

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Section 4-4-285 of the Municipal Code of Chicago is hereby amended by deleting the language struck through, and inserting the language underscored, as follows:

4-4-285 Public safety threat – Summary closure – When authorized.

(Omitted text is unaffected by this ordinance)

(c) Summary closure order – Lifting of summary closure order – When authorized. If the Superintendent determines that an establishment presents a public safety threat, the Superintendent may abate the threat by ordering the summary closure of the establishment. Except as otherwise provided in this subsection (c), such order shall remain in effect for an aggregate period of six months as measured from the date on which the public safety threat occurred. Provided, however, that any summary closure order issued by the Superintendent shall be lifted by the Commissioner, and the establishment shall be allowed to reopen, if (1) it is determined at a probable cause hearing or nuisance abatement hearing that a public safety threat did not occur, or (2) it is determined at a nuisance abatement hearing that continued operation of the establishment no longer presents a danger to the public, as may be evidenced by the submission and timely implementation of an acceptable nuisance abatement plan. Provided further, that no summary closure order shall be lifted by the Commissioner if the establishment is not properly licensed as required by law.

(Omitted text is unaffected by this ordinance)

(f) Nuisance abatement hearing. At any time during the interim period prior to expiration of the aggregate six month period, the licensee/owner may seek to have the summary closure order lifted by the Commissioner by: (1) requesting, in writing, a nuisance abatement hearing under this subsection, and (2) showing, at such hearing, that there is reasonable cause to believe that continued operation of the establishment no longer presents a danger to the public, as may be evidenced by the submission and timely implementation of an acceptable nuisance abatement plan. At such hearing, the licensee/owner may also contest whether a public safety threat occurred at the establishment unless it was previously determined at a probable cause hearing that such public safety threat did occur.

Within five business days of receipt of a written request for a nuisance abatement hearing, the Commissioner shall commence such hearing. The decision and order of the Commissioner shall be announced no later than three business days after the nuisance abatement hearing is completed. If, after the nuisance abatement hearing, the Commissioner determines, by a preponderance of the evidence, that a public safety threat did occur and that continued operation of the establishment presents a danger to the public, the Commissioner shall enter an order authorizing continued closure of the establishment during the interim period prior to expiration of the aggregate six month period. If, after the nuisance abatement hearing, the Commissioner determines, by a preponderance of the evidence, that a public safety threat did not occur or that continued operation of the establishment no longer presents a danger to the public, as may be evidenced by the submission and timely implementation of an acceptable nuisance abatement

plan, the Commissioner shall enter an order lifting the summary closure order, in which case the establishment shall be allowed to reopen prior to expiration of the aggregate six month period.

Within 30 days after a nuisance abatement plan is approved by Commissioner, or within such shorter time-period as may be specified in the applicable nuisance abatement plan, the licensee/owner shall fully implement such nuisance abatement plan. If the licensee/owner fails to fully and timely implement an acceptable nuisance abatement plan, the Superintendent shall reinstate the summary closure order in accordance with the notice and hearing requirements of this section. In such case, the establishment shall remain closed for an additional aggregate period of six months, as measured from the date that the City acquired knowledge of the licensee's failure to timely implement such nuisance abatement plan or any part thereof, unless it is determined at a probable cause hearing or nuisance abatement hearing that the licensee/owner was in full compliance with the nuisance abatement plan and all parts thereof or that another violent offense did not occur at the establishment, as applicable.

If, at any time after an acceptable nuisance abatement plan is implemented at the establishment governed by such plan, the licensee/owner fails to comply with the plan or any part thereof or another violent offense occurs at the establishment, the Superintendent ~~may~~ shall reinstate the summary closure order in accordance with the notice and hearing requirements of this section. In such case, the establishment shall remain closed for an additional aggregate period of six months, as measured from the date that the City acquired knowledge of the licensee's noncompliance with the nuisance abatement plan or any part thereof or from the date of the occurrence of another violent offense, as applicable, unless: (i) it is determined at a probable cause hearing or nuisance abatement hearing that the licensee/owner was in full compliance with the nuisance abatement plan and all parts thereof or that another violent offense did not occur at the establishment, as applicable; or (ii) it is determined at a nuisance abatement hearing that continued operation of the establishment does not present a danger to the public, as may be evidenced by the submission of a modified nuisance abatement plan, approved by the Commissioner and implemented by the owner/licensee, containing new or additional reasonable and warranted measures capable of abating a nuisance under this section.

