

**INSTRUCTION SHEET
ADDITIONS TO
MILWAUKEE CODE OF ORDINANCES
VOLUME 1**

SUMMARY

This supplement incorporates changes to Volume 1 of the Milwaukee Code of Ordinances enacted by the following Common Council files:

201617 A substitute ordinance relating to the mailing of certain licensing notices.

<u>Section Affected</u>	<u>Action</u>	<u>File Number</u>	<u>Effective Date</u>	<u>Remove Pages</u>	<u>Add Pages</u>
Remove <u>old</u> MEMO (Suppl. #410)					
Volume 1					
				i-ii	i-ii
				v-vi	v-vi
85-2.7-1-0	am	201617	5/22/2021	323-324	323-324
85-2.7-1-b	am	201617	5/22/2021	323-324	323-324
85-3-2-0	am	201617	5/22/2021	325-328	325-328
85-39-6-b	am	201617	5/22/2021	337-338	337-338
90-4-7.9-e	am	201617	5/22/2021	363-364	363-364
90-5-8-a-8	am	201617	5/22/2021	371-372	371-372
90-12-5-a-3	am	201617	5/22/2021	379-380	379-380
90-37-5-b	am	201617	5/22/2021	389-390	389-390
100-50-15-c	am	201617	5/22/2021	489-490	489-490
101-23.7-5-c	am	201617	5/22/2021	539-540	539-540
105-75-6-b	am	201617	5/22/2021	603-604	603-604

For subscription, distribution or insertion questions contact the Municipal Research Library, Code Section, (414) 286-2280.

For questions concerning the content of the Milwaukee Code or Ordinances contact the Municipal Research Library, (414) 286-2297.

Abbreviations: am=amended ra=renumbered and amended rn=renumbered
 cr=created rc=recreated rp=repealed

Revised 5/4/2021
Suppl. #411

MEMO

If all supplements have been properly inserted, this book contains all actions of the Common Council through May 4, 2021.

Revised 5/4/2021
Suppl. #411

CITY OFFICIALS

2020 to 2024

Mayor
Tom Barrett

Council President
Cavalier Johnson

The Common Council
(By Aldermanic District)

1. Ashanti Hamilton
2. Cavalier Johnson
3. Nik Kovac
4. Robert J. Bauman
5. Nikiya Dodd
6. Milele A. Coggs
7. Khalif Rainey
8. JoCasta Zamarripa

9. Chantia Lewis
10. Michael Murphy
11. Mark A. Borkowski
12. Jose G. Perez
13. Scott P. Spiker
14. Marina Dimitrijevic
15. Russell W. Stamper, II

City Clerk: Jim Owczarski
Deputy: Dana Zelazny

City Attorney
Tearman Spencer

City Comptroller
Aycha Sawa

City Treasurer
Spencer Coggs

Municipal Judges

Branch 1
Valarie Hill

Branch 2
Derek Mosley

Branch 3
Phil Chavez

FORWARD

In 1989, volume 1 of the Milwaukee Code of Ordinances was printed in its current format of an updatedable looseleaf format. As changes to these ordinances are passed by the Common Council, the Legislative Reference Bureau will issue replacement pages for this book. Thus, it can be a current and reliable resource to its users.

Volume 1, which contains chapters numbering 50 to 199, contains administrative ordinances which pertain to the organization and operation of Milwaukee's city government. Other looseleaf volumes include Volume 2 (Building and Zoning Code), Volume 3 (Administrative Ordinances), and the City Charter.

The numbering system for the Milwaukee City Charter and Code of Ordinances is patterned on that used for the Wisconsin Statutes (except for the use of dashes in place of parentheses) and is as follows:

Chapter	Section	Subsection	Paragraph	Subdivision	Subparagraph
70	10	3	a	4	b

If there are questions regarding the numbering system, or the correct method of citation, please contact the Legislative Reference Bureau.

Keith Broadnax, Manager
Legislative Reference Bureau
May, 2021

**CHAPTER 85
LICENSE AND PERMIT PROCEDURES**

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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.

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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.

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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.

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.

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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.

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e. The city clerk shall accept an application from an applicant who files the application after the filing deadline established by the city clerk, provided the applicant affirms the applicant's understanding that, if a written objection is received as provided in par. f, it may not be possible to conduct a hearing before the date for which the license is sought due to the late filing of the application.

f. Objections.

f-1. The city clerk shall issue the license unless a written objection regarding the licensee or the location has been filed with the city clerk. The objection may be filed by any interested person. If a written objection is filed, the application shall be forwarded to the licensing committee for its recommendation to the common council.

f-2. The written objection must address one or more of the following factors:

f-2-a. The appropriateness of the location and site for which the license is sought and whether the event for which the license is sought will create undesirable neighborhood problems.

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

f-2-c. Whether previous licenses 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.

f-2-d. Whether the applicant has been charged or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the activity for which the license is sought.

f-2-e. Any other factors which reasonably relate to the public health, safety and welfare.

g. Issuance. If no written objection has been filed and upon payment of the license fee specified in s. 81-28, the city clerk shall issue the Class "B" special license for a period of time set by the local common council member.

h. Hearing Procedure. h-1. In the event there is a written objection filed regarding an application for a Class "B" special license the application shall be forwarded to the licensing committee. A hearing of an appeal shall be conducted as set forth in s. 90-5-8-b. The committee may make a decision immediately

following the hearing or on a later date. In making its decision, committee members may consider the factors set forth in par. e-2. 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. In these instances, the decision of the licensing committee shall be final and the applicant shall have no right of appeal to the common council.

h-2. An applicant may appeal the decision of the licensing committee to the common council. In the case of an appeal, the committee shall forward its decision in writing to the common council for vote at the next meeting at which such matter will be considered. In making its decision, common council members may consider the factors set forth in par. e-2.

i. Chief of Police Notified. The city clerk shall within 24 hours after the issuance of any such license inform the chief of police of the date, place and event for which such a license has been issued. The Milwaukee police department shall check such event and report any violations of law to the common council.

j. City Clerk's Annual Report. The city clerk shall submit to the common council every year a report of all Class "B" special licenses issued by the city clerk.

k. Number of Licenses. No more than 2 Class "B" special licenses shall be issued under this subsection to any club, organized labor union, county or local fair association, agricultural association, church, lodge, society or veterans' post in any 12-month period.

