

AGENDA # _____

CITY OF MADISON, WISCONSIN

A SUBSTITUTE ORDINANCE _____

repealing Section 9.29 of the Madison General Ordinances to eliminate the requirement of a cabaret license, and **amending Sections 1.08(3)(a), 9.03 and 38.10(4)(b)** to delete references to the repealed section.

PRESENTED September 2, 2003
REFERRED ALRC; PSRB; BOE

REREFERRED ALRC; PSRB; BOE
(10/21/03, 12/2, 1/20/04, 3/2, 4/20, 6/1, 7/20,
9/7, 10/19)

REPORTED BACK _____

Drafted by: Jennifer A. Zilavy
Assistant City Attorney

Date: December 7, 2004

Fiscal Note: The repeal of cabaret licensing is estimated to result in General Fund revenue losses ranging from \$10,000 to \$15,000 annually.

ADOPTED _____ POF _____
RULES SUSPENDED _____
PUBLIC HEARING _____

APPROVAL OF FISCAL NOTE IS NEEDED
BY THE COMPTROLLER'S OFFICE
Approved By

Comptroller's Office

SPONSORS: Ald. King

SUBSTITUTE ORD. NUMBER _____
ID NUMBER 34608

The Common Council of the City of Madison do hereby ordain as follows:

1. Section 9.29 entitled "Cabaret License" of the Madison General Ordinances is hereby repealed effective June 30, 2005.

2. Subdivision (a) of Subsection (3) entitled "Schedule of Deposits" of Section 1.08 entitled "Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits" of the Madison General Ordinances is amended by deleting therein the following:

<u>"Offense</u>	<u>Ord. No.</u>	<u>Deposit</u>
Cabaret license required.	9.29(1)	\$100

3. Section 9.03 entitled "Licensing And Regulating Public Dances And Dance Halls Not Regulated By Section 9.29" of the Madison General Ordinances is amended by amending the title to read as follows:

"9.03 LICENSING AND REGULATING PUBLIC DANCES AND DANCE HALLS ~~NOT REGULATED BY SECTION 9.29~~"

Approved as to form:

/s/
Michael P. May, City Attorney

4. Subdivision (b) entitled "Point Schedule" of Subsection (4) entitled "Point Values for Alcohol Beverage Violations and Revocations and Suspensions" of Section 38.10 entitled "Revocation, Suspension or Nonrenewal of License" of the Madison General Ordinances is amended by deleting therein the following:

Ordinance Section Number	Type of Violation	Point Value
9.29(3)(g)2-	Nonalcohol Night - Minors on Premises	25

EDITOR'S NOTE: Section 9.29 of the Madison General Ordinances currently reads as follows:

"9.29 CABARET LICENSE.

- (1) License Required. No holder of a Class B intoxicating liquor or fermented malt beverage license shall afford his patrons:
 - (a) Dancing privileges within his licensed premises unless he shall first have obtained a cabaret license from the City Clerk.
 - (b) (R. by Ord. 5406, 3-12-76)
- (2) License Fee. Upon application to the City Clerk and the payment of the fee therefor, a cabaret license may be granted by the Common Council to a holder of a Class B intoxicating liquor or fermented malt beverage license for the premises licensed under such Class B fermented malt beverage or intoxicating liquor license subject to the conditions and regulations set forth in this section. The annual license fee shall be two hundred fifty (\$250) and shall expire on June 30 following its issuance. A license for one (1) day only requires the payment of a fee of twenty-five dollars (\$25). Renewal licenses shall be obtained on or before June 30 of each year or be subject to a late filing fee of 15% of the license fee or a minimum of \$3.00, whichever is greater. Payment of the late filing fee shall not relieve any person from any other penalties prescribed in this chapter for failure to possess or obtain a license.
- (3) Regulations.
 - (a) No dancing shall be permitted within six (6) feet of or on top of a bar over which patrons are directly served or in other than a designated area which is approved by the Inspection Unit of the Department of Planning and Development.
 - (b) While dancing is in progress, the dance area shall be illuminated by at least one and one-half (1 1/2) foot candles per square foot, three (3) feet above the floor.
 - (c) Good order shall be maintained at all times.
 - (d) The management shall obey all orders or directions of any police officer.
 - (e) Operating hours for premises licensed under the provisions of this section shall be the same as those for premises operating under a Class B fermented malt beverage or intoxicating liquor license and nothing contained herein shall extend the normal operating hours for any premises operated under a Class B fermented malt beverage or intoxicating liquor license.
 - (f) The cabaret license shall be posted in a conspicuous place within the licensed premises and each license shall by its terms be made subject to revocations as hereinafter provided.
 - (g) Nonalcohol Events.
 1. In addition to the regulations herein stated, the following regulations contained in Sec. 9.03 shall also apply when dancing is permitted and the cabaret licensed establishment lawfully declares itself alcohol free pursuant to Secs. 125.07(3)(a)10, Wis. Stats., and 38.04(3)(a)9. of the Madison General Ordinances:

- a. (2)(b) Exceptions;
 - b. (3)(e) Alcohol Beverages Not to be Sold;
 - c. (7) Dance Halls to be Kept Sanitary;
 - d. (8) Power of Police to Stop Dance;
 - e. (9) Duty of Owner of Dance Hall;
 - f. (10) Floor Manager;
 - g. (11) Advertising;
 - h. (14) Miscellaneous Police Regulations.
2. In addition to the regulations herein stated, it shall be unlawful to permit any person under the age of 18 to attend or take part in any public dance unless such person is chaperoned by a parent or legal guardian or unless the dance is held under auspices of school or church authority or a parent-teacher association or the Madison Board of Education when dancing is permitted and the cabaret licensed establishment declares itself alcohol free pursuant to Secs. 125.07(3)(a)10., Wis. Stats., and 38.04(3)(a)9. of the Madison General Ordinances.
- (4) Investigation and Renewal. Such application shall be referred by the City Clerk to the Alcohol License Review Committee which shall thereupon make an investigation as to the advisability of granting such license and shall within a reasonable time report its findings to the Common Council. In assisting in making such investigation the Committee shall have the assistance of the Fire Department, Inspection Unit of the Department of Planning and Development and Police Department. No alterations, changes, or additions shall be made to such designated licensed premises without first securing a permit for such alterations, changes or additions from the Director of the Inspection Unit.
- (5) Revocation or Suspension of License by Common Council. The following provisions shall apply for the revocation or suspension of any license issued pursuant to the provision of this section of the Madison General Ordinances.
- (a) Complaint. Upon complaint made in writing under oath by the Chief of Police or by any resident of the City of Madison and filed with the City Clerk that any such person licensed pursuant to the provision of this chapter has violated any provision of this chapter or keeps or maintains a disorderly or riotous, indecent or improper house, or that he has sold or given away any intoxicating liquor or any fermented malt beverage to any minor, or to persons intoxicated or bordering upon intoxication, to known habitual drunkards, or that he has not observed and obeyed any order of the Common Council or police officers of the City of Madison made pursuant to law or for other good reason, the Common Council shall issue a summons, to be signed by the Clerk, commanding the person so complained of to appear before them on a day and at a place in such summons named, not less than five (5) nor more than ten (10) days from its date, and show cause why his license should not be revoked or suspended. Such summons shall be served at least five (5) days before the time at which such person is commanded to appear and may be served either personally or upon the person in charge of the place to which such license relates. Said complaint shall set forth the offense allegedly committed, the date, time and place of said offense and the facts constituting said alleged offense.
 - (b) Procedure on Hearing; Effect of Revocation. If such person shall not appear as required by the summons, the complaint shall be taken as true, and if the Common Council shall deem its allegation sufficient, the license shall be suspended or revoked and notice thereof shall be given to the person whose license is so revoked; but if such person shall appear and deny the complaint, each party may produce witnesses under oath and be heard by counsel. If upon such hearing the Common Council shall find the complaint to be true, the license shall be suspended for not less than ten (10) days nor more than ninety (90)

days or revoked; and if untrue, the proceeding shall be dismissed without costs to the accused; and if the complaint be found by the Common Council to be malicious and without probable cause, the costs shall be paid by the complainant, and the Common Council may require security therefore before issuing the summons as aforesaid. When a license is revoked, it shall be so entered of record by the Clerk, and no other license shall be granted to such person within twelve (12) months of the date of its revocation nor shall any part of the money paid for any license so revoked be refunded.

(c) Other Provisions. Any license issued pursuant to Section 9.29 of the Madison General Ordinances shall be subject to such further regulations and restrictions as may be imposed by the Common Council of the City of Madison by amendment to this section 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 section. If any new amendment or ordinance enacted by the Common Council shall provide for revocation of all or any class of existing licenses and the issuance of new licenses or shall impose such new restrictions as to render it impossible for any licensee under an existing license to meet such restrictions, then and in such case the unused portion of the fee paid for such license shall be refunded or applied on any new license issued to such licensee by the Common Council. In case of revocation of any license or any violation of any provision of this ordinance in accordance with this section 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 hereunder is not used within fifteen (15) days after its issuance, its usage is discontinued for a period of fifteen (15) days or more, such situation shall be grounds for cancellation of the license in accordance with the provisions of this section.

(6) Penalties. Any person violating any provision of this section shall be subject to a penalty of not less than twenty-five dollars (\$25) or not more than two hundred dollars (\$200).”