

Ordinance 13-18 (redline changes N.A. 9.21.18)

Sec. 6-20. - Classification of alcohol beverage licenses.

Licenses to sell or offer for sale fermented malt beverages or intoxicating liquors shall be divided into the following classes of retail licenses:

(a) *Fermented malt beverages.*

1. A Class "A" fermented malt beverage license shall authorize the retail sale of fermented malt beverages for consumption away from or off the premises where sold and in the original packages, containers and bottles. The fee for a retail Class "A" license is \$100.00 per year or fraction thereof.
2. A Class "B" fermented malt beverage license shall authorize the retail sale of fermented malt beverages to be consumed either on the premises where sold or off the premises, provided that only fermented malt beverages in original packages or containers and fermented malt beverages in hand-capped or sealed containers may be removed from the premises where sold. The fee for a retail Class "B" license is \$100.00 per year or fraction thereof.

(b) *Intoxicating liquor licenses.*

1. A "Class A" intoxicating liquor license shall authorize the retail sale of intoxicating liquors for consumption off the premises where sold and in original packages and containers. The fee for a retail "Class A" liquor license is \$500.00 per year or fraction thereof.
2. A "Class B" intoxicating liquor license shall authorize the retail sale of intoxicating liquors to be consumed only by the glass on the premises where sold, and in the original unopened package or container in quantities not to exceed one gallon, at any one time, to be consumed off the licensed premises, and except that wine may be sold in the original package or container in any quantity to be consumed off the premises. The fee for a retail "Class B" liquor license is \$500.00 per year or fraction thereof.
3. A "Class C" wine license shall authorize the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold. A "Class C" license may be issued to a person qualified under Wis. Stats. § 125.04(5) for a restaurant in which the sale of alcohol beverages accounts for less than 50 percent 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 percent of gross receipts and which has a barroom in which wine is the only intoxicating liquor sold. The fee for a retail "Class C" wine license is \$100.00 per year or fraction thereof.
4. A "Class B" club intoxicating liquor license may be granted only to bona fide clubs and lodges situated and incorporated or chartered in the state for at least six months and situated in the city for at least six months immediately preceding the date of filing of the application for such license. Such license comes with all the privileges and restrictions of a retail "Class B" intoxicating liquor license, except that sales of intoxicating liquor shall be made to bona fide members or guests of members of the club holding the license only. The holder of such permit may sell intoxicating liquor for consumption by the glass and not in the original package or container on the premises covered by the permit. The fee for a "Class B" club intoxicating liquor license shall be \$100.00 per year or fraction thereof.

(c) *Temporary Class "B" and "Class B" licenses.*

1. A temporary Class "B" license may be issued to bona fide clubs and chambers of commerce, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six months prior to the date of application, and to posts of veterans organizations authorizing the retail sale of fermented malt beverages at a particular picnic or similar gathering, or at a meeting of any such post,

or during a fair conducted by such fair association or agricultural society. The license shall designate the specific premises and the date or dates for which granted, not to exceed four continuous days for any one event. The fee for a temporary Class "B" license is \$10.00.

2. A temporary "Class B" license may be issued to bona fide clubs and chambers of commerce, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six months prior to the date of application, and to posts of veterans organizations authorizing the retail sale of wine in an original package, container, or bottle or by the glass if the wine is dispensed directly from an original package, container or bottle at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. The license shall designate the specific premises and the date or dates for which granted, not to exceed two for any one entity in any 12-month period except as otherwise permitted under Wis. Stats. § 125.51(10)(b). The fee for a temporary "Class B" license is \$10.00.
  3. If the applicant meets all requirements for holding such license, a temporary license shall be issued by the city clerk upon application at least two business days prior to the event. Any person denied a license by the city clerk for failing to meet the requirements of ch. 125 or other provisions of the ordinance may appeal to the common council using the procedures under section 6-21(g) of this Code.
- (d) *Provisional retail licenses.* A provisional retail license may be issued by the city clerk to a person who has applied for a Class "A," Class "B," "Class A," "Class B," or "Class C" license authorizing only the activities that the type of retail license applied for authorizes, provided that the applicant meets all the requirements for receiving such license and whose retail license application has been approved by the common council, and upon proof that the applicant has enrolled in responsible beverage server training course. The fee for a provisional retail license shall be \$15.00 and the license shall expire 60 days after its issuance or when the Class "A" or Class "B" license is issued to the holder, whichever is sooner. A provisional license may be revoked by the city clerk if he or she discovers that the holder of the license made a false statement on the application.

(Ord. No. 0003-18, pt. 1, 5-15-18)

**State Law reference**— Class "A" licenses, Wis. Stats. § 125.25; Class "B" licenses, Wis. Stats. § 125.26; Class "B" permits, Wis. Stats. § 125.27; temporary Class "B" fermented malt beverage license, Wis. Stats. § 125.26(6); "Class A" license, Wis. Stats. § 125.51(2); retail "Class B" license, Wis. Stats. § 125.51(3); retail "Class C" license, Wis. Stats. § 125.51(3m); authority to issue license to bona fide clubs and lodges, Wis. Stats. § 125.51(3)(e).

Sec. 6-22. - Application for alcohol beverage licenses.

- (a) *Timing.* Written application for an alcohol beverage license under this chapter shall be filed by the applicant and submitted with the city clerk upon forms provided by the clerk at least 30 days prior to the date of the final common council meeting, along with the applicable fees.
- (b) *Content.* The application shall particularly describe and include a detailed floor plan depicting the area in which alcohol is to be sold, stored and served. Each applicant shall also attach a written questionnaire with a business plan, a detailed floor plan of the premises, the days and hours of operation, and other additional information as the city clerk shall require.

*Statement of intent.* In cases where the premises to be licensed is not yet operating at the time of the application, the applicant shall sign a statement of intent on a form to be provided by the city clerk as part of the license application. This statement shall include a provision that the applicant intends to operate under the license within six months of common council approval. Such license shall be

considered denied if the license is not issued by the city clerk within the time frame specified for a conditional grant of the license pursuant to section 6-41 of this Code.

*Economic impact statement.* The economic impact statement shall identify the ownership, value, and square footage of the premises to be licensed, estimate the number of persons to be employed full time and the number of persons to be employed part time; estimate the gross monthly revenue by each of the following categories: alcoholic beverages, food, and other; and the basis for all estimates given. The information submitted shall be true, correct and complete in all material respects.

- (c) *False statement.* All matters submitted in writing to the city by any applicant or licensee pertaining to an alcohol beverage license shall be true, accurate and complete in all respects. If an applicant provides a materially false statement or omission on a new license application, that applicant shall be deemed disqualified and the application shall be denied, unless the committee finds good cause to grant an exception. A false statement or omission on any renewal license application under this chapter shall constitute grounds for denied of renewal, suspension or revocation of a license. An applicant denied under this section shall not be eligible to reapply for an alcohