

**CHAPTER 85  
LICENSE AND PERMIT PROCEDURES**

TABLE  
SUBCHAPTER 1  
PROCEDURES FOR COMMITTEE HEARINGS  
AND COMMON COUNCIL REVIEW

85-1 Purpose and Scope  
85-2 Definitions  
85-2.5 Notice of Hearing  
Upon Council Member Request  
85-2.7 Hearing Procedure, New License  
85-3 Notice and Service  
85-4 Hearing Procedure; Non-Renewal  
Suspension or Revocation  
85-5 Council Action

SUBCHAPTER 2  
ADMINISTRATIVE PROCEDURES  
APPLICABLE TO LICENSE AND  
PERMIT APPLICATIONS

85-11 Purpose and Scope  
85-12 Contents of Application  
85-12.5 Issuance of License or Permit;  
Duplicate Required  
85-12.7 Scheduling of Committee Hearing  
85-13 Disqualification for License  
85-14 Insurance Required  
85-15 Change of Circumstances  
85-17 Request to Surrender a License  
85-18 License or Permit Not Issued  
85-19 Transfer of License or Permit  
or Change of Name  
85-20 Provisional Renewal Licenses  
85-21 Fingerprinting and  
Investigation Required  
85-23 Maximum Authorized Occupancy  
for Certain Licensed  
Establishments  
85-24 Issuance and Transfer of License  
85-25 Display of License or Permit  
85-26 Application for Renewal  
85-27 Revocation of Licenses  
85-29 Discrimination by License Holders  
85-30 Collusive Agreements Prohibited  
85-32 Operation of Public Utilities on  
Licensed Premises  
85-34 Truth of Statements and Affidavits  
85-35 Changes to Application  
85-37 Changes to Plan of Operation,  
Permanent

85-39 Changes to Plan of Operation,  
Temporary  
85-41 Penalty, General

SUBCHAPTER 1  
PROCEDURES FOR COMMITTEE  
HEARINGS AND COMMON COUNCIL REVIEW

**85-1. Purpose and Scope. 1. PURPOSE.** It is the purpose of the common council to assure uniformity and clarity in the procedures under which certain licenses and permits are considered for approval, denial, renewal, non-renewal, suspension and revocation. It is the further purpose of the common council to guarantee to licensees, permittees and members of the public those protections of due process of law respecting a full and fair right to be heard upon adequate notice, to confront and cross-examine witnesses, to have the benefit of rules of evidence, and to present evidence and arguments of law and fact.

**2. SCOPE AND APPLICATION.** The provisions of this chapter shall not supercede or replace any provision contained elsewhere in this code respecting licenses and permits, but shall apply where provisions for notice, committee hearing or council action are otherwise silent.

**85-2. Definitions. 1. APPLICANT** means any person, partnership, corporation, limited liability company or other firm causing, either directly or by agent or counsel, a written application for license or license renewal or for a permit or permit renewal to be filed with an office of the city for consideration and determination by the common council. For purposes of this chapter, applicant shall also mean a licensee or permittee subject to suspension or revocation proceedings.

**2. COMMITTEE** means the licensing committee or permitting committee designated by common council ordinance or rule to review and hear matters related to identified licenses or permits.

**3. COMPLAINANT** means a person or party who asserts an interest affected by the operation or proposed operation of a licensee, or the issuance or continuance of a permit, who files a written complaint in compliance with the provisions of this code or the provisions of state law with respect to the license or permit.

## 85-2.5 License and Permit Procedures

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

**4.** OBJECTION means a written statement submitted by an interested party to the city clerk that includes information personally known to the objector that could form the basis for nonrenewal or suspension of a license or permit as provided in s. 85-4-4, or as expressly provided elsewhere in this code for a license or permit as a basis for denying renewal or suspension of the license.

**5.** OBJECTOR means a person or party affected by the operation or proposed operation of a licensee, or who is or may be affected by the issuance or continuance of a permit, whose written objection is sufficient under this code to initiate proceedings for non-renewal, suspension or revocation of a license or permit.

**6.** PERSON means any individual, firm, partnership, association, corporation, limited liability company or limited liability partnership.

### 85-2.5. Notice of Hearing Upon Council Member Request.

**1.** CITY CLERK TO NOTIFY. Upon request of the local council member, the city clerk may provide, by mail, written notice, regarding an application for any business license processed by the city clerk, which is scheduled for a hearing before the licensing committee of the common council, to up to 100 single-family residences in the immediate area of the property for which a license is sought, or to each resident of the circular area having a radius of 250 feet, centered on the property for which a license is sought, whichever is greater.

**2.** EXCEPTION. Notwithstanding sub. 1, those interested parties who have made written requests to the city clerk to be notified of a hearing for a particular license application shall be provided notice by the city clerk regardless of their residence.

### 85-2.7. Hearing Procedure, New License.

**1.** HEARING; NOTICE. 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, or other city official or department authorized to receive applications for licenses, has provided written notice to the applicant. The notice shall be served upon the applicant so that the applicant has at least 7 days' notice of the hearing. The notice shall contain:

**a.** The date, time and place of the hearing.

**b.** 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 7 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.

**c.** 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.

**d.** 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.

**2.** 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.

**3.** DUE PROCESS. A due process hearing shall be conducted in the following manner:

**a.** All witnesses shall be sworn in.

**b.** The chair shall ask those opposed to the granting of the license to proceed first.

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

**d.** After the conclusion of the opponent's testimony, the applicant shall be

permitted to present the applicant's own witnesses, subject to cross-examination.

e. Committee members may ask questions of witnesses.

f. The applicant shall be permitted a brief summary statement.

