Sec. 14-31. - Revocation, suspension or nonrenewal of license.

The following provisions shall apply to the revocation, suspension or nonrenewal of any license issued pursuant to this chapter notwithstanding any other provisions of this chapter, except those providing for revocation or suspension of any license by the court:

(1) *Complaint.* Any resident of the city or city official may file a sworn written complaint with the city clerk alleging one or more of the following about any person or entity licensed pursuant to this chapter:

a. The person has violated Wis. Stats. ch. 125 or this chapter.

b. The person keeps or maintains a disorderly or riotous, indecent or improper house.

c. The person has sold or given away alcohol beverages to known habitual drunkards.

d. The person does not possess the qualifications required under this chapter to hold the license.

e. The person has been convicted of manufacturing, distributing or delivering a controlled substance or controlled substance analog under Wis. Stats. § 961.41(1); of possessing, with intent to manufacture, distribute or deliver, a controlled substance or controlled substance analog under Wis. Stats. § 961.41(1m); or of possessing, with intent to manufacture, distribute or deliver, or of manufacturing, distributing or delivering a controlled substance or controlled substance analog under a substantially similar federal law or a substantially similar law of another state.

f. The person has been convicted of possessing any of the materials listed in Wis. Stats. § 961.65 with intent to manufacture methamphetamine under that subsection or under a federal law or a law of another state that is substantially similar to Wis. Stats. § 961.65.

g. The person knowingly allows another person, who is on the premises for which the license under this chapter is issued, to possess, with the intent to manufacture, distribute or deliver, or to manufacture, distribute or deliver a controlled substance or controlled substance analog.

h. The person knowingly allows another person, who is on the premises for which the license under this chapter is issued, to possess any of the materials listed in Wis. Stats. § 961.65 with the intent to manufacture methamphetamine.

i. The person received the benefits from an act prohibited under Wis. Stats. § 125.33(11).

(2) *Summons.* Upon the filing of the complaint, the city council or public safety committee shall issue a summons, signed by the clerk and directed to any peace officer in the municipality. The summons shall command the licensee complained of to appear before the public safety committee on a day and time and at a place named in the summons, not less than three days and not more than ten days from the date of issuance, and show cause why the license should not be revoked or suspended. The summons and a copy of the complaint shall be served on the licensee at least three days before the time at which the licensee is commanded to appear. Service shall be in the manner provided under Wis. Stats. ch. 801, for service in civil actions in circuit court.

(3) *Procedure on hearing.*

a. *No appearance.* If the licensee does not appear as required by the summons, the allegations of the complaint shall be taken as true and, if the committee finds the allegations sufficient, the license shall be revoked. The clerk shall give notice of the revocation to the person whose license is revoked.

b. *Public safety committee to serve as hearing agency.*

1. The public safety committee shall serve as the hearing agency for the city council. The chair of the committee or the chair's designee shall conduct the hearing, administer

oaths to all witnesses and may issue subpoenas. As far as practicable, the rules of evidence provided in Wis. Stats. § 227.45 shall be followed. The complainant shall have the burden of proving the charges by a preponderance of the evidence.

2. If the licensee appears as required by summons and denies the complaint, both the complainant and the licensee may produce witnesses, cross examine witnesses and be represented by counsel. The licensee shall be provided a written transcript of the hearing at his expense. All proceedings and testimony shall be recorded on tape and transcribed unless waived by both the complainant and licensee. If either party requires a stenographic recording and transcription, city staff shall make the necessary arrangements, but the expense shall be borne by the requesting party. The secretary to the public safety committee shall mark and receive all exhibits admitted into the record.

3. Within 20 days of the completion of the hearing, the public safety committee shall submit a report to the city council, including findings of fact, conclusions of law and a recommendation as to what action, if any, the city council should take with respect to the license. The public safety committee shall provide the complainant and the licensee with a copy of the report. Either the complainant or the licensee may file an objection to the report and shall have the opportunity to present arguments supporting the objection to the city council. The city council shall determine whether the arguments shall be presented orally or in writing or both.