7.9. PERMANENT EXTENSION OF PREMISES. a. Authority. The granting of a permanent extension of licensed premises shall constitute an amendment of the primary license and plan of operation and shall authorize the licensee to sell or serve intoxicating liquors or fermented malt beverages, as permitted by the specific license held, in the area described in the application for permanent extension, as expressly approved by the common council.

b. Eligibility. Any person holding a valid Class "A" fermented malt beverage, "Class A" retailer's intoxicating liquor, "Class B" tavern, Class "B" fermented malt beverage, or "Class C" wine license may apply for permanent extension of the licensed premises. The area which the licensee wishes to include in a permanent extension of the licensed premises shall be owned by or under the control of the licensee.

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c. **Applicant's Responsibility.** Application for the permanent extension of licensed premises shall be made by an individual licensee, partner or the authorized agent in the case of a corporation or limited liability company, who shall be personally responsible for compliance with all of the terms and provisions of this chapter.

d. **Application.** Application for the permanent extension of licensed premises shall be made in writing to the city clerk on forms provided by the city clerk. The application shall contain the name of the licensee, the address of the existing licensed premises, including the aldermanic district in which it is situated, a specific description of the area for which the permanent extension is sought, and such other reasonable and pertinent information as the common council, licensing committee, or city clerk may require. The city clerk shall forward all applications to the licensing committee.

e. **Committee Action.** The licensing committee shall hold a hearing on whether or not to grant each application for a permanent extension of licensed premises. If any interested person objects to the granting of a particular application, the licensee shall receive at least 7 days' notice of the hearing date and the nature of the objection to the application. The applicant shall have an opportunity to appear at the hearing and be represented by counsel and to cross-examine witnesses opposed to the granting of the application for permanent extension of the licensed premises, and to present evidence in favor of the granting of the application. At the conclusion of the hearing, the committee shall make a recommendation to the common council on whether to grant the application. In making its recommendation, the committee may consider, among other factors, the appropriateness of the location for which a permanent extension of licensed premises is sought, whether the location will create an adverse impact on other property in the neighborhood, and any other factors which reasonably relate to the public health, safety and welfare. The common council shall act on the committee's recommendation without further hearing.

f. **Issuance.** If the common council grants the application for a permanent extension of licensed premises, and upon receipt of information that the department of neighborhood services has approved occupancy of the extended premises, the city clerk shall issue an

appropriate confirming document to the applicant specifying the area of extension. The city clerk shall accept an amended plan of operation, subject to any conditions established by the common council, and shall amend the license accordingly. Operations on extended premises are not permitted prior to posting of the amended license.

9. "CLASS C" WINE RETAILER LICENSE. a. **Authority.** A "Class C" wine retailer license shall authorize the licensee to sell or offer for sale wine by the glass or in an opened original container for consumption on the premises where sold.

b. Notwithstanding the limitation on consumption of wine on the licensed premises in par. a, a restaurant operating under a "Class C" wine retailer license may sell wine in an opened original bottle, in a quantity not to exceed one bottle, for consumption both on and off the premises where sold at retail if all of the following apply:

b-1. The licensee provides a dated receipt that identifies the purchase of food and the purchase of the bottle of wine.

b-2. Prior to removing a partially consumed bottle of wine from the premises, the licensee shall securely reinsert the cork into the bottle to the point where the top of the cork is even with the top of the bottle.

b-3. The cork is reinserted after 6 a.m. and before 12 midnight on any day of licensed operation.

c. **Eligibility.** A "Class C" license may be issued to a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts and which does not have a barroom or for a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts and which has a barroom in which wine is the only intoxicating liquor sold. In this paragraph, "barroom" shall mean a room that is primarily used for the sale or consumption of alcohol beverages.

d. **Prohibition.** A "Class C" license may not be issued to a foreign corporation, a foreign limited liability company or a person acting as agent for or in the employ of another.

10. CLASS "D" OPERATOR'S LICENSE. a. **Authority.** A Class "D" operator's license shall authorize the operator to draw or remove from any barrel, keg, cask, bottle, or any other container, fermented malt beverages and to serve them in any place operated under a Class "B" fermented malt beverage retailer's

a-6. In determining the number of pending charges under subd. 3-a and convictions under subd. 3-b to g, any pending charges or convictions arising out of the same incident or occurrence shall be counted as one pending charge or conviction.

a-7. Notwithstanding the provisions of subds. 3 and 5, an applicant who meets the criteria of those subdivisions shall have his or her application forwarded to the licensing committee if a written objection to the application is filed by any interested party.

a-8. If there is a possibility of denial of any license regulated by this subsection, no hearing shall be heard unless the city clerk's office has provided written notice to the applicant so that the applicant has at least 7 days' notice of the hearing.

a-9. The notice shall contain:

a-9-a. The date, time and place of the hearing.

a-9-b. A statement to the effect that the possibility of denial of the license application exists and the reasons for possible denial.

a-9-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.

a-9-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.

a-10. If it appears for the first time at the hearing that there will be objections, then the matter shall be laid over until the next meeting, prior to which proper notice shall be given.