**4. 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:

a. Whether or not the applicant meets the municipal requirements.

b. The appropriateness of the location and premises where the licensed premises is to be located and whether use of the premises for the purposes or activities permitted by the license would tend to facilitate a public or private nuisance or create undesirable neighborhood problems such as disorderly patrons, unreasonably loud noise, litter, and excessive traffic and parking congestion. Probative evidence relating to these matters may be taken from the plan of operation submitted with the license application.

c. The fitness of the location of the premises to be maintained as the principal place of business, including but not limited to whether there is an overconcentration of businesses of the type for which the license is sought, whether the proposal is consistent with any pertinent neighborhood business or development plans, or proximity to areas where children are typically present.

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

e. 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 activity to be permitted by the license being applied for.

f. Any other factors which reasonably relate to the public health, safety and welfare.

**5. FACTORS NOT CONSIDERED FOR RECOMMENDATION.** The recommendations of the committee regarding the applicant shall not be based on evidence presented at the hearing related to the type or content of any music, or the actual or likely financial or non-financial effects on actual or potential competitors.

**6. 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.

**7. DOCUMENT.** If the common council grants the application for a license, the city clerk, or other city official or department authorized by the code to issue licenses, 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.

**85-3. Notice and Service. 1. NOTICE OF POSSIBLE NON-RENEWAL, SUSPENSION OR REVOCATION.**

a. Unless otherwise provided, the city clerk, or other city official or department authorized by the code to receive applications for licenses or permits, shall provide written notice of the possibility of non-renewal, or of suspension or revocation of a license or permit to the applicant addressed to the person or agent at the address most recently provided by the applicant.

b. Written notice of possible non-renewal, suspension or revocation shall include:

b-1. The date, time and place of a hearing to be held by the committee.

b-2. A statement of the common council's intent to revoke, suspend or not renew the license or permit if objections, charges or allegations are found to be true.

b-3. A statement of the specific reasons for revocation, suspension or non-renewal.

b-4. A statement that an opportunity will be provided to respond to and challenge the reasons for revocation, suspension or non-renewal, and to present witnesses under oath and to confront and cross-examine witnesses under oath.

b-5. A statement that the applicant may be represented by an attorney of the applicant's choice at the expense of the applicant.

b-6. A statement that, if the applicant requires the assistance of an interpreter, the applicant may employ an interpreter at the expense of the applicant.

b-7. A statement that, upon conclusion of a hearing before the committee, the committee will prepare a written report and recommendation to the common council, and shall provide a copy of the report and recommendation to the applicant.

## 85-4 License and Permit Procedures

### 2. SERVICE OF DOCUMENTS.

Service of notices of meetings and service of other documents including committee reports and recommendations shall be made upon any party entitled to such notice and service by placing the same in the United States first class mail, postage prepaid. Hearing notices shall be served upon the applicant so that the applicant has at least 7 days' notice of the hearing.

### 3. OBJECTIONS. a. How Made.

Notice of an objection to the renewal of a license or in support of suspension of a license or permit by an interested party shall not be included in the notice of hearing if the objection has not been received by the city clerk within 45 days of the expiration of the license. Failure to timely submit an objection shall not be a bar to testimony or other evidence that relates to any matter actually identified in the notice of hearing as a basis for nonrenewal or suspension. An objection shall include information that could form the basis of a license nonrenewal or suspension and may be transmitted in writing or by electronic means. Any city official, or the official's delegate, shall forward an objection from an interested party, or from a resident as provided in s. 90-1-19, to the city clerk. The information provided by an official or the official's delegate to the city clerk shall include the name of the objector, contact information for the objector, and information known to the objector that may form a basis for nonrenewal or suspension. The submission by a city official or the official's delegate of a written summary of the objection to the city clerk shall be treated in the same manner as other objections. The city clerk is authorized to establish forms for the purpose of assisting persons wishing to submit an objection.

b. Exception. If application for renewal is filed with the city clerk after the deadline for renewal application established by the city clerk and prior to the expiration of the license, an objection may be submitted in fewer than 45 days prior to the expiration of the license and may be considered at a regularly scheduled meeting of the licensing committee provided sufficient and timely notice is given.

**85-4. Hearing Procedure; Non-Renewal, Suspension or Revocation.** 1. **AUTHORITY OF COMMITTEE.** The committee shall conduct hearings with respect to the non-renewal, suspension or revocation of a license or permit pursuant to this section. The chair of the committee shall be the presiding officer.

### 1.5. MULTIPLE LICENSE TYPES.

When the committee conducts a hearing relating to the possible denial, non-renewal, suspension or revocation of a business type license and the licensee holds one or more other types of licenses or permits issued by the city clerk for the same premises, the committee shall also consider possible non-renewal, suspension or revocation of the other licenses or permits at the same hearing. Notice of possible denial, non-renewal, suspension or revocation of the non-alcohol beverage licenses or permits shall be provided in accordance with s. 85-3.

### 2. COMMITTEE HEARING PROCEDURE.

a. The chair shall advise the applicant of the right to proceed to 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.

b. The chair shall direct that oaths be administered and subpoenas issued upon request of any party.

c. The chair shall ensure that an orderly hearing is conducted in accordance with the requirements of this section. The chair shall open the hearing with a statement that a notice was sent to the applicant, and, if the applicant appears, shall further inquire whether the notice was received. Unless expressly provided elsewhere in this code, the chair shall advise the licensee and parties seeking nonrenewal, suspension or revocation of the license that each side will be limited to 30 minutes for testimony and oral argument. This time may be extended by the chair, subject to approval by the committee, if additional time is necessary for a full and fair presentation of the facts and arguments. When permitted by the chair, questioning by committee members and relevant responses shall not count against the time limitation. In the event that the applicant does not admit receipt of the notice and also denies knowledge of the contents of the notice, the chair shall ascertain whether the applicant wishes to immediately proceed to a full hearing or whether the applicant wishes the matter to be held to the call of the chair or to a time certain. The decision to proceed or to hold the matter shall be made by the committee.

d. The chair shall rule on objections to the admissibility of evidence. Any ruling of the chair shall be final unless appealed to the committee, and the committee shall reverse such ruling only upon the vote of a majority of its members.