(Omitted text is unaffected by this ordinance)

(o) Failure to comply with approved nuisance abatement plan. It shall be unlawful for any person to fail to comply with any nuisance abatement plan or part thereof approved or subsequently modified under subsection (f), or to fail to timely implement any such nuisance abatement plan. In addition to any other penalty provided by law, which may include license suspension or revocation, any person who violates this subsection shall be fined not less than \$1,000.00 nor more than \$10,000.00 for each offense. Each day that a violation continues shall constitute a separate and distinct offense.

SECTION 2. Section 4-4-313 of the Municipal Code of Chicago is hereby amended by deleting the language struck through, and inserting the language underscored, as follows:

4-4-313 Businesses that are or cause a nuisance.

(a) A license may be suspended or revoked if a licensee's business is or creates a nuisance. A licensed business is or creates a nuisance if: (i) within any consecutive 12 months, not less than three separate incidents occur on the licensed premises, on or in the licensed premises' parking facility, or on adjacent property, involving illegal acts; or (ii) the licensee has failed to take

reasonable steps to correct objectionable conditions existing or occurring on the licensed premises, on or in the licensed premises' parking facility, or on adjacent property while the licensed premises is open for business or within one hour of the time the establishment is opened or closed for business, within 30 days of when the licensee knows or reasonably should have known that such objectionable conditions exist or are occurring. The licenses of any business that is or creates a nuisance under clause (i) of this subsection (a) shall be subject to suspension or revocation pursuant to Section 4-4-280. The licenses of any business that is or creates a nuisance under clause (ii) of this subsection (a) shall be subject to suspension or revocation pursuant to the procedures set forth in subsection (b) of this section.

(b) (1) A group of five or more people who reside within ~~500-660~~ feet of a licensed premises, measured from the nearest exterior walls of each applicable building, may file with the ~~Commissioner commissioner~~ a complaint that a licensee's business is a public nuisance because the licensee has failed to take reasonable steps to correct objectionable conditions existing on the licensed premises, on or in the licensed premises' parking facility or on adjacent property. The ~~Commissioner commissioner~~ may notify the licensee to appear before the ~~Commissioner commissioner~~, in the presence of the complaining persons when the ~~Commissioner commissioner~~ considers such presence appropriate, to define, discuss and seek resolution of problems giving rise to the complaint. The ~~Commissioner commissioner~~ may also order subsequent meetings to review progress toward resolution of the problems. A meeting may also be convened at the request of the ~~Commissioner commissioner~~ or the alderman of the ward in which the licensed premises is located.

Notice of any meeting scheduled pursuant to this subsection shall be sent to the alderman of the ward in which the licensed premises is located.

The failure of a licensee to appear in response to a notice, ~~or to attend subsequent meetings as ordered by the commissioner~~ Commissioner, or to implement reasonable steps to correct any applicable objectionable conditions within 30 days of a meeting convened under this subsection (b) or within such shorter time-period as may be memorialized in writing during the community meeting process, shall be grounds for the imposition of a fine or the suspension or revocation of a license. The progress made in resolving the problems identified in the complaint and meeting process shall be considered in any proceeding to suspend or revoke a license under this section.

Notwithstanding anything in this Section to the contrary, in the event that the Commissioner receives a complaint under this subsection (b) related to a licensee who is subject to remedial measures, the Commissioner shall, within five business days, review such complaint to determine if the complained of objectionable conditions are subject to such remedial measures. If the complained of objectionable conditions are subject to such remedial measures, the Commissioner shall not schedule any meeting under this subsection (b), and shall immediately commence the applicable license disciplinary procedures to remedy such objectionable conditions.