a-11. If the chair at any time determines that a hearing is or will be contested, the chair shall announce that a time limit of 30 minutes shall be provided opponents of the proposed license and a time limit of 30 minutes for the applicant and supporters of the proposed license. This time shall be extended for relevant questioning by licensing committee members. If upon expiration of 30 minutes for opponents or 30 minutes for the applicant and proponents the chair determines, subject to the approval or objection of the committee, that a full and fair hearing of relevant issues requires an extension of time to protect the interests of the public and the applicant, a reasonable extension of time may be granted. Individuals opposing the proposed license and members of the public

supporting the proposed license may be limited to not more than 2 minutes testimony each, or a greater or lesser amount if the chair determines that a different time limit is appropriate to the fair and efficient conduct of the hearing. The applicant shall have the privilege of using any portion of applicant's 30 minutes for presentation and testimony. At any time, the chair may overrule or prohibit redundant testimony or argument found unnecessary to substantiate or corroborate testimony and argument previously presented.

b. Hearing. Upon certification by the city clerk as provided in par. a-2, all new applications for Class "A," "Class A," Class "B," "Class B" and "Class C" retail licenses shall be timely scheduled for hearing by the licensing committee on a date prior to the expiration of 3 full periods of time between regularly scheduled meetings of the common council. Licensing committee hearings on all new applications under this section shall be conducted in the following manner:

b-1. If there is a possibility of denial, at the hearing the committee chairman shall open the meeting by stating that a notice was sent and read the notice into the record unless the applicant admits notice. The chairman shall advise the applicant that the applicant has an option to proceed with a due process hearing, represented by counsel, with all testimony both direct and cross-examination under oath, or that the applicant may simply make a statement to the committee.

b-2. A due process hearing shall be conducted in the following manner:

b-2-a. All witnesses will be sworn in.

b-2-b. Any report prepared under sub. 7 and offered by the chief of police, the commissioner of health or the commissioner of neighborhood services shall be entered into the permanent record of the hearing without motion. Information contained in the report shall be admissible and considered by the committee as a public report to the extent that the report sets forth the activities of department personnel, or provides information about matters observed by department personnel under a duty imposed by law, or contains factual findings resulting from an investigation made under authority of law, unless the sources of information or other circumstances indicate lack of trustworthiness.

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

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b-2-d. The applicant shall be permitted an opportunity to cross-examine.

b-2-e. After the conclusion of the opponent's testimony, the applicant shall be permitted to present the applicant's own witnesses, subject to cross-examination.

b-2-f. Committee members may ask questions of witnesses.

b-2-g. Both proponents and opponents shall be permitted a brief summary statement.

c. Recommendations. c-1. The recommendations of the committee regarding the applicant must be based on evidence presented at the hearing. Probative evidence concerning whether or not the license should be granted may be presented on the following subjects:

c-1-a. Whether or not the applicant meets the statutory and municipal requirements.

c-1-b. The appropriateness of the location and premises to be licensed and whether the location will create undesirable neighborhood problems. Probative evidence relating to these matters may be taken from the floor plan and plan of operation submitted pursuant to sub. 1-c and shall include information provided by the chief of police pursuant to sub. 7 of calls for service, complaints or criminal activity occurring on the premises that may be formally documented in a regular police department record such as a PA 33, summary or equivalent record that is proposed for licensing as a Class "A," "Class A," "Class B" or Class "B" retail establishment or a "Class C" retail establishment or incidents associated with the premises during the 5-year period prior to the date of application.

c-1-c. Whether there is an over-concentration of licensed establishments in the neighborhood. A concentration map placed in the applicant's file prior to certification for hearing may be admitted to the record upon motion of any interested party.

c-1-d. Whether or not the applicant has been charged with or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the licensed activity.

c-1-e. Any other factors which reasonably relate to the public health, safety and welfare.

c-2. The committee may make a recommendation immediately following the hearing or at a later date. This recommendation may include such revisions to the floor plan and

plan of operation submitted pursuant to sub. 1-c as the committee may deem necessary and which are agreed to by the applicant. 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 full common council for vote at the next meeting at which such matter will be considered.

9. DISQUALIFICATION.

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

b. Whenever a new application for a "Class A" retailer's intoxicating liquor license, a "Class B" tavern license, a Class "B" manager's license, a Class "A" fermented malt beverage retailer license, a Class "B" fermented malt beverage retailer license, a "Class C" wine retailer license, a Class "D" operator's license, a tavern amusement, dancing and music license, or a center for the visual and performing arts license, is withdrawn after commencement of the hearing of the licensing committee procedures for withdrawal provided in s. 85-13-3 shall apply.

10. ISSUANCE OF LICENSE BY CITY CLERK. It shall be the duty of the city clerk, whenever a license for the sale of intoxicating liquors, or fermented malt beverages shall have been granted by the common council, and the applicant shall have produced and filed with the city clerk a receipt showing payment of the sum required for such license to the city treasurer, to prepare and deliver to such applicant a license in accordance with this chapter and of the laws of the state of Wisconsin. Such license shall specifically state the premises to be licensed. Such license shall not be transferable from one person to another, except as otherwise provided in s. 90-10, and it shall not authorize the sale of intoxicating liquors or fermented malt beverages in any other manner than that specified in the license. It shall not inure to the benefit of any person other than the licensee therein named and shall not authorize the sale of intoxicating liquors or fermented malt beverages in any other place than that specified in the license. It shall bear the signature of the city clerk and the corporate seal of the city.

c. A showing that such licensee has violated any state law or city ordinance prohibiting the sale of intoxicating liquors or fermented malt beverages to underage persons, or to any person intoxicated or bordering on the state of intoxication.

d. The violation of the provisions in ss. 90-7 through 90-10 and 90-13 through 90-31.

e. The violation of any of the excise laws of this state.

f. The licensed premises is operated in such a manner that it constitutes a public or private nuisance or that conduct on the licensed premises, including but not limited to loud and raucous noise, has had a substantial adverse effect upon the health, safety or convenience and prosperity of the immediate neighborhood; or

g. If the licensee is a corporation or licensed limited partnership, the conviction of the corporate agent, officers, directors, members or any shareholder holding 20% or more of the corporation's total or voting stock, or proxies for that amount of stock, of any of the offenses enumerated in s. 125.12(2)(ag), Wis. Stats., as amended.

h. Failure of the licensee to operate the premise in accordance with the floor plan and plan of operation submitted pursuant to s. 90-5-1-c.

i. For any other reasonable cause which shall be in the best interests and good order of the city.