**3. RECORD.** An electronic or stenographic record shall be made of all licensing proceedings before the licensing committee and the common council. An electronic record shall audibly, accurately and completely reflect the testimony and statements made by participants in the proceedings. Recordings shall be maintained in a manner prescribed by the city clerk. An electronic record shall be made available for stenographic transcription or for transcription by other means at the expense of the person or party seeking the transcription of all or any portion of the record.

**4. GROUNDS FOR NON-RENEWAL, SUSPENSION OR REVOCATION.** The recommendations of the committee regarding the applicant shall be based on evidence presented at the hearing. Unless otherwise specified in the code, probative evidence concerning non-renewal, suspension or revocation may include evidence of:

a. Failure of the applicant to meet municipal qualifications.

b. Pending charges against or the conviction of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the circumstances of the particular licensed or permitted activity, by the applicant or by any employee or other agent of the applicant.

c. If the activities of the applicant involve a licensed premises, whether the premises tends to facilitate a public or private nuisance or has been the source of congregations of persons which have resulted in any of the following:

- c-1. Disturbance of the peace.
- c-2. Illegal drug activity.
- c-3. Public drunkenness.
- c-4. Drinking in public.
- c-5. Harassment of passers-by.
- c-6. Gambling.
- c-7. Prostitution.
- c-8. Sale of stolen goods.
- c-9. Public urination.
- c-10. Theft.
- c-11. Assaults.
- c-12. Battery.
- c-13. Acts of vandalism including graffiti.
- c-14. Excessive littering.
- c-15. Loitering.
- c-16. Illegal parking.
- c-17. Loud noise at times when the licensed premise is open for business.

- c-18. Traffic violations.
- c-19. Curfew violations.
- c-20. Lewd conduct.
- c-21. Display of materials harmful to minors, pursuant to s. 106-9.6.
- c-22. Any other factor which reasonably relates to the public health, safety and welfare.
- c-23. Failure to comply with the approved plan of operation.

**5. HEARING OFFICER.** Where it is impractical for the committee to hold an evidentiary hearing, the committee may employ a hearing officer for the purposes of taking testimony and rendering recommended findings of fact and conclusions of law to the committee. When such hearing officer is employed, he or she shall prepare written findings of fact and conclusions of law which shall be simultaneously transmitted to the committee as well as to the applicant, the applicant's agent, manager, operator or any other employee of the applicant, and to the person bringing the complainant or objector. The chair of the committee shall schedule a hearing on the receipt of the report of the hearing officer in not more than 30 days from receipt of the report. Notice of the committee hearing on the report shall be given to all parties. The committee may take and reserve additional evidence at the time of said hearing. The committee may accept or reject the report of the hearing officer or make any changes to the report which are warranted by the circumstances, the evidence presented and any arguments of the parties who appeared before the hearing officer and the committee. The committee shall transmit its recommendation to the common council for action as provided in sub. 6.

**6. COMMITTEE REPORT.** The committee may make a report and recommendations immediately following the hearing or at a later date. The committee may recommend that the license or permit be renewed, not renewed, suspended or revoked. In addition, if the committee determines that circumstances warrant, the committee may recommend that the license or permit be renewed conditioned upon a suspension of the license or permit for a defined period of time. When the committee elects to recommend that a license or permit be renewed with a period of suspension, the license or permit may be suspended for a period of not less than 10 days and no more than 90 days.

## 85-5 License and Permit Procedures

**85-5. Council Action. 1. REPORT TO BE PROVIDED.** Within 10 working days after it reaches a decision, the committee shall prepare and serve a report and recommendation upon the applicant and upon the complainant or objector, if any. The report and recommendations shall include specific findings of fact and conclusions of law made by the committee. A copy of the report shall be distributed to each member of the common council.

**2. FILING WRITTEN STATEMENTS OR RESPONSES.** Following a recommendation by the committee that the license or permit not be renewed, or that the license or permit be revoked or suspended, the applicant may submit a written statement including objections, exceptions and arguments of law and fact. When the proceedings have been commenced upon the complaint or objection of an interested party who has appeared and offered evidence, the complainant or objector may also submit a written statement in response. Written statements shall be filed with the city clerk before the close of business on a day that is at least 3 working days prior to the date set for hearing by the common council.

**3. COPIES TO BE PROVIDED TO COMMON COUNCIL MEMBERS.** A copy of any statement in response to the report and recommendations of the committee that is timely filed shall be provided to each member of the common council at least 24 hours before any vote on the question is scheduled before the common council.

**4. PROCEDURE AT MEETING OF THE COMMON COUNCIL.** a. At a meeting of the common council following the receipt of the report and recommendations of the committee, the common council shall consider the report and recommendations. The city clerk shall notify the applicant, and the complainant or objector, if any, by United States first class mail, postage prepaid, 5 working days prior to the hearing before the common council, and shall also notify the city attorney, that the council will convene to act upon the report and recommendations.

b. Each member of the common council shall be asked to affirm that he or she has read the report and recommendations of the committee. When a written statement has been timely filed by the applicant, or by a complainant or objector, each member of the common council shall be asked to affirm that he or she has read the statement. If members of the

council have not read the recommendation and report of the committee and any statement in response that has been timely filed, the chair shall allocate time for the members to do so.

c. Oral argument on behalf of the applicant, and oral argument by the complainant or objector, if any, shall be permitted only to those parties having timely filed a written statement. Oral argument shall be limited to 5 minutes. The city attorney shall also be permitted to make an oral presentation of not more than 5 minutes.

