

**CHAPTER 108
PUBLIC DANCE HALLS**

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108-1. Findings. The common council finds that various public dance halls can be a source of noise, litter, large and unruly congregations of people, traffic and parking congestion that adversely affects the health, safety and welfare of the people of the city of Milwaukee. This chapter is established pursuant to the responsibility of the common council to legislate and license for the protection of the health, safety and welfare of the people of the city of Milwaukee and to diminish the undesirable secondary effects that can result from these operations.

108-3. Definition. In this chapter:

a. "Public dance" means any dance of any nature or description to which the public generally may gain admission, either with or without the payment of a fee. Any dance operated commercially for gain by membership, season ticket, invitation or other system open or offered to the public generally shall be deemed to constitute a public dance.

b. "Public dance hall" means any room, place or space in which a public dance may be held, or in which classes in dancing are held and instruction in dancing given for hire.

108-5. License Required. 1. REQUIREMENT.

a. No person may hold a public dance within the city until the dance hall has been licensed for such purpose.

b. A public dance hall license shall entitle the holder to permit dancing by patrons upon the premises to prerecorded music.

c. In addition to a obtaining a public dance hall license, public dance halls which produce music by means other than prerecorded music are required to obtain a shows and exhibitions license pursuant to s. 84-40.

2. EXEMPTION. No public dance license shall be required for the following:

a. Class "B" tavern premises holding a tavern amusement license, tavern dance license or special tavern dancing permit.

b. Organizations formed exclusively for the purpose of ballet performance and instruction and which have received tax-exempt status from the United States internal revenue service upon the presentation of documentation of such status to the city clerk's office.

3. APPLICATION. a. Application for a public dance hall license shall be filed with the city clerk on a form provided therefore. The application shall be signed by the applicant, if an individual, or by a duly authorized agent or officer of a corporation or limited liability company, and sworn to by the applicant.

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. The name and permanent address of the person owning the premises for which the license is to be granted.

b-4. 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 permanent address of each of its officers, directors and designated managers, if any; the

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application shall be verified by an officer of the corporation. If one or more of the officers is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the corporate officers.

b-5. If the applicant is a partnership, the application shall set forth the name and permanent 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-6. 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 permanent addresses of all officers and be verified by an officer of the club, association or organization.

b-7. All convictions, including ordinance violations exclusive of traffic violations, with a brief statement of the nature of the convictions and the jurisdiction in which the conviction occurred.

b-8. The date of birth of the applicant.

b-9. Whether the applicant has prior to the date of application been licensed to conduct a public dance hall in this city and the location of such dance hall, if any.

b-10. A completed plan of operation on a form provided therefore by the city clerk. The plan of operation shall require:

b-10-a. The planned hours of operation for the premises.

b-10-b. The number of patrons expected on a daily basis at the premises.

b-10-c. The legal capacity limit of the premises.

b-10-d. The number of off-street parking spaces available at the premises.

b-10-e. Whether or not the public dances held at the premises will make use of sound amplification equipment and, if so, what kind.

b-10-f. What plans, if any, the applicant has to provide security for the premises.

b-10-g. What plans, if any, the applicant has to insure the orderly appearance and operation of the premises with respect to litter and noise.

b-10-h. Any other licenses held by the applicant or attached to the premises.

b-11. Such other reasonable and pertinent information the common council or the licensing committee may from time to time require.

c. Post office box numbers shall not be acceptable for addresses required on applications for public dance hall licenses.

d. The building owner or applicant shall file with the license application an approved occupancy permit issued by the commissioner of city development for the operation of the premises.

4. CHANGES TO BE REPORTED. 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.

5. FEE. All applications shall be accompanied by the fee specified in s. 81-39.

6. QUALIFICATIONS. No public dance hall licenses shall be granted to any persons or agents of corporations or limited liability corporations who are not 21 years of age or older and residents of the state of Wisconsin.

108-7. Issuance of License. 1. ISSUANCE.

a. Investigation. a-1. Applications shall be referred to the chief of police and the commissioner of neighborhood services both of whom shall cause an investigation to be made and report their findings to the common council licensing committee.

a-2. The report to the common council licensing committee by the commissioner of neighborhood services shall include information related to the zoning district in which the premises of the public dance hall is to be located.

b. The licensing committee shall hold a hearing on whether or not to grant 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 3 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. 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 3 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.

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.