3. STATE LAW APPLICABLE. Except as hereinafter provided, the provisions of ss. 125.12(2)(ag) to (c), Wis. Stats., shall be applicable to proceedings for the suspension and revocation of all licenses granted under this chapter.

4. COMMENCEMENT OF PROCEEDINGS. Suspension or revocation proceedings may be instituted by the licensing committee of the common council upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police or upon a sworn written complaint filed with the city clerk by any city resident.

5. PROCEDURES FOR REVOCATION OR SUSPENSION. a. Complaint; Summons; Report.

a-1. Whenever either sworn written charges or a sworn written complaint are filed with the city clerk setting forth specific charges against a licensee involving conduct which would violate statutes or ordinances that are grounds for revocation or suspension of a license, the city clerk shall issue a summons, as authorized by Wisconsin statutes, demanding that the licensee appear before the licensing committee, not less than 3 days nor more than 10 days from the date of issuance, to show cause why the license should not be revoked or suspended.

a-2. A police officer shall serve the summons upon a licensee in accordance with Wisconsin statutes, and shall also serve a copy of the complaint with a copy of this subsection upon the licensee.

a-3. The chief of police shall prepare a report with information relating to the allegations contained in the written charges or complaint. The report shall first state whether the chief of police has information relating to the allegations contained in the written charges or complaint. The report may be offered and made part of the permanent record of the hearing without motion. Information contained in the report shall be admissible and may be considered by the committee as a public record to the extent that the information in the report sets forth the activities of department personnel, or provides information about matters observed by police personnel under a duty imposed by law, or contains factual findings resulting from an investigation made under authority of law, unless the sources of information or other circumstances indicate lack of trustworthiness. A copy of the report shall be provided to the licensee at least 7 days prior to the time scheduled for appearance upon the summons and complaint.

b. Committee Hearing. b-1. Upon receipt of evidence that the summons has been served, the licensing committee shall convene at the date and time designated in the summons for the purpose of taking evidence and making findings of fact and conclusions of law and a recommendation to the full common council in connection with the proposed revocation or suspension.

b-2. If the licensee appears before the committee at the time designated in the summons and denies the charges contained in

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the complaint, an evidentiary hearing in connection with the revocation or suspension shall be conducted by the committee at that time. If the licensee does not appear, or appears but does not deny the charges contained in the complaint, the complaint shall be taken as true and the committee shall hear the arguments of the city attorney and the licensee in connection with the revocation or suspension.

b-3. The procedure at evidentiary hearing shall be as follows:

b-3-a. The chief of police or complainant shall first present evidence in support of the complaint. The chief of police or complainant may offer the report prepared under par. a-3.

b-3-b. After the chief of police or complainant rests, the licensee may present evidence in opposition to the written charges or complaint.

b-3-c. The chief of police or complainant and the licensee may subpoena and present witnesses. All witnesses shall testify under oath and shall be subject to cross-examination.

b-3-d. The chief of police or complainant and the licensee shall each be limited to 30 minutes for testimony and oral presentation unless the chair, subject to approval of the committee, extends the time to assure a full and fair presentation.

b-3-e. Questions by committee members and responses to members' questions shall not be counted against the time limitations.

b-3-f. At the close of the testimony, the chief of police or complainant and the licensee shall be given a reasonable time to make arguments upon the evidence produced at the hearing.

b-4. The chair of the licensing committee shall be the presiding officer. The chair shall direct that oaths be administered and subpoenas issued upon request of either side. The chair shall ensure that an orderly hearing is conducted in accordance with the requirements of this subsection. 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 present and voting.

b-5. At all stages of the proceedings before the committee or before the common council, the licensee shall be entitled to appear both in person and by an attorney.

b-6. A record shall be made of all licensing proceedings before the committee and before the common council as provided in s. 85-4-3.

c. Committee Report. c-1. Within 10 working days after it reaches a decision, the committee shall prepare and serve a report and recommendation on the licensee and transmit a copy thereof to the city attorney. The report and recommendations shall include specific findings of fact and conclusions of law made by the committee. The report shall be distributed to each member of the common council.

c-2. The committee shall provide the licensee, and the complainant, if any, with a copy of the report. The licensee and complainant may file a written statement or response including objections, exceptions and arguments of law and fact to the report to the common council. A written statement or response must 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.

c-3. Any written statement or response to the report and recommendations of the committee shall be filed by the close of business on the day that is 3 working days prior to the date on which the matter is to be heard by the common council. Copies of written statements 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.

d. Council Action. d-1. 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. Not less than 5 working days prior to the hearing before the common council, the city clerk shall notify the licensee and complainant by United States first class mail, postage prepaid, sent to the last known address of the licensee and complainant, and shall also notify the city attorney, of the time and place that the common council will convene. 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 written statements or responses are timely filed to a committee report and recommendations that the license be suspended or revoked, each member of the common council shall be asked to affirm that he or she has read the statements or responses. If

other depository, in payment of established charges for food, beverages of any kind, or other service, knowing at the time that there is not sufficient credit with the drawee bank or other depository for payment in full of the instrument drawn.