d. Applicants shall appear only in person or by counsel. Corporate applicants shall appear only by designated agents or counsel. Partnerships shall be represented only by a partner or counsel. Limited liability companies shall be represented only by designated agents or counsel. Complainants and objectors shall appear only in person or counsel. Any person making an appearance before the council who requires the services of an interpreter shall obtain one at his or her own expense.

e. The common council shall determine by a majority roll call vote of those in attendance and voting whether to adopt the recommendation of the committee. The city clerk shall provide written notice of the decision to the applicant, and to the complainant or objector, if any, including a written statement or summary of the reasons for the decision.

f. Unless otherwise expressly provided, the revocation of a license or permit shall be effective upon service of the notice of decision upon the applicant or upon any person having charge or control of a licensed premises. Suspension of a license or permit in proceedings for revocation shall be effective upon service of the notice of decision upon the applicant or upon any person having charge or control of a licensed premises. Suspension of a license or permit in proceedings for renewal shall be effective on the date the common council takes action to suspend the license or permit, or on the date of the expiration of the license or permit, whichever is later. A license or permit may be suspended for not less than 10 days and no longer than 90 days.

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.

SUBCHAPTER 2  
 ADMINISTRATIVE PROCEDURES  
 APPLICABLE TO LICENSE AND  
 PERMIT APPLICATIONS

**85-11. Purpose and Scope. 1. PURPOSE.** It is the purpose of the common council to assure uniformity and clarity in the procedures related to application for and administration of certain licenses and permits.

**2. SCOPE AND APPLICATION.** The provisions of this subchapter shall not supersede or replace any provision contained elsewhere in this code respecting licenses and permits, but shall apply where provisions for application and administration are otherwise silent. This subchapter provides uniform procedures for licenses and permit disqualifications, transfers of licenses and permits, changes in names of licensees, permittees and business names, and consideration of changes in circumstances following denial, nonrenewal or revocation.

**85-12. Contents of Application. 1. WHEN APPLICANT IS AN INDIVIDUAL.** The license application, which shall be signed and certified by the applicant, shall contain the following information:

- a. The type of license being applied for.
- b. Name, permanent home address and telephone number of the applicant.
- c. The date of birth of the applicant.
- d. If applicable, the name and address of the business with which the license will be associated or at which the licensee will be employed.
- e. Such other reasonable and pertinent information as the common council or licensing committee may from time to time require.

**2. WHEN APPLICANT IS A BUSINESS.** An application for a new or renewal license shall be signed by the sole proprietor, one partner, the agent, a majority owner of the business entity, or a corporate officer. Each type of application shall contain the following information:

- a. The type of license being applied for.
- b. The name and permanent address of the applicant.
- c. If applicable, the name and address of the premises for which the license is to be granted.
- d. If the applicant is a corporation, limited liability company or other organized business entity, the name of the corporation, company or other entity shall be set forth exactly as it is set

forth in its articles of incorporation, together with the name and address of an agent and of each person who owns 20% or more of the corporation, company or entity.

e. 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 section pertaining to a corporate applicant shall apply to the corporate partners.

f. The date of birth of each sole proprietor, partner, agent or person who owns 20% or more of the business entity.

g. Such other reasonable and pertinent information the common council or the proper licensing committee of the common council may from time to time require.

**3. PROOF OF IDENTITY; AGE REQUIREMENT. a.** Every applicant shall present to the city clerk for examination a driver's license, Milwaukee municipal identification card, or some other proof of identity as may be reasonably required.

b. Every applicant shall be at least 18 years of age at the time of application, unless otherwise specified in this code.

**85-12.5. Issuance of License or Permit; Duplicate Required. 1. ISSUANCE.**

Each license or permit authorized to be issued by the city clerk shall contain the signature of the city clerk and shall be sealed with the corporate seal of the city. No license or permit shall be issued until the applicant shall satisfy the common council, or other public body or official authorized by the common council, that he or she has in every manner complied with the ordinances pertaining to the issuance of the license or permit, including payment to the city of the required license or permit fee. In addition, no license or permit shall be issued by the city clerk if the health department or department of neighborhood services has placed a hold on issuance of the license or permit because of a need for the applicant to obtain an inspection or a permit, to pay a fee, or to comply with an order issued by the department.

**2. DUPLICATE REQUIRED.** Any license or permit that cannot be produced or displayed due to loss, theft, mutilation or destruction or that is not legible due to defacement or any other reason shall be promptly replaced by the licensee or permittee upon payment of the fee for a duplicate copy provided in s. 81-1-4.

## 85-12-7 License and Permit Procedures

### 85-12.7. Scheduling of Committee Hearing.

For any license application subject to review by a licensing committee of the common council, the city clerk shall, upon certifying that the application is complete and that any required reports of the police department and department of neighborhood services have been completed, refer the application to the appropriate committee. Upon referral, the application shall be scheduled and heard by the common council committee before the expiration of the period beginning on the date of referral and ending not later than 3 complete periods between regularly scheduled meetings of the common council.

### 85-13. Disqualification for License.

1. **APPLICABILITY.** Whenever any application denied, or license not renewed, revoked or surrendered, is an alcohol beverage retail establishment or tavern entertainment license, the provisions of this section related to periods of disqualification for these licenses shall apply to any other type of alcohol beverage retail establishment license.

2. **EXCEPTIONS.** This section shall not apply to any application that is denied or any license that is not renewed for a reason based solely on the failure of the applicant to appear before the licensing committee for a hearing on whether a new or renewal application shall be recommended for approval or denial to the common council.