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. The appropriateness of the location and premises where the public dance hall is to be located and whether the public dance hall will create undesirable neighborhood problems. Probative evidence relating to these matters may be taken from the plan of operation submitted pursuant to s. 108-5-3-b-10, but not the content of any music.

e-3. Whether there is an over-concentration of businesses licensed under ch. 108 in the neighborhood such that the concentration will have an adverse impact upon the public health, safety and welfare of the neighborhood.

e-4. The applicant's record in operating similarly licensed premises.

e-5. 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 permitted activity.

e-6. Any other factors which reasonably relate to the public health, safety and welfare.

f. The recommendations of the committee regarding the applicant must not be based on evidence presented at the hearing related to type or content of any music.

h. 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.

i. If the common council grants the application for a public dance hall license, the city clerk shall issue an appropriate document to the applicant confirming that fact. The document shall also contain any restrictions or conditions which the common council may place on approval.

j. If the possibility of denial is based on the fitness of the location of the premises to be licensed, the owner of the premises shall have the same rights related to a due process hearing provided to the applicant under this subsection.

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2. **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.

3. **CHANGE IN PLAN OF OPERATION.** If, after the license has been granted or issued, the licensee wishes to substantially deviate from the plan of operation as submitted with the original application, the licensee shall file a sworn, written request with the city clerk which states the nature of the change. No change shall take place until the request has been approved by the common council. The common council's approval shall be given only if it determines, in the manner set forth in sub. 1-e-2, that the change is compatible with the normal activity of the neighborhood in which the premises is located.

108-9. Renewal of Licenses. 1. PROCEDURE FOR RENEWAL. Applications for the renewal of a public dance hall license shall be made to the city clerk. The clerk shall refer the application for license renewal to the chief of police and the commissioner of neighborhood services for review. If the chief of police and the commissioner of neighborhood services indicate that the applicant still meets the licensing qualifications, the application shall be referred to the common council for approval unless an objection has been filed with the city clerk at least 30 days prior to the date on which the license expires. This objection may be filed by any interested person. If an objection is filed, or if a determination is made that the applicant no longer meets the licensing qualifications, the application shall be forwarded to the licensing committee for a hearing on whether the application should be recommended for approval or denial to the common council.

2. **PROCEDURE FOR NON-RENEWAL.** If there is a possibility that the committee will not recommend renewal of a permit, the procedures for notice, committee hearing and review by the common council provided in s. 108-11 shall govern.

108-11. Non-renewal, Revocation or Suspension of Licenses.

1. **PROCEDURE.** Procedures for Revocation or Suspension. a. Any license issued under this section may be revoked or suspended for cause by the common council. 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.

b. **Due Process Hearing and Common Council Review.** If there is a possibility that the licensing committee will not recommend renewal of the license, 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 govern.

4. **REQUEST TO SURRENDER A LICENSE.** a. If a licensee wishes to surrender his or her license after receiving a notice for a hearing on non-renewal, revocation or suspension, the licensee must request, in writing, permission from the licensing committee to do so prior to the commencement of the hearing. The committee may approve the request, or deny the request and proceed with the hearing.

b. In the event a licensee who has surrendered his or her license wishes to have the surrendered license returned, regardless of whether the license was surrendered pursuant to par. a, the licensee must request, in writing, permission from the licensing committee to do so and appear before the committee at the date, time and place specified in written notice provided to the licensee by the city clerk. The committee may approve the request and return the license without further action by the common council, or make a recommendation to the common council to deny the request based on the same grounds set forth in this chapter for non-renewal or revocation. If the committee makes a recommendation to deny the request

for the return of the license, all committee recommendations shall be prepared and common council actions conducted in the same manner set forth in this chapter for non-renewal or revocation.

5. GROUNDS FOR NON-RENEWAL, SUSPENSION OR REVOCATION. The recommendation of the committee regarding the licensee must be based on evidence presented at the hearing. Probative evidence concerning non-renewal, suspension or revocation may include evidence of:

a. Failure of the licensee to meet the municipal qualifications or any of the terms of this chapter.

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 activity, by the licensee, his or her employees, or patrons.

c. Failure to abide by conditions imposed by the common council pursuant to s. 108-7-1-i.

d. Neighborhood problems due to management or the appropriateness of the location and premises where the public dance hall is located.

e. A showing that the licensed premises has been the source of congregations of persons which have resulted in one or more of the following:

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

e-18. Traffic violations.

e-19. Curfew violations.

e-20. Lewd conduct.

e-21. Display of materials harmful to minors, pursuant to s. 106-9.6.

e-22. Cruising.

f. Any other factor which reasonably relates to the public health, safety and welfare or which demonstrates that the establishment has generated the undesirable secondary effects set forth in s. 108-1.

g. The recommendations of the committee regarding the applicant must not be based on evidence presented at the hearing related to type or content of any music.