4. At the second regular meeting of the city council, after the filing of the public safety committee's recommendation, the city council shall act on the recommendation. If the recommendation is based upon a stipulation of the parties, the city council may accept or reject the recommendations by a simple majority vote. If the city council rejects the recommendation, the matter shall be referred back to the public safety committee for a full factfinding hearing. If the recommendation is based upon a full factfinding hearing, the recommendation shall become the decision of the city council unless reversed or modified by a simple majority vote. No further evidence shall be allowed before the city council. Only those members of the city council who have certified to the clerk in writing that they have read the transcript, unless waived by both the complainant and the licensee, exhibits and reports of the public safety committee, shall be permitted to vote on the matter. If the city council after considering the public safety committee's report and any arguments presented by the complainant or the licensee finds the complaint to be true or if there is no objection to the report recommending suspension or revocation of license, the license shall be suspended for not less than one day nor more than 90 days or revoked. Any suspension or revocation shall be served beginning at 12:00 a.m. on the 7th day following council action. The decision of the city council shall be a final determination for purposes of judicial review. If the complaint is found to be true, the licensee shall pay to the city the actual costs of the proceedings.

c. *Notice.* The city clerk shall give notice of each suspension or revocation to the person whose license is suspended or revoked.

d. *Dismissal.* If the city council finds the complaint untrue, the proceeding shall be dismissed without cost to the accused. If the city council finds the complaint to be malicious and without probable cause, the costs shall be paid by the complainant. The city council or committee may require the complainant to provide security for such costs before issuing the summons under subsection (2) of this section.

(4) *Effect of revocation.* When a license is revoked under this section, the revocation shall be recorded by the city clerk and no other license issued under this article shall be granted to such licensee or for such premises for a period of 12 months from the date of the revocation.

(5) *Judicial review.* The action of the city council in granting or failing to grant, suspending or revoking any license or the failure of the city council to revoke or suspend any license for good

cause may be reviewed by the circuit court for the county in which the application for the license was issued, upon application by any applicant, licensee or resident of the city. The procedure on review shall be the same as in civil actions instituted in the circuit court. The person desiring review shall file pleadings, which shall be served on the city council in the manner provided in Wis. Stats. ch. 801, for service in civil actions and a copy of the pleadings shall be served on the applicant or licensee. The city council, applicant or licensee shall have 20 days to file an answer to the complaint. Following filing of the answer, that matter shall be deemed at issue and hearing may be had within five days, upon due notice served upon the opposing party. The hearing shall be before the court without a jury. Subpoenas for witnesses may be issued and their attendance compelled. The decision of the court shall be filed within ten days after the hearing and a copy of the decision shall be transmitted to each of the parties. The decision shall be binding unless it is appealed to the court of appeals.

(6) *Nonrenewal of license.* The city may refuse to renew a license for the causes provided in subsection 14-31(1). Prior to the time for renewal of the license, the city council or the public safety committee shall notify the licensee in writing of the city's intention not to renew the license and provide the licensee with an opportunity for a hearing. The notice shall state the reasons for the intended action. The hearing shall be conducted as provided in subsection 14-31(3), and judicial review shall be as provided in subsection 14-31(5).

(7) *Other provisions.* Any license issued pursuant to this chapter shall be subject to such further regulations and restrictions as may be imposed by the city council by amendment to this chapter or by the enactment of new ordinances. If any licensee shall fail or neglect to meet the requirements imposed by such new restrictions and regulations, his license may be revoked in accordance with this chapter. In case of revocation of any license or any violation of any provision of this chapter in accordance with this chapter or by the court or for any reasonable cause except the imposition of new restrictions, no refund shall be made of any part of the license fee. If a license issued under this chapter is not used within 15 days after its issuance or its usage is discontinued for a period of 15 days or more, such situation shall be grounds for cancellation of the license in accordance with the provisions of this chapter.

(Code 1986, § 12.03(11); Ord. No. 0-40-07, § 1, 11-27-2007; Ord. No. 0-14-08, § 1, 5-27-2008; Ord. No. 0-7-2011, §§ 1—3, 2-23-2011)