3. **WHEN WITHDRAWN.** Whenever a new application for a license is withdrawn after the city clerk issues a notice for a hearing on a possible denial, the application shall be considered denied upon withdrawal for purposes of the disqualification provided in sub. 4, except that the period of disqualification shall be 6 months from the date of withdrawal.

4. **WHEN DENIED.** a. Except as provided in par. b, whenever an application is denied, no other application by the same applicant for the same license, and where applicable, at the same premises, shall be recommended for approval by the licensing committee for a period of 12 months following the date of the denial.

b. Whenever an application for a new license is denied for a reason relating to the fitness of the location of the premises to be licensed, no other application by any party for the same license at the same premises shall be recommended for approval by the licensing committee within 3 years of the date of the

denial unless the applicant has demonstrated under s. 85-15 a change of circumstances since the denial.

5. **WHEN NOT RENEWED.** a. Except as provided in par. b, whenever a license is not renewed, no other application by the same applicant for the same license, and where applicable, at the same premises, shall be recommended for approval by the licensing committee for a period of 12 months following the date of nonrenewal.

b. Whenever a license is not renewed for a reason relating to the fitness of the location of the licensed premises, no other application by any party for the same license at the same premises shall be recommended for approval by the licensing committee within 3 years of the date of the nonrenewal unless the applicant has demonstrated under s. 85-15 a change of circumstances since the nonrenewal.

6. **WHEN REVOKED.** a. Except as provided in pars. b and c, whenever a license is revoked, no other new application by the same applicant for the same license, and where applicable, at the same or any other premises, shall be recommended for approval by the licensing committee for a period of 12 months following the date of revocation.

b. Whenever a license is revoked, no other application by any other party who has a financial relationship with the person whose license was revoked, including, but not limited to membership in the same partnership, corporation, limited liability company or association, for the same license at the same premises shall be recommended for approval by the licensing committee for a period of 12 months following the date of revocation.

c. Whenever a license is revoked for a reason relating to the fitness of the location of the licensed premises, no other application by any party for the same license at the same premises shall be recommended for approval by the licensing committee within 3 years of the date of the revocation unless the person has demonstrated under s. 85-15 a change of circumstances since the revocation.

7. **WHEN SURRENDERED.** Whenever a license is surrendered in lieu of pending nonrenewal or revocation proceedings, no other new application by the applicant for the same license, and where applicable, at the same or any other premises, shall be recommended for approval by the licensing committee for a period of 12 months following the date of surrender.

**85-14. Insurance Required.**

1. 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.

2. 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.

**85-15. Change of Circumstances.**

1. ELIGIBILITY. a-1. Except as provided in pars. b and c, whenever an application accompanied by the fee specified under s. 81-19.2 and a written statement of changed circumstances is filed with the city clerk setting forth the change in circumstances relating to the fitness of the location of the proposed premises since the prior denial, nonrenewal or revocation, the committee shall hold a hearing to determine if changed circumstances exist.

a-2. Except as provided in pars. b and c, whenever the owner of the premises has filed with the city clerk the fee specified under s. 81-19.2 and a written statement of changed circumstances setting forth the change in circumstances relating to the fitness of the location of the proposed premises since the prior denial, nonrenewal or revocation, and no application for a license or permit has been filed the committee shall hold a hearing to determine if changed circumstances exist sufficient for removal of the disqualification.

b. No hearing under this section shall be held by the licensing committee within a period of 12 months following the date of denial, nonrenewal or revocation of a license for a reason relating to the fitness of the location of the premises.

c. Not more than one hearing under this section involving the same applicant or owner at the same premises shall be held by the licensing committee during the period of disqualification under s. 85-13.

2. HEARING. a. At the hearing, testimony and other evidence shall be limited to that offered by the applicant or owner, appearing in person or by counsel, to demonstrate a change in circumstances. The committee may also entertain relevant evidence offered by city officers and employees.

b. If the committee determines that the applicant or owner has failed to demonstrate that a sufficient change in circumstances exists, the period of disqualification shall remain in effect. If an application has been filed under sub. 1-a-1, then the committee shall recommend that the application be denied.

c. If the committee determines that a sufficient change in circumstances has been demonstrated, the period of disqualification shall be terminated. If an application has been filed under sub. 1-a-1, then the committee shall schedule a separate hearing on whether the application should be recommended for approval or denial.

d. In considering whether changed circumstances exist, the committee shall consider, among other factors:

d-1. A change in the type of license sought by an applicant.

d-2. A change in the number of premises holding the same license in the neighborhood.

d-3. A change in zoning applicable to the subject property.

d-4. New developments or land uses in the vicinity of the subject property.

**85-17. Request to Surrender a License.**

1. 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 date of the hearing. The committee may approve the request, or deny the request and proceed with the hearing.

2. If a licensee who has surrendered his or her license wishes to have the surrendered license returned, regardless of whether the license was surrendered pursuant to sub. 1, the licensee shall request, in writing at least 45 days prior to the expiration date of the license, 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.

3. 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

## 85-18 License and Permit Procedures

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.

### 85-18. License or Permit Not Issued.

1. No person shall be issued any license or permit after one year from the date of granting or approval of the license or permit.

2. The common council may waive the requirement of sub. 1 upon demonstration of unusual circumstances and payment of the fee provided in s. 81-1-9. A waiver shall be effective for one year from the date of approval by the common council.

3. If a waiver is filed under sub. 2, the hearing procedures of s. 85-2.7 and the investigation requirements of 85-21-2 shall apply.

### 85-19. Transfer of License or Permit or Change of Name.

1. GENERAL REQUIREMENT. Unless otherwise provided in this code, no license or permit shall be transferable whether as to licensee, permittee or location except as herein provided.