(2) After the ~~Commissioner commissioner~~ determines that the complaint and meeting process has been completed or the licensee has failed to submit a plan of corrective action pursuant to subsection (d), the ~~Commissioner commissioner~~ may institute a hearing based upon his reasonable belief that the operation of the business is a public nuisance. Notice of a hearing scheduled under this section shall be given to the alderman of the ward in which the licensed premises is located. At the conclusion of the hearing, if the ~~Commissioner commissioner~~ determines by a preponderance of the evidence that the operation of the licensee's business is a public nuisance because the licensee has failed to timely take reasonable steps to correct

objectionable conditions occurring on the licensed premises or adjacent property, the ~~Commissioner commissioner~~ shall enter an order suspending or revoking the applicable license.

(Omitted text is unaffected by this ordinance)

(c) As part of an order of suspension issued by the ~~commissioner~~ Commissioner, the ~~Commissioner commissioner~~ may impose conditions upon the future operation of the licensed business that are useful or necessary to mitigate the public nuisance, including, but not limited to: providing security personnel, restricted hours of operation, providing outdoor lighting, the display of signs, providing trash pickup services or any other reasonable restrictions on business practices until the ~~Commissioner commissioner~~ concludes that the conditions which gave rise to the public nuisance are abated. Any such conditions imposed on the future operation of the licensed business under this subsection (c) shall be memorialized in writing and be implemented by the licensee prior to resuming business following such order of suspension. Any licensee who fails to comply with or implement such conditions prior to resuming business shall be fined not less than \$200.00 nor more than \$1,000.00, or have their license suspended or revoked for the first violation. For any subsequent violation, the license shall be revoked. Each day that such violation exists shall constitute a separate and distinct offense.

(d) (1) Notwithstanding subsection (b), at any time prior to the initiation of proceedings to revoke or suspend a license under this section, if the ~~Commissioner commissioner~~ determines that a business meets the criteria for a public nuisance under subsection (a), the ~~Commissioner commissioner~~ may notify the licensee of his determination. Upon such notification, the ~~Commissioner commissioner~~ may request the licensee to submit a plan of corrective action that provides reasonable assurance that the operation of the business will not cause, or continue to cause, a public nuisance. Subject to the approval by the ~~commissioner~~ Commissioner, the plan shall include a mandatory timeline for the implementation of the plan of corrective action not to exceed 30 days, and may include conditions upon the licensee's operation of the premises that are useful or necessary to mitigate the public nuisance, including, but not limited to: providing security personnel, restricted hours of operation, providing outdoor lighting, the display of signs, providing trash pickup services or any other reasonable restrictions on business practices.

(Omitted text is unaffected by this ordinance)

(3) If the licensee does not submit a plan of corrective action within five business days after a request by the ~~commissioner~~ Commissioner or fails to timely implement an approved plan of corrective action, the ~~commissioner may~~ Commissioner shall institute a hearing in compliance with subsection (b)(2).

(Omitted text is unaffected by this ordinance)

(h) For purposes of this section:

(1) "Adjacent property" means:

(A) any private property that is owned, leased, or rented by the licensee, or used by its patrons, and that is located next to the business premises;

(B) any public way located next to the business premises; or

(C) any private property which is owned, leased, or rented by the licensee, or used by its patrons with the knowledge or permission of the licensee, and that is: (i) used in connection with the operation of the business; and (ii) located within 500-660 feet of the licensed premises.

(2) "Illegal acts" means any conduct or activity that violates any federal or state law defining a felony, or any federal or state law or municipal ordinance regulating narcotics, controlled substances or weapons.

(3) "Objectionable conditions" include, but are not limited to, disturbance of the peace, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, loitering, public urination, lewd conduct, drug trafficking, or excessive loud noise.

(4) "Remedial measure" means a plan of operation, plan of corrective action, plan of conduct, nuisance abatement plan, or reasonable steps required to be implemented to correct objectionable conditions under this Section.

SECTION 3. Chapter 4-4 of the Municipal Code of Chicago is hereby amended by adding a new Section 4-4-291, as follows:

4-4-291 Investigations regarding remedial measures.

