or body-piercing operation's file.

d. A variance shall be considered a change to a tattoo or body-piercing operation's operational plan requiring review and approval.

e. Documentation supporting a proposed variance shall include each of the following:

e-1. A description of the proposed variance from this chapter, or state regulations, citing relevant section numbers.

e-2. A description of how the potential public health hazards and nuisances addressed by the code requirement from which the variance is sought will be alternatively addressed if the variance is granted.

e-3. A hazard analysis and critical control points plan if relevant to the variance request or required by the commissioner.

f. A variance to health regulatory requirements shall be valid for 5 years from the date of issuance unless revoked for non-compliance. An operator wishing to extend a variance approval shall submit a variance renewal request. Failure to file a request for variance renewal prior to expiration shall result in the application being considered a new application.

g. Failure by an operator to adhere to the terms of modification or variance approval shall be grounds for corrective enforcement, including, but not limited to, revocation of the variance approval.

Part 6. Section 81-41-2 and 3 of the code is repealed and recreated to read:

81-41. Direct Seller's License.

2. a. The fee for the original application for each license shall be \$129, except as provided in par. b.

b. The fee for the original application for each license for a nonprofit organization shall be \$15.

3. a. The fee for the renewal of a license shall be \$50, except as provided in par. b.

b. There shall be no fee for the renewal of a license for a nonprofit organization.
(See s. 95-1.)

Part 7. Section 81-106.7 of the code is repealed and recreated to read:

81-106.7. Sidewalk Area Dining Permit.

1. The fee for a sidewalk area dining permit shall be based on the total area, in square feet, of the dining area:

- a. 0-100 square feet: \$25
- b. 101-200 square feet: \$50
- c. 201-300 square feet: \$75
- d. 301-400 square feet: \$100
- e. 401-500 square feet: \$150
- f. 501-1,000 square feet: \$225
- g. 1,001-1,500 square feet: \$300
- h. 1,501 or greater square feet: \$500

2. In addition to the fee specified in sub. 1, an initial application fee of \$100 shall be required for each new application.
(See s. 115-32.6.)

Part 8. Section 85-14 of the code is created to read:

85-14. Insurance Required.

a. For any license or permit issued by the city clerk for which insurance is required, an insurance policy shall continuously remain in effect for the duration of the license period. Failure to comply with this paragraph shall be grounds for suspension of the license or permit.

b. If a license or permit is suspended under par. a, the licensee or permittee shall pay the fee specified in s. 81-1-6 prior to reinstatement of the license or permit.

Part 9. Section 90-4-11-c-6 of the code is amended to read:

11. CLASS "D" PROVISIONAL OPERATOR'S LICENSE.

c. Issuance of License.

c-6. The applicant furnishes evidence that the applicant complies with the requirements of s. 90-6-4 ~~[[or is currently enrolled in a responsible beverage server training course pursuant to s. 90-6-4]]~~.

Part 10. Section 90-6-4-a of the code is amended to read:

90-6. Qualifications for Licenses.

4. TRAINING COURSE.

a. No alcohol beverage retail establishment license, Class “B” manager’s license or Class “D” operator’s license may be issued unless the applicant has successfully completed a responsible beverage server training course >>approved by the Wisconsin department of revenue<< ~~[[at any location that is offered by a vocational, technical and adult education district and that conforms to curriculum guidelines specified by the board of vocational, technical and adult education or a comparable training course that is approved by the educational approval board or]]~~ unless the applicant fulfills one of the following requirements:

Part 11. Section 92-10-2-b-5 and 6 of the code is amended to read:

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

2. LICENSE REQUIRED.

b-5. Any transaction as a purchaser of secondhand jewelry from a ~~[[charitable]]~~ >>nonprofit<< organization >>, as defined in s. 101-23.7-1-c,<< if the secondhand jewelry was a gift to the ~~[[charitable]]~~ >>nonprofit<< organization.

b-6. Any transaction as a seller of secondhand jewelry which the person bought from a ~~[[charitable]]~~ >>nonprofit<< organization >>, as defined in s. 101-23.7-1-c,<< if the secondhand jewelry was a gift to the ~~[[charitable]]~~ >>nonprofit<< organization.

Part 12. Section 95-1-1-a of the code is repealed.

Part 13. Section 95-1-2-b of the code is amended to read:

95-1. Direct Sellers.

2. LICENSE REQUIRED.

b. ~~[[Partial Exemptions, Charitable Organizations.]]~~ >>Nonprofit organizations.<<

b-1. An employee, officer >>_1<< or agent of a ~~[[charitable organization]]~~ >>nonprofit organization as defined in s. 101-23.7-1-c<< who engages in direct sales for or on behalf of the organization shall be subject to the provisions of sub. 7-a, b >>_1<< and d and sub. 9 and shall be exempt from all other provisions of this section, provided that all of the following requirements are met:

b-1-a. There is submitted to the city clerk proof that the ~~[[charitable]]~~ >>nonprofit << organization is registered under s. 440.42, Wis. Stats., or proof that the ~~[[charitable]]~~ >>nonprofit<< organization is exempt from registration as a ~~[[charitable]]~~ >>nonprofit<< organization under this statute.

b-1-b. The direct sales are performed by persons who are unpaid for their services and who remit all proceeds from sales to the organization to be used for the purposes of the organization.

b-2. Any ~~[[employee]]~~ >>employee<<, officer >>_1<< or agent of a ~~[[charitable]]~~ >>nonprofit<< organization who engages in direct sales for or on behalf of said organization and who does not meet all the requirements in subd. 1 shall be subject to all provisions of this section in the same manner as any other direct seller.