108-15. Alteration of Premises. Any alteration, change or addition resulting in expansion of a licensed premises shall be approved by the licensing committee prior to issuance of a license, pursuant to s. 200-24, by the department of city development. An applicant whose application has been denied by the committee may appeal the decision to the common council.

108-17. Dance Hall License; Posting. Each dance hall license shall be posted in a conspicuous place within the hall in which the dance is held.

108-19. Supervision of Dance Hall Premises. The public dance hall licensee shall be responsible for the adequate supervision of the premises, and such supervision shall consist of persons 21 years of age or older.

108-27. Announcement of Curfew Hours. An announcement shall be made 20 minutes prior to the beginning of curfew hours specified in s. 106-23 to provide for the exit of those persons subject to s. 106-23. All entertainment shall cease for the 20-minute period prior to curfew.

108-29. Closing Hour. All public dances shall be discontinued and all public dance halls located in residential zoning districts as established under subch. 5 of ch. 295 shall be closed no later than 12:30 a.m., except where such premises are licensed under ss. 90-33 to 90-36. If a public dance hall is located in a zoning district other than a residential district established under subch. 5 of ch. 295, such

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dances shall be discontinued and such dance halls shall be closed no later than 1:00 a.m. on weekdays and 1:30 a.m. on Saturdays and Sundays, and shall not reopen before 10:30 a.m. The chief of police, upon application made to the chief not less than 5 days prior to the date of the holding of such public dance, may fix the closing not later than 3:00 a.m.

108-31. Penalty. Any person convicted of violating this chapter shall be fined not less than \$500 nor more than \$2,000 for each violation, plus costs of prosecution, and, in default thereof, be imprisoned for a period not to exceed 80 days, or until forfeiture costs are paid.

**LEGISLATIVE HISTORY
CHAPTER 108**

am = amended
cr = created

ra = renumbered and amended
rc = repealed and recreated

rn = renumbered
rp = repealed

<u>Section</u>	<u>Action</u>	<u>File</u>	<u>Passed</u>	<u>Effective</u>
Ch. 108	rc	021318	4/15/2003	4/25/2003
108-2-3	rp	951346	1/23/96	2/9/96
108-2-3-b	am	872294	3/29/88	4/16/88
108-2-4-b	rp	951346	1/23/96	2/9/96
108-2-4-h	rep	870914	10/6/87	10/23/87
108-2-4-i	am	880147	6/28/88	7/16/88
108-2-4-i	am	951622	3/5/96	3/22/96
108-2.5	am	881801	4/25/89	5/13/89
108-2.5	am	951622	3/5/96	3/22/96
108-3	am	951346	1/23/96	2/9/96
108-3	am	980963	12/18/98	1/1/99
108-3	rc	011237	5/14/2002	6/1/2002
108-5-3-a	am	070109	5/8/2007	5/25/2007
108-5-3-b-11	am	080009	5/20/2008	6/7/2008
108-7-1-a	am	040973	11/23/2004	12/14/2004
108-7-2	rc	080189	7/1/2008	7/19/2008
108-9-1	am	040973	11/23/2004	12/14/2004
108-9-2	rc	080009	5/20/2008	6/7/2008
108-11	am	991763	5/14/2002	10/1/2002
108-11-1	rc	080009	5/20/2008	6/7/2008
108-11-1-b	am	081724	5/5/2009	5/22/2009
108-11-1-c	rc	030306	6/24/2003	7/11/2003
108-11-1-d	rc	030306	6/24/2003	7/11/2003
108-11-1-e	am	030306	6/24/2003	7/11/2003
108-11-2	rp	080189	7/1/2008	7/19/2008
108-11-3	rp	080189	7/1/2008	7/19/2008
108-11-4	cr	080009	5/20/2008	6/7/2008
108-11-5	cr	080009	5/20/2008	6/7/2008
108-13	rp	960621	7/30/96	8/16/96
108-13	rp	080009	5/20/2008	6/7/2008
108-13-6-e	am	040631	9/21/2004	10/8/2004
108-13-7	am	041379	2/22/2005	3/11/2005
108-21	rp	071158	1/15/2008	2/2/2008
108-23	rp	071158	1/15/2008	2/2/2008
108-25	rp	071158	1/15/2008	2/2/2008

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