2. CHANGE OF PREMISES. Every license or permit issued under this code may be transferred from one premises to another within the city upon payment of the fees required in ch. 60 or ch. 81, as the case may be, but no licensee or permittee shall be entitled to more than one transfer in any one license or permit year. The application and proceedings for such transfer shall be made in the same form and manner as the original application.

3. CHANGE OF NAME. The city clerk is authorized to change the name on a license or permit whenever there is a death in the family, a marriage, or a divorce with an award by court decree, provided the name change will not transfer the license or permit outside the family.

4. DEATH. a. Death of Licensee or Permittee. In case of death of the licensee or permittee, the license or permit may in the discretion of the common council be transferred to the executor, administrator or next of kin of the deceased licensee or permittee. In such event, the executor, administrator or next of kin of the deceased licensee or permittee shall report the death of the original licensee or

permittee to the city clerk, together with the name and address of the person by whom the licensed or permitted business is to be conducted. The transfer of a license or permit under such circumstances may be made only if it is approved by the common council and the new licensee or permittee is in full compliance with the applicable provisions of this code.

b. Death or Withdrawal of Partner. In the case of the death or withdrawal of one or more members of a partnership to which a license or permit has been issued, the city clerk shall upon request allow the remaining partner or partners to operate the business for the remainder of the license or permit year.

5. DISABILITY. If a licensee or permittee becomes disabled, the common council may in its discretion, upon application, transfer the license or permit to the licensee's or permittee's spouse if that spouse may hold a license or permit under applicable license or permit qualifications and complies with all requirements under this code applicable to original applicants, except that the spouse is exempt from payment of the license or permit fee for the year in which the transfer takes place.

6. BANKRUPTCY. If any licensee or permittee becomes bankrupt or makes an assignment for the benefit of creditors, the receiver or creditor may continue or sell the business. The transfer of a license or permit under such circumstances may be made only if it is approved by the common council and the new licensee or permittee is in full compliance with the applicable provisions of this code.

7. TRANSFER OF STOCK. The transfer of stock in any corporate licensee or permittee when the effect of the transfer would constitute a change in a stockholder list required by this code shall be reported to the city clerk within 10 days of the transfer. The transfer of corporate stock shall not require the payment of any transfer of license or permit fee.

8. SOLE PROPRIETORSHIP OR BUSINESS ENTITY REORGANIZATION. A sole proprietorship that reorganizes as a business entity or a business entity that reorganizes as either a sole proprietorship or a different type of business entity may transfer a license or permit for operation of an establishment to the newly-formed business entity or sole proprietorship if the following conditions are satisfied:

a. The establishment remains at the location for which the license or permit was issued.

b. At least one individual who had an ownership interest in the sole proprietorship or business entity to which the license or permit was issued has an ownership interest in the newly-formed sole proprietorship or business entity.

9. NOTIFICATION. a. The city clerk shall be notified of any changes made in the name of a licensed or permitted business within 10 days of the change.

b. The city clerk shall notify the chief of police, the licensing committee and the Wisconsin department of revenue of any name change or license transfer involving an alcohol beverage licensee or permittee.

**85-20. Provisional Renewal Licenses.**

1. ISSUANCE. If a licensee files a renewal application but the common council will not be able to meet to take action on the application prior to the expiration date of the license, the city clerk may issue a provisional renewal license whenever:

a. The renewal application contains all required information.

b. The licensee has submitted all required supporting documentation.

c. The licensee has paid the required fee for the renewal license and provisional renewal license specified in ch. 81.

d. Except in the case of a Class "D" operator's license or a Class "B" manager's license, the local common council member has approved the application for a provisional renewal license.

e. Issuance of the provisional license would not be contrary to state law.

f. The renewal application is filed before the end of the license period subsequent to the expiration date of the license.

2. EXCEPTION. If a licensee files a renewal application by the date established by the city clerk but the common council will not be able to meet to take action on the application prior to the expiration date of the license, the city clerk may issue a provisional renewal license and the licensee shall not be subject to pars. 1-c and d.

3. APPEAL. If an application is denied approval by a common council member under sub. 1-d, the city clerk shall forward the application to the licensing committee for a hearing on the appeal of the decision of the common council member.

4. EXPIRATION DATE. A provisional renewal license shall expire 60 days after the date of issuance by the city clerk or upon

issuance, non-renewal or suspension of the regular license, whichever is sooner, and shall not be renewable.

5. REVOCATION. The city clerk may revoke a provisional renewal license without further common council action if he or she determines that the licensee provided false information on the license application.

**85-21. Fingerprinting and Investigation Required.**

1. FINGERPRINTING REQUIREMENT. a. Each applicant for a license or permit subject to review by a licensing committee of the common council shall be fingerprinted in a manner directed by the chief of police unless otherwise provided in this code.

a-1. If the applicant is a partnership, each partner shall be fingerprinted.

a-2. If the applicant is a corporation, limited liability company or similar firm or business recognized in law, the agent as well as any persons holding 20% or more ownership in the legal entity shall be fingerprinted.

b. If there is a change of agent by the licensee, the new agent shall be fingerprinted within 10 days of the change.

c. If there is change of ownership where the change results in any person holding 20% or more ownership in the legal entity, that person shall be fingerprinted within 10 days of the change, if not already fingerprinted under this section.

d. Exemption. 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 police department for verification.

2. INVESTIGATION REQUIREMENT. a. Each application for a license or permit subject to review by a licensing committee of the common council shall be referred to the chief of police who shall cause an investigation to be made and report the findings to the licensing committee of the common council within 14 days of the applicant's compliance with background investigation requirements.

b. The report provided by the chief of police shall include information for the preceding 10 years related to any criminal or ordinance convictions and any pending criminal charges and ordinance citations of the applicant; each partner, if the applicant is a partnership; or agent, as well as any persons holding 20% or

## 85-23 License and Permit Procedures

more ownership in the legal entity, if the applicant is a corporation, limited liability company or similar firm or business recognized in law.

c. If referral of a license or permit application to the commissioner of neighborhood services, commissioner of health, commissioner of public works or chief of police for investigation is required, the commissioner or chief of police shall cause an investigation to be made and report the findings to the licensing committee of the common council within 14 days of the city clerk's referral of the application to the commissioner or chief of police.