It shall be the duty of the Commissioner ~~commissioner~~ to investigate whether any licensee subject to any remedial measures, as defined in Section 4-4-313, has timely implemented and is in compliance with such remedial measures. The Commissioner ~~commissioner~~ shall cause each licensed premise subject to remedial measures to be investigated to confirm the licensee has timely implemented and is in compliance with such remedial measures within 30 days after a licensee is required to implement such remedial measures.

SECTION 4. Section 4-60-030 of the Municipal Code of Chicago is hereby amended by deleting the language struck through, and inserting the language underscored, as follows:

4-60-030 License issuance prohibited when.

No license for the sale of alcoholic liquor shall be issued to:

(Omitted text is unaffected by this ordinance)

(h) A person whose license issued under this chapter or chapter 4-156 has been revoked for cause;

(Omitted text is unaffected by this ordinance)

(aa) Any premises for which a liquor license renewal has been denied, within the 12 months before the applicant submits an application for issuance or renewal of such license, under Section 4-60-041.

(bb) A person who has failed to timely implement or has violated any applicable plan of operation, plan of corrective action, plan of conduct under Section 4-156-330, or nuisance

abatement plan, or who has failed to timely implement any reasonable steps to correct one or more objectionable conditions under Section 4-4-313.

SECTION 5. Section 4-60-024 of the Municipal Code of Chicago is hereby amended by deleting the language struck through, and inserting the language underscored, as follows:

4-60-024 Lapse of license – Transfer of interest.

Whenever the liquor license for a premises located within an area described in Section 4-60-022 or Section 4-60-023 lapses for failure to renew, is denied renewal under Section 4-60-041, or is revoked for cause, no new license shall be issued for that premises, unless the premises is a sports stadium with a seating capacity greater than 3,000 persons, a restaurant, or a hotel, or is operated by the metropolitan pier and exhibition authority. If the premises is any of the foregoing, any new license shall be limited to sale of alcoholic liquor for consumption on the premises. Nothing in Section 4-60-022 or Section 4-60-023 prevents or prohibits the issuance of an additional license to allow continued operation of an existing business within an area specified in either section by a new licensee, if the license is of the same type and if the successor licensee is any of the following: (a) the legal spouse of the prior licensee at the time of application for the new license; or (b) a parent, natural or adopted child of the prior licensee; or (c) an heir of the prior licensee by intestate succession, or a testamentary devisee of the prior licensee, and, after the death of the prior licensee, has thereby received the prior owner's interest in the licensed business; or (d) any other person who already shares ownership in the licensed business, or is acquiring less than five percent of the shares of a corporate licensee; or (e) any other person who is acquiring the licensed business by purchase.

(Omitted text is unaffected by this ordinance)

SECTION 6. Section 4-60-040 of the Municipal Code of Chicago is hereby amended by deleting the language struck through, and inserting the language underscored, as follows:

4-60-040 License – Application and issuance procedures.

(Omitted text is unaffected by this ordinance)

If the applicant is seeking a liquor license for a premises and the Local Liquor Control Commissioner ~~local liquor control commissioner~~ finds that, for the subject premises identified in the application within the previous two years, a license application has been denied under this subsection (h), or within the previous 12 months, a license renewal has been denied under Section 4-60-041 because the Local Liquor Control Commissioner ~~local liquor control commissioner~~ has determined that issuance of the license would have a deleterious impact on the health, safety or welfare of the community, the application must be denied unless the applicant can prove by clear and convincing evidence that he has devised a plan of operation that will provide reasonable assurance that the issuance of the license will not have a deleterious impact. In any case in which the Local Liquor Control Commissioner ~~local liquor control commissioner~~ finds that an application must be denied under this paragraph, he shall notify the applicant of that finding and afford the applicant 20 days in which to submit a plan of operation, and the time for a final ruling on the application shall be stayed until 35 days after the period in which the plan may be submitted has expired. The plan shall include a mandatory timeline for the implementation of the plan of operation not to exceed 30 days and may include conditions upon the applicant's

operation of the premises that are useful or necessary to mitigate a deleterious impact, including but not limited to providing security personnel, restricted hours of operation, providing outdoor lighting, the display of signs, providing trash pickup services, or any other reasonable restrictions on business practices. An applicant's failure to timely implement or to adhere to a written plan of operation approved by the Commissioner ~~commissioner~~ pursuant to this section shall constitute a basis to impose a fine and to suspend or revoke any liquor license subsequently issued, as appropriate. Nothing in this subsection (h) authorizes the issuance of a license when such issuance is prohibited under Section 4-60-180.