Part 14. Section 95-1-3-d of the code is amended to read:

95-1. Direct Sellers.

3. APPLICATION.

d. Fingerprinting. All applicants for direct seller licenses shall be fingerprinted as provided in s. 85-21-1 >>except as provided in 95-1-2-b<<.

Part 15. Section 95-1-7-c of the code is amended to read:

7. REGULATIONS.

c. Liability Insurance. To hold a valid license, a direct seller selling or offering for sale goods from a pushcart, stand, table, container >>₁<< or other stationary apparatus located on the public way must have in force at all times general liability insurance. As evidence of the applicant's ability to comply with this condition of the license, the applicant shall furnish to the city a certificate of insurance evidencing the existence of general liability insurance, with the city of Milwaukee named as an additional insured. Insurance coverage required under this paragraph shall be, at a minimum, a combined single limit of \$100,000 per occurrence. ~~[[The certificate of insurance shall provide 30 days written notice to the city upon cancellation or nonrenewal or material change in the policy.]]~~ In addition to the foregoing insurance requirements, all direct sellers shall be required to indemnify and hold harmless the city, >>and<< its ~~[[employees]]~~ >>employees<< and agents against any and all claims, demands, costs, damages, expenses >>₁<< or liability of any kind incurred because of any damages or injuries resulting from the activities for which the license is granted.

Part 16. Section 95-14-5 of the code is repealed and recreated to read:

95-14. Home Improvement Contractor and Salesperson Licenses.

5. INSURANCE. Upon application, every person applying for a contractor's license shall file with the city clerk a certificate of insurance. The certificate of a contractor's general liability and property damage insurance shall be in the sum of not less than \$25,000 per person, \$50,000 per accident, bodily injury liability, and \$10,000 property damage liability or combined single limit of not less than \$60,000 per occurrence.

Part 17. Section 108-5-2-d of the code is amended to read:

108-5. License Required.

2. EXEMPTION.

d. Any public show or exhibition conducted exclusively by ~~[[charitable]]~~ >>nonprofit<<, eleemosynary, educational >>₁<< or religious organizations on their own premises.

Part 18. Section 108-14-5 of the code is amended to read:

108-14. Standards for Festivals.

5. Each applicant for a temporary public entertainment premises permit for a festival shall furnish with the application fee submitted to the city clerk a certificate of insurance written by a company licensed in the state of Wisconsin, approved by the city >>₁<< and covering any and all liability or obligations which may result from the operations by the applicant's ~~[[employees]]~~ >>employees<<, agents, contractors >>₁<< or subcontractors, and including workers' compensation coverage in accordance with ~~[[ch. 101]]~~ >>ch. 102<<, Wis. Stats. ~~[[The certificate shall provide that the company will furnish the city with a 10-day written notice of cancellation, nonrenewal or material change.]]~~ The insurance shall be written in comprehensive form and shall protect the applicant and city against all claims arising from injuries to members of the public or damage to property of others arising out of any act or omission of the applicant, its ~~[[employees]]~~ >>employees<<, agents, contractors >>₁<< and subcontractors. The policy of insurance shall provide minimum combined single limits for bodily injury and property damage of \$1,000,000, or such other insurance as deemed to be adequate by the city attorney.

Part 19. Section 108-23 of the code is repealed and recreated to read:

108-23. Hours for Public Entertainment

1. INDOOR PUBLIC ENTERTAINMENT. Indoor public entertainment shall be permitted as established by the common council in its approval of the licensee's plan of operation.

2. 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 20. Section 115-32.6-7 of the code is repealed and recreated to read:

115-32.6. Sidewalk Area Dining Facilities; Permits.

7. INSURANCE. Prior to issuance of a permit, every person applying for a permit shall file with the city clerk a certificate of general liability and property damage insurance that maintains the minimum insurance coverages specified in s. 245-12-3-b. Every certificate shall be executed by an insurance company licensed to do business in the state of Wisconsin.

Part 21. Section 116-12-2 of the code is repealed and recreated to read:

116-12. Snow Plowing Equipment License.

2. INSURANCE REQUIRED. No license shall be granted unless the applicant has filed with the city clerk a public liability insurance policy in the sum of at least \$5,000 or a proper certificate showing such policy to be in force, conditioned among other things, that the person shall pay any and all damages which may happen to any tree, pavement, street, or sidewalk or to any utility pole or to any other property belonging to the city, whether the damage shall be inflicted by the person or his or her employees or workers, and conditioned also that the person shall save and indemnify and keep

harmless the city against all liability, judgments, costs, and expenses which may in any way accrue against the city in consequence of the granting of the license.

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: _____

LRB 168992-1
Tea Norfolk
11/2/2017