### 85-23. Maximum Authorized Occupancy for Certain Licensed Establishments.

1. PURPOSE. The common council finds that the overcrowding of licensed establishments constitutes a serious risk of harm, injury or death, that overcrowding may also be detrimental to the character and well-being of the surrounding neighborhood, including traffic and parking patterns in that neighborhood, and that these risks and detrimental impacts increase with each person over the established occupancy limit for an establishment. The purpose of this section is to require the clear and accurate posting of occupancy limitations and to enforce occupancy limitations so as to assure the health, safety and welfare of the public and of persons employed by licensed establishments with occupancy limitations.

2. POSTING REQUIRED. Any licensed establishment with a maximum occupancy established by the commissioner of neighborhood services or, in the case of a public entertainment premises, by the common council under s. 108-7-3, shall securely post and maintain official placards issued by the department of city development indicating the maximum number of persons permitted on the licensed premises as established by the commissioner of neighborhood services or, in the case of a public entertainment premises, by the common council under s. 108-7-3, whichever is less.

3. POLICE ORDERS. If, in the determination of the police department, the number of persons on the premises exceeds the limitation set on the official placard, the police department shall order the number reduced to the permitted number. The police department may also order the establishment closed until it complies with this section.

4. PROHIBITIONS. a. No greater number of persons than the number indicated on the official placard shall be permitted on the licensed premises by any person responsible for operations or activities conducted on the premises.

b. Tampering with, obscuring or otherwise changing the official placard is prohibited.

c. Refusal by a patron to comply with a police department order to leave an establishment that has been determined by the police department to exceed the posted occupancy limitation is prohibited.

5. CITATION. The citation for a violation of sub. 4 shall state the occupancy limitation contained upon the official placard and shall further state the number of persons determined to be present in excess of the permitted limitation.

6. PENALTIES. Any person convicted of a violation of this section shall be subject to the following forfeitures and penalties:

a. For conviction of a violation of subs. 2, 4-b and 4-c, not less than \$200 nor more than \$1000.

b. For conviction of a violation of sub. 4-a, not less than \$200 nor more than \$10,000

c. For conviction of a second violation of sub. 4-a within 12 months, not less than \$200 nor more than \$15,000.

d. For conviction of a third or subsequent violation of sub. 4-a all within 12 months, not less than \$200 nor more than \$25,000

e. For purposes of determining the amount of a forfeiture for violation of sub. 4-a, the court may treat each person found to have been on the premises in excess of the permitted limit as a separate violation.

f. Any person convicted of a violation of this section shall, in default of payment of the prescribed forfeiture, be imprisoned as permitted under law.

### 85-24. Issuance and Transfer of License.

1. STATE TAX DOCUMENTATION REQUIRED. The city clerk shall not issue any business license or permit until the license applicant has provided the city clerk with proof of one of the following:

a. The applicant is the holder of or exempt from holding a seller's permit or use tax registration certificate issued by the Wisconsin department of revenue.

b. The applicant is registered with the Wisconsin department of revenue to collect, report and remit use tax under subch. III of ch. 77, Wis. Stats.

c. The applicant has been informed by an employee of the Wisconsin department of revenue that the department will issue a seller's permit or use tax registration certificate to the applicant or register the applicant to collect, report and remit use tax.

**2. COMPLIANCE WITH ORDINANCES.** No license or permit shall be issued until the person, firm or corporation applying for the same shall satisfy the common council or the city clerk, as the case may be, that he or she has in every manner complied with the ordinances pertaining to the issuance of the license or permit, including the presentation to the city clerk of the city treasurer's receipt showing payment to the city of the required license or permit fee.

**3. SIGNATURE AND SEAL.** Each license or permit issued by the city clerk shall contain the signature of the city clerk and shall be sealed with the corporate seal of the city.

**4. TRANSFER.** No license or permit issued by the city clerk shall be assignable or inure to the benefit of any other than the person to whom the license or permit was originally issued, except as may otherwise be provided, but the license or permit may be transferred from one premises to another upon proper application made to the common council or city clerk, as the case may be, and the transfer shall be endorsed, after proper action by the common council if necessary, upon the original license or permit by the city clerk.

**85-25. Display of License or Permit.** Except as otherwise expressly provided in this code, any license or permit issued by the city clerk that authorizes the conduct of business upon or within identified premises shall be posted and displayed in a conspicuous place on the premises and shall be readily accessible for inspection by all members of the public and proper authorities who enter upon or within the premises.

**85-26. Application for Renewal.** 1. Application for renewal of a permit or license shall be timely made prior to deadlines established by the city clerk.

2. Except where expressly permitted in this code, no activity authorized by permit or license shall be conducted by the permittee or licensee after expiration of the permit or license.

3. Application for renewal of a permit or license may be made at any time during the permit or license period immediately subsequent to the expired permit or license period except where state law requires application for a new license following expiration.

4. A permit or license renewed after expiration shall be valid for the license period specified in ch. 81.

**85-27. Revocation of Licenses.** The judge of the county court may at his or her discretion revoke and annul any license issued under this code upon the conviction of any licensed person of any crime or of the violation of any city ordinance which in the opinion of the judge should necessitate revocation. It shall be the duty of the clerk of the county and municipal courts to notify the city clerk of the revocation of a license. Any license issued under this code may be also revoked by the common council in its discretion for any improper conduct of the licensed person.