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

1. FINDINGS. The Wisconsin state statutes create the designation “centers for the visual and performing arts” and exempt them from certain restrictions relating to the presence of underage persons on licensed Class “B” alcohol beverage premises. The state statutes do not, however, provide a definition for “centers for the visual and performing arts.” The prevention of the underage consumption of alcohol and the regulation of alcohol beverage premises where underage persons congregate is a primary concern of the common council, given its responsibility to protect its most vulnerable residents. The common council finds, therefore, that it is essential to define and license “centers for the visual and performing arts” to help ensure the health, safety and welfare of the people of the city of Milwaukee and, in this light, to grant this license infrequently and only after careful consideration, review and deliberation.

2. LICENSE REQUIRED. No premise shall be deemed a center for the visual and performing arts without first obtaining a license as required in this section, except that no license shall be required of centers for the visual and performing arts operated by nonprofit organizations which, for the purposes of this provision, shall mean a federal, state or local unit of government or agency thereof, a public or private elementary, secondary or post-secondary school, or an organization that is described in s. 501(c)(3) of the internal revenue code of the United States of America and is exempt from taxation under s. 501(a) of this code.

3. MINIMUM QUALIFICATIONS. No premise shall be licensed as a center for the visual and performing arts unless it fulfills all the relevant criteria of pars. a to d.

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

b. A center for the visual and performing arts shall have either of the following:

b-1. At least one stage or designated performance space.

b-2. A collection of recognized works of art placed on regular public display, as testified to before the licensing committee of the common council by recognized experts or art critics.

c. At a center for the visual and performing arts that is also a theater, the service of alcohol beverages shall be incidental to the main function of the licensed premise as evidenced by the service of alcohol beverages no earlier than 2 hours before a given day’s scheduled performance, no later than 2 hours after a given day’s scheduled performance and only in a designated lobby area.

d. At a center for the visual and performing arts that provides live music performances on a stage or designated performance space less than 1200 square feet in size to an all-ages audience, which is subject to the curfew limitations set forth in s. 106-23 and the employment limitations of minors set forth in s. 103.78, Wis. Stats., underage patrons shall enter the premises no earlier than one hour before a scheduled performance and shall leave the premises no later than one half hour after completion of the performance.

4. APPLICATION. a. Application for a center for the visual and performing arts license shall be filed with the city clerk on a form provided therefor.

b. The application shall require:

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

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

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

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

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

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addresses of all officers and be verified by an officer of the club, association, or organization.

b-6. The date of birth of the applicant.

b-7. A completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall require:

b-7-a. The planned hours of operation for the premises.

b-7-b. The number of patrons expected on a daily basis at the premises.

b-7-c. The legal occupancy limit of the premises.

b-7-d. What plans, if any, the applicant has to insure underage persons are not served alcohol beverages at the premise and that alcohol beverages are not consumed by underage persons at the premise.

b-7-e. What plans, if any, the applicant has to insure that underage persons are not on the premise in violation of the city's curfew ordinance as set forth in s. 106-23.

b-7-f. The number of off-street parking spaces available at the premises.

b-7-g. Whether or not the premises will make use of sound amplification equipment and, if so, what kind.

b-7-h. What plans, if any, the applicant has to provide security for the premises.

b-7-i. What plans, if any, the applicant has to insure the orderly appearance and operation of the premises with respect to litter and noise.

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

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

5. ISSUANCE. a. An application shall be referred to the chief of police and the commissioner of neighborhood services, each of whom shall cause an investigation to be made and report their findings to the licensing committee in accordance with the provisions of s. 85-2.5 and 85-2.7.

b. The licensing committee shall hold a hearing on whether or not to issue each new license. If there is a possibility of denial, no hearing shall be heard unless the city clerk's office has provided written notice to the applicant. The notice shall be served upon the applicant so that the applicant has at least 7 days' notice of the hearing. The notice shall contain:

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

b-2. A statement to the effect that the possibility of denial of the license application exists and the reasons for possible denial.

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

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

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

d. A due process hearing shall be conducted in the following manner:

d-1. All witnesses will be sworn in.

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

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

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

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

d-6. Both proponents and opponents shall be permitted a brief summary statement.

e. The recommendations of the committee regarding the applicant must be based on evidence presented at the hearing. Probative evidence concerning whether or not the license should be granted may be presented on the following subjects:

e-1. Whether or not the applicant meets the municipal requirements, including those in sub. 3.

e-2. The appropriateness of the location and premises where the center for the visual and performing arts is to be located and whether the location will create undesirable neighborhood problems. Probative evidence relating to these matters may be taken from the plan of operation submitted pursuant to sub. 4-b-8. but not the content of any performance.

e-3. The applicant's record in operating similarly licensed premises.

c-2. Prior to the date set for the hearing, the city clerk's office shall forward notice to the applicant which shall contain:

c-2-a. The date, time and place of the hearing.

c-2-b. A statement of the common council's intention not to renew the permit in the event any objections to renewal are found to be true.

c-2-c. A statement of the reasons for possible nonrenewal.

c-2-d. A statement that an opportunity will be given to respond to and challenge such reasons for nonrenewal and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

c-2-e. A statement that the applicant may be represented by counsel at the applicant's expense, if the applicant so wishes.

d. Hearings. All hearings held and committee recommendations prepared pursuant to this subsection shall be conducted as set forth in sub. 16.