(Omitted text is unaffected by this ordinance)

SECTION 7. Section 4-60-041 of the Municipal Code of Chicago is hereby amended by deleting the language struck through, and inserting the language underscored, as follows:

4-60-041 ~~Reserved.~~ 4-60-041 Additional Renewal Procedure.

(a) In addition to the requirements for the renewal of a liquor license under this Code, including under Section 4-4-260 and Section 4-60-040, all license renewals must follow the review procedures of this Section.

(b) Within two business days after the license fee is paid for the renewal of a liquor license, the Commissioner shall cause a written notice to be issued to the Department of Law, the Mayor's Office for People with Disabilities, Department personnel with knowledge of the licensee, the Police Department District Commander of the Police District in which the premises described in the renewal application is located, and the alderman of the ward in which the premises described in the renewal application is located soliciting information, in writing, regarding the qualifications of the licensee and the suitability of the premises for renewal, including:

(i) whether the renewal of such liquor license would tend to create, perpetuate, or exacerbate a law enforcement problem;

(ii) whether the renewal of such liquor license would have a deleterious impact, or perpetuate or exacerbate a deleterious impact, on the health, safety, or welfare of the community in which the licensed premises is located;

(iii) whether the licensee has substantially complied with any applicable plan of operation, plan of corrective action, plan of conduct, or nuisance abatement plan;

(iv) whether the licensee has timely implemented any reasonable steps to correct objectionable conditions under Section 4-4-313;

(v) whether the licensee has substantially complied with any exterior safety plan required under this Chapter, if applicable;

(vi) whether the licensee has had any license issued under Chapter 4-156 revoked; and

(vii) any other information bearing upon the qualification of the licensee or the suitability of the licensed premises for the renewal of such liquor license.

(c) Upon request from the Local Liquor Control Commissioner or the alderman of the ward in which the premises described in the renewal application is located, the Police Department District Commander of the Police District in which the premises described in the renewal application is located shall compile and submit a memorandum of all arrests, incident reports, and calls for service, organized by type of call, incident, or offense within the preceding two years, for the premises described in the renewal application and within 660 feet of such premises.

(d) Prior to issuing a renewal of any liquor license, the Local Liquor Control Commissioner shall review the renewal application materials and any information or objections to renewal under subsection (b) of this Section. If the Local Liquor Control Commissioner determines that the premises is no longer suitable for renewal of a liquor license based upon information received under subsection (b) of this Section, the Local Liquor Control Commissioner shall issue a preliminary notice of non-renewal to the licensee, which must include specific findings which are the basis of the denial. After receiving a preliminary notice of non-renewal, a licensee may respond, in writing, within five business days with any information regarding the suitability of the premises or other mitigating factors. If a licensee has not timely responded to a preliminary notice of non-renewal under this subsection (d), the Local Liquor Control Commissioner shall deny the application for renewal.

(e) Upon receiving any information from a licensee regarding the suitability of the premises or other mitigating factors under subsection (d) of this Section, the Local Liquor Control Commissioner shall review the application materials, any information received under subsection (b) of this Section, and any mitigating factors received under subsection (d) of this Section to determine if the premises is suitable for renewal, including whether the licensee has not timely adopted or implemented any applicable plan of operation, plan of corrective action, plan of conduct, or nuisance abatement plan, or whether the licensee has failed to implement any reasonable steps to correct objectionable conditions under Section 4-4-313 or if the renewal of such license would: (i) tend to create, perpetuate, or exacerbate a law enforcement problem; or (ii) have a deleterious impact, or perpetuate or exacerbate a deleterious impact, on the health, safety, or welfare of the community in which the licensed premises is located. If, after reviewing the applicable information under this subsection (e), the Local Liquor Control Commissioner determines that the premises is no longer suitable for renewal of a liquor license based upon information received under subsection (b) of this Section, the Local Liquor Control Commissioner shall deny the renewal of the license and issue a notice of non-renewal the licensee, which must include specific findings that are the basis of the denial.