**85-29. Discrimination by License Holders.**

**1. DISCRIMINATION PROHIBITION.** No holder of any license, permit or franchise issued by the city may willfully refuse services or add charges or require deposits not required of the general public under such license, permit or franchise because of sex, race, religion, color, national origin or ancestry, age, handicap, lawful source of income, marital status, sexual orientation, gender identity or expression, familial status, the fact that a person is a past or present member of the military service, whether dressed in uniform or not, or because a person is affiliated, or perceived to be affiliated, with a protected individual. No holder of a dwelling facility license issued by the city may willfully refuse services or add charges or require deposits not required of the general public under the dwelling license because of a person's place of residence.

**2. DECLARATION REQUIRED.** All applications submitted by persons seeking the licenses, permits or franchises listed in sub. 1 shall contain the following declaration: (name of applicant) shall not willfully refuse to provide

## 85-30 License and Permit Procedures

those services offered under this license, permit or franchise, or add charges or required deposits not required of the general public because of race, color, sex, religion, national origin or ancestry, age, handicap, lawful source of income, marital status, sexual orientation, gender identity or expression, familial status or the fact that a person is now or has been a member of the military service, whether dressed in uniform or not. All applications submitted by persons seeking a dwelling facility license shall also contain the following declaration: (name of applicant) shall not willfully refuse to provide those services offered under this license or add charges or require deposits not required of the general public because of a person's place of residence.

**3. LICENSEES EXERCISING AGE DISTINCTION IN THE INTEREST OF PUBLIC ORDER.** Notwithstanding sub. 1, Class "B" tavern license holders may, in the interest of the public order and keeping the general peace, exercise a predetermined age restriction that must be posted at the establishment. A declaration required by sub. 2, minus the age provision, shall be required for the holders of these licenses.

**85-30. Collusive Agreements Prohibited.** Any person licensed in the city who shall permit any other person to conduct business under the licensee's license, or in the name of said licensee, or who shall connive, collude, or agree with any other person to enable such other person to conduct any business under the licensee's license or in the name of the licensee, and any person who shall conduct any business within the city under a license issued to another person, or in the name of another person, or who shall connive, collude, or agree with any licensee to enable such person to conduct business in the name, or under the license of such licensee, shall be subject to the penalty specified in s. 85-41-2. This section shall not apply to holders of Class "B" special fermented malt beverage licenses issued under s. 90-4-7.

**85-32. Operation of Public Utilities on Licensed Premises.** **1. GENERALLY.** Operators of a licensed or permitted premises shall not permit or allow the operation, whether directly or under contract, of any telephone, Internet, broadcast or other public utility service as defined in s. 196.01, Wis Stats., in any

manner inconsistent with the rules, regulations and requirements of the U.S. federal communications commission.

**2. TELEPHONE ACCESSIBILITY.** A telephone made routinely available to members of the public by a licensee or permittee for payment or otherwise, shall be provided and operated in compliance with all U.S. federal communications requirements for accessibility, including rules, regulations or other requirements ensuring toll free calling in emergencies.

### **85-34. Truth of Statements and Affidavits.**

**1.** No document submitted to the city clerk by any person relating to any application filed with or license or permit issued through the city clerk's office shall contain false, misleading or fraudulent information or false affidavit.

**2.** Any application filed with or license or permit issued through the city clerk's office may be denied, suspended, not renewed or revoked by the common council after notice to the applicant or licensee and a hearing, if the applicant or licensee provided false, misleading or fraudulent information or a false affidavit.

**3.** The city clerk may revoke a provisional license without further common council action if he or she determines that the applicant provided false, misleading or fraudulent information.

**4.** The city clerk shall provide on each individual application for any license or permit issued through the city clerk's office notice that a penalty is provided for any false, misleading or fraudulent information or false affidavit provided by any applicant or licensee.

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

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

**85-39. Changes to Plan of Operation, Temporary.** 1. **AUTHORITY.** The granting of a temporary change of plan permit shall authorize the permittee or licensee to deviate from the plan of operation specified on the existing license or permit. Such authority shall be contingent on the licensee also obtaining any other special privileges or permits required to effectuate the additional action or activity sought in the change of plan permit application.

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

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

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

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

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

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

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

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

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

4. **APPROVAL BY COUNCIL MEMBER.** a. The completed application shall be referred to the common council member

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

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

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

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

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

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

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

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

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

b. No hearing shall be heard unless the city clerk provides the applicant written notice in the manner set forth in s. 85-3 so that the applicant has at least 7 days' notice of the hearing.

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

## 85-41 License and Permit Procedures

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

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

### 8. ON-PREMISES SALE.

a. A licensee granted a temporary change of plan permit and in possession of a current Class "B" tavern license, Class "B" fermented malt beverage retailer's license, or Class "C" wine retailer's license may not sell any alcohol or non-alcohol beverages for consumption in bottles, cans and glass containers in the temporary location of the change of plan. Beverages may only be sold in single-service cups for on-premises consumption in the location of the temporary extension of the licensed premises.

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

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

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

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

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

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

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

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

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

### 9. DISPLAY OF PERMIT.

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

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

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

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

**85-41. Penalty, General. 1.** Any person who violates any of the provisions of this chapter shall, where no other provisions are expressly made for the enforcement of any forfeitures or penalties under this chapter, upon conviction be subject to a forfeiture of not more than \$500 and in default of payment thereof, shall be imprisoned as provided by law.

2. Any person who violates s. 85-30 shall upon conviction be subject to a forfeiture of not less than \$2,500 and not more than \$5,000, and in default of payment thereof, shall be imprisoned as provided by law.

For legislative history of chapter 85, contact the Municipal Research Library.

**Pages 339 and 340 are blank.**