15. REVOCATION OR SUSPENSION OF PERMITS. a. Any permit issued under this section may be suspended or revoked for cause by the common council after notice to the permittee and a hearing.

b. Suspension or revocation proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police, or upon a sworn written complaint filed with the city clerk by any interested person.

c. Whenever either sworn written charges or a sworn written complaint are filed with the city clerk setting forth specific charges against a permittee involving conduct which would violate ordinances that are grounds for suspension or revocation of a permit, the city clerk shall issue notice to the permittee. The notice shall contain:

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

c-2. A statement to the effect that the possibility of suspension or revocation of the permit exists and the reasons for possible suspension or revocation.

c-3. A statement that an opportunity will be given to the applicant to respond to and challenge any reason for suspension or revocation

and to present witnesses under oath and to cross-examine opposing witnesses under oath.

c-4. A statement that the permittee may be represented by counsel at the permittee's expense, if the permittee so wishes.

d. The licensing committee shall convene at the date and time designated in the notice for the purpose of taking evidence and making findings of fact and conclusions of law and a recommendation to the common council in connection with the proposed suspension or revocation.

e. If the permittee appears before the committee at the time designated in the notice and denies the charges contained in the complaint, the committee shall conduct an evidentiary hearing in connection with the suspension or revocation at that time. If the permittee does not appear, or appears but does not deny the charges contained in the complaint, the complaint shall be taken as true and the committee shall hear the arguments of the complaints and the permittee in connection with the suspension or revocation.

f. All hearings held and committee recommendations prepared pursuant to this subsection shall be conducted as set forth in sub. 16.

16. PROCEDURE FOR NON-RENEWAL, REVOCATION OR SUSPENSION.

a. Applicable Procedures. If there is a possibility that the licensing committee will not recommend renewal of the permit, or if revocation or suspension proceedings are initiated, the procedures for notice and committee hearing and for the committee report, recommendations and common council consideration provided in ss. 85-3 to 85-5 shall apply.

b. Grounds for Non-renewal, Suspension or Revocation. The recommendation of the committee regarding the permittee shall be based upon evidence presented at the hearing. Probative evidence concerning non-renewal, suspension or revocation may include evidence of:

b-1. Failure of the permittee to meet the municipal qualifications or any of the licensing requirements of this chapter.

b-2. 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 activity, by the permittee, or by any employee or driver of the permittee.

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b-3. The permittee, or any employee or driver of the permittee, having violated any of the operating regulations and prohibited practices set forth in this chapter.

b-4. Failure of a permittee to comply with the written plan of operation provided under s. 100-50-4-b-8.

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

17. REQUEST TO SURRENDER A PERMIT. See s. 85-17 for provisions relating to the surrender of permits and the return of surrendered permits.

100-51. Vehicle Inspection. 1. INSPECTION REQUIRED. a. A public passenger vehicle permittee shall submit his or her vehicle for inspection on the designated date and time for any inspection or reinspection required under this section.

b. The department of public works shall conduct inspections under this section.

c. The commissioner of public works may designate one or more additional parties, businesses or agencies, subject to approval by the common council, to conduct inspections under terms and conditions that will ensure substantially similar quality and costs as if conducted by the department.

2. WHEN REQUIRED. A vehicle inspection conducted by the department of public works or its designee shall be required as determined by a random or other selection process or when identified by complaint by the police department, the department of public works or the city clerk.

3. NOTICE OF INSPECTION. Notice of inspection including the time and place of inspection shall be provided by the city clerk by U.S. first class mail, postage prepaid, at least 3 days prior to inspection.

4. ELIGIBILITY. No vehicle shall be inspected unless, prior to inspection, the permit, certificate of vehicle registration, and, if a meter fare taxicab, meter permit and meter inspection slip are presented to the inspecting officer.

5. INSPECTION REPORT. The department of public works shall report the results of each inspection to the city clerk in a form and manner prescribed by the city clerk. The report shall include vehicles appearing for inspection, vehicles passing inspection, vehicles removed from public service, reasons for removal of vehicles from public service and vehicles failing to appear for inspection. The department of public

works shall also provide the city clerk with information related to the costs of inspections upon request.

6. INSPECTION ACTIONS.

a. **Inspection Sticker.** The department of public works shall place in a conspicuous location a nonremovable sticker on each public passenger vehicle thoroughly inspected by the department of public works and found to meet the vehicle standards and equipment requirements established in this subchapter. The city clerk may provide for an inconspicuous inspection sticker for limousines. No inspection sticker shall be required for a horse and surrey livery or a pedicab.

b. **Require Reinspection.** The department of public works shall not issue an inspection sticker for, and shall require reinspection of, any vehicle that is found in violation of any of the vehicle standards and equipment requirements established in this subchapter. Violations found during any inspection shall be corrected and the vehicle shall be presented at the designated inspection station for reinspection on the next regularly scheduled inspection date, or on or before the last day of the annual inspection period, if applicable.

c. **Remove Vehicle from Service.** In addition to any action taken under par. b, the department of public works shall immediately suspend the permit of and remove from public service any vehicle that is found to be in a hazardous condition and unsafe for public patronage.

c-1. A red sticker shall be placed on the vehicle that shall read: THIS VEHICLE UNSAFE FOR PUBLIC PATRONAGE.

c-2. The sticker may only be removed by the department of public works upon a successful reinspection at the designated inspection station.

c-3. Removal, alteration, defacement or obscuration of the sticker by anyone other than the department of public works shall be subject to the penalty provisions of this chapter.

d. **Suspend Permit.** d-1. Without any further action, the city clerk shall immediately suspend the permit and notify the permittee by first class mail of the suspension whenever the department of public works receives information that any of the following has occurred:

d-1-a. The permittee fails to submit the vehicle on the designated date and time for any inspection or reinspection required under this section.

d-1-b. All violations found during any inspection are not corrected when the vehicle is presented at the designated inspection station for reinspection.