SECTION 8. Section 4-60-190 of the Municipal Code of Chicago is hereby amended by deleting the language struck through, and inserting the language underscored, as follows:

4-60-190 ~~Reserved.~~ Effect of non-renewal.

(a) Any person whose application for renewal of a license issued pursuant to this chapter is denied shall thereafter be ineligible for the issuance of any new license issued pursuant to this chapter for a period of 12 months.

(b) Any person who has significant ownership interest in or control of an entity whose liquor license renewal application is denied shall thereafter be ineligible for the issuance of any new license issued pursuant to this chapter for a period of 12 months. This ineligibility also shall apply to the issuance of a new license to any other entity in which the disqualified person has significant ownership or control. As used in this section, "significant ownership or control" means: (1)

ownership of more than 5% of the entity, or ownership of more than 5% voting shares of stock if the entity is a corporation; or (2) holding a position as a principal officer or serving on the board of directors or as a manager of the entity.

(c) When any application for renewal of a license issued pursuant to this chapter is denied under this chapter, no license under this chapter shall be granted to any person for the period of 12 months thereafter for the premises described in such non-renewed license.

SECTION 9. Section 4-156-330 of the Municipal Code of Chicago is hereby amended by deleting the language struck through, and inserting the language underscored, as follows:

4-156-330 Location restrictions.

(Omitted text is unaffected by this ordinance)

(e) If the ~~Commissioner~~ commissioner grants the application for a reduction, those factors that were deemed by her to be relevant to the determination shall be included in a plan of conduct. If the public place of amusement license under this Article III is granted, the plan of conduct shall be deemed a part of the license, and compliance with the plan of conduct shall be a necessary condition to the continued validity of the license. Any such plan of conduct shall be implemented by the licensee prior to commencing business as a public place of amusement. Failure to comply with one or more elements of the plan of conduct shall subject the licensee to suspension or revocation of such public place of amusement license.

SECTION 10. Section 4-156-355 of the Municipal Code of Chicago is hereby amended by deleting the language struck through, and inserting the language underscored, as follows:

4-156-355 License – Issuance prohibited.

No public place of amusement license under this Article III shall be issued to:

(Omitted text is unaffected by this ordinance)

(3) A person whose license, issued by the City of Chicago under any chapter of the Municipal Code of Chicago, has been revoked for cause within the past five years or whose license under Chapter 4-60 was not renewed as a result of their failure to timely implement or violation of an applicable plan of operation, plan of corrective action, plan of conduct, or nuisance abatement plan, or who has failed to timely implement any reasonable steps to abate one or more objectionable conditions under Section 4-4-313 within the past five years;

(Omitted text is unaffected by this ordinance)

SECTION 11. Section 4-156-470 of the Municipal Code of Chicago is hereby amended by deleting the language struck through, and inserting the language underscored, as follows:

4-156-470 License – Statement of conditions.

Each public place of amusement license issued under this Article III shall contain apt words indicating that such license is issued and accepted subject to: (i) the representations made in the license application; (ii) and to all laws, ordinances and regulations governing the conduct of the licensed premises now in effect or which may hereafter be adopted; (iii) any plan of operation, plan of corrective action, plan of conduct, or nuisance abatement plan, covering the licensed premises now in effect or which may be entered into by the licensee thereafter; and (iv) any reasonable steps the licensee must implement to correct objectionable conditions under Section 4-4-313.

(Omitted text is unaffected by this ordinance)

SECTION 12. This ordinance shall take effect 10 days after passage and publication.


BRENDAN REILLY
Alderman, 42nd Ward


SCOTT WAGUESPACK
Alderman, 32nd Ward


Bill Cery (39)