3. EXCEPTIONS. To the extent that a vehicle is otherwise in compliance with the code, such vehicle may be parked or left standing on the highways of the city while actively engaged in loading or unloading and such vehicle is not left unattended for a period greater than 10 minutes.

101-23.5. Parking on Private Property. No person shall, without the permission of the owner or lessee of any private property, leave or park any motor vehicle thereon, contrary to a posted sign thereon, if there is in plain view on such property a No Parking sign, or a sign indicating limited or restricted parking. Owners or lessees of such property may prohibit parking, may restrict or limit parking and may permit parking by certain persons and prohibit it or limit it as to other persons. All signs installed shall comply with applicable provisions of the code.

101-23.7. Loading and Unloading Zone Permits.

1. DEFINITIONS. In this section:

a. "Commercial vehicle" means a motor vehicle used primarily for the movement of property or special-purpose equipment as opposed to persons, or a motor vehicle that is designed to carry 10 or more persons. Such vehicles shall display permanently painted or sealed/adhered and plainly marked, the name of the business owning or utilizing the vehicles. Commercial vehicles include vehicles commonly called delivery vans, buses and other similar vehicles.

b. "Disabled person" means an individual who submits, at the time an original or renewal loading zone permit is applied for, a statement from a physician or chiropractor licensed to practice in any state or a Christian Science practitioner residing in the state of Wisconsin certifying the individual meets any of the following, though specifically omitting any descriptions, list of symptoms, diagnosis or any other details of the exact nature of the individual's physical or mental ailment:

b-1. The individual is a person with a disability that limits or impairs the ability to walk. If this condition is temporary, the statement shall indicate the approximate date on which the disability will end.

b-2. The individual is blind, meaning the individual has central visual acuity that does not exceed 20/200 in the better eye with correcting

lenses or a visual field that subtends an angle no greater than 20 degrees. If this condition is temporary, the statement shall indicate the approximate date on which the disability will end.

b-3. The individual is visually impaired, meaning the individual has a loss of vision that can reasonably be expected to lead to blindness or a loss of vision that represents a handicap to employment or other major life activity. If this condition is temporary, the statement shall indicate the approximate date on which the disability will end.

b-4. The individual has a disability, such as, but not limited to, Alzheimer's disease, delayed mental development or brain injury, which compromises the individual's problem-solving or reasoning skills and which makes it necessary for the individual to receive assistance in moving safely between the individual's residence and any vehicle that transports the individual. If this condition is temporary, the statement shall indicate the approximate date on which the disability will end.

c. "Nonprofit organization" means a federal, state or local unit of government or agency thereof, a public or private elementary, secondary or post-secondary school, or an organization that is described in s. 501(c)(3) of the internal revenue code of the United States of America and is exempt from taxation under s. 501(a) of this code.

2. POLICY. a. Loading and unloading zones are for the use of the general public and are not restricted solely for the use of the permit holders or their patrons.

b. Loading and unloading zones are to be used for the purpose of, and while actively engaged in, loading or unloading property or passengers. Loading zones are not considered parking spaces.

3. LOADING-UNLOADING PRIVILEGE. Permits setting aside curb space for loading and unloading zones in front of commercial establishments may be granted only to the owners of such property and only upon application therefore and the decision of the common council. Residential loading zone permits may only be granted to households containing disabled persons and shall be for 30-foot loading zones only and only upon application therefore and the decision of the common council.

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4. APPLICATION. a. Any person, firm, corporation or organization desiring a loading and unloading zone shall, before an original or renewal permit is issued, file a written application with the city clerk on a form provided therefor. The application shall require:

a-1. The name of the person, firm, corporation or organization seeking the loading and unloading zone permit. If the applicant is a corporation or limited liability company, the name of the corporation shall be set forth exactly as it is set forth in its articles of incorporation.

a-2. The exact location and extent of the building in front of which the loading and unloading zone is to be located as well as the proposed length and hours of operation of the loading and unloading zone.

a-3. The reason or reasons for which the loading and unloading zone permit is being sought.

a-4. The name, address and phone number of a contact person. The contact person shall be the applicant, if an individual; a partner, if a partnership; a duly authorized agent or officer, if a corporation; or a duly authorized agent or member, if a limited liability company. The application shall be signed by the contact person.

b. Copy for Council Member. The city clerk shall, upon receipt of a written application for a loading and unloading zone permit, serve a copy of the application upon the common council member in whose district the permit is sought. If a disabled person is applying for the transfer of a loading and unloading zone permit to a new location pursuant to s. 81-70-6, the city clerk shall serve a copy of the application upon the common council member in whose district the new loading and unloading zone would be located.

5. ISSUANCE. a. Applications shall be referred to the commissioner of public works who shall cause an investigation to be made and prepare a recommendation to the common council as to whether the requested permit should be granted. In addition, the common council member in whose district the permit is sought shall file his or her recommendation with respect to the requested permit with the city clerk. In all cases, the standard for determining the appropriateness, location and size of any regulated loading and unloading zone shall be the public welfare.

b. In preparing their recommendations regarding loading and unloading zones, the commissioner of public works and the common council member may consider any of the following:

b-1. The nature of land use in the block in which the loading and unloading zone is requested.

b-2. The availability of parking in the block in which the loading and unloading zone is requested.

b-3. The roadway geometrics in the block in which the loading and unloading zone is requested.

b-4. The hours of the day or night when use of the loading and unloading zone is necessary or most convenient.

b-5. The likely impact of the requested loading and unloading zone on the surrounding neighborhood.

b-6. In the case of residential loading and unloading zones for disabled persons, the validity of the disability claimed.

c. If both the common council member and the commissioner recommend in favor of an application, the application shall be forwarded to the common council for approval. If either the common council member or the commissioner recommends against an application, no permit shall be issued unless the applicant requests, in writing, an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the recommendation of the commissioner and the common council member. Appeals shall be forwarded to the licensing committee for its recommendation as to whether each permit should be granted. The committee shall hold a hearing on whether to grant each permit for which an appeal has been requested. No hearing shall be heard unless the city clerk's office has provided written notice to the applicant. The notice shall be served upon the applicant so that the applicant has at least 7 days' notice of the hearing. The notice shall contain:

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

c-2. A statement to the effect that the possibility of denial of the permit application exists and the reasons or possible denial.

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

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

b-7-d. If the application is for an alarm sales business license, a certification that a list of alarm sales personnel will be registered with the city clerk and updated within 10 days of employment of any additional alarm sales personnel and within 10 days of the termination of sales activities by any person previously registered as a salesperson.

b-7-e. A certification that photographs of alarm sales personnel for all personnel who engage the public directly and in person in the course of sales activities will be submitted to the city clerk promptly upon engagement of alarm sales personnel in sales activities. The list provided in subpar. d shall separately identify those individuals who engage members of the public directly and in person in the course of sales activities from those individuals whose contact with members of the public is limited to telephonic or other electronic or remote medium of communication, or to individuals engaged in activities of posting or distribution of brochures, placards, flyers or other written communications.

b-7-f. A list of any additional services provided to alarm users or subscribers which shall be updated within 10 days of any change in service subcontractor.

b-7-g. If a private first responder service is provided either directly or by subcontract, a statement whether prompt dispatch is guaranteed.

b-7-h. A statement whether the applicant will accept service of process or other notice by first class mail and providing the address for receipt of first class mail.

b-8. Such other reasonable and pertinent information the common council or the proper licensing committee may from time to time require.

b-9. All applicants not maintaining a place of business in the state of Wisconsin shall continuously maintain in this state a registered office and a registered agent for service of process, notice or demand required and permitted by law to be served on foreign corporations, the address of such office and the name and address of such agent to be filed with the city clerk.

c. Post office box numbers shall not be acceptable for addresses required on applications.

d. All applicants for licenses issued under this chapter shall be exempt from the fingerprinting requirement provided in s. 85-21-1.

4. CHANGES TO BE REPORTED.

a. A licensee shall notify the city clerk whenever there is a change in any information that is reported in the application form or renewal application form. The licensee shall make this notification in writing within 5 days after the change occurs.

b. Whenever an alarm business changes any of its corporate officers, directors or agents, the corporation shall file the appropriate application and

pay the fee required in s. 81-2-5. This application shall be completed and processed in the same manner as a new application subject to all the requirements of this section.

5. FEE. All applications for alarm business licenses, alarm sales licenses and private first responder service licenses shall be accompanied by the fee specified in s. 81-2.

6. ISSUANCE. a. Applications shall be referred to the chief of police who shall cause an investigation to be made and report their findings to the licensing committee. If no objection is filed to an application, the license shall be forwarded to the common council for approval. If an objection is filed to an application, the license shall be forwarded to the licensing committee for its recommendation as to whether or not a license should be issued.

b. If there is a possibility of denial, no hearing shall be heard unless the city clerk's office has provided written notice to the applicant. The notice shall be served upon the applicant so that the applicant has at least 7 days' notice of the hearing. The notice shall contain:

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

b-2. A statement to the effect that the possibility of denial of the license application exists and the reasons for possible denial.

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

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

c. 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

d. A due process hearing shall be conducted in the following manner:

d-1. All witnesses will be sworn in.

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

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

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

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

d-6. Both proponents and opponents shall be permitted a brief summary statement.

e. The recommendations of the committee regarding the applicant must be based on evidence presented at the hearing. Probative evidence concerning whether or not the license should be granted may be presented on the following subjects:

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

e-2. Whether or not the applicant has been charged with or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the licensed activity.

e-3. Any other factors which reasonably relate to the public health, safety and welfare.

f. 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. RENEWAL AND NON- RENEWAL.

a. Procedure for Renewal. Applications for renewal shall be made to the city clerk. The clerk shall refer the application for renewal to the chief of police for review. For any application for renewal of an alarm business license for an alarm business which provides to alarm users alarm monitoring services for the receiving of burglary alarm messages, the application shall state that among the services offered by the alarm business to alarm users is a private first responder service that verifies, in the case of an activated burglary alarm, that an attempted or actual crime has occurred at the alarm site before the alarm signal is transmitted to the police department. If the chief of police files no information with the city clerk that could form the basis of an objection, the license 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. This 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 of the common council for its recommendation.

b. Non-Renewal. If there is a possibility that the committee will not recommend renewal of a permit, the procedures for notice, hearing and review by the common council provided in sub. 8 shall govern.

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

8. PROCEDURES FOR NON-RENEWAL, SUSPENSION OR REVOCATION.

a. Any license issued under this section may be non-renewed, suspended or revoked for cause by the common council after notice to the licensee and a hearing.

b. Non-renewal, suspension or revocation proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police or upon a sworn written complaint filed with the city clerk by any interested party.

c. Due Process Hearing and Review by the Common Council. If there is a possibility that the licensing committee will not recommend renewal of the license, or when revocation or suspension proceedings are initiated, the procedures for notice and committee hearing and for the committee report, recommendations and common council consideration provided in ss. 85-3 to 85-5 shall govern.

d. Grounds for Non-renewal or Revocation. The recommendation of the committee regarding the licensee shall be based on evidence presented at the hearing. Probative evidence concerning non-renewal or revocation may include evidence of:

d-1. Failure of the licensee to meet the municipal qualifications, including failure to comply with the plan of operation submitted by the licensee as a part of the license application as it may be amended and including compliance with the requirement to timely report changes in the licensee's plan of operation and changes in the licensee's address for receipt of first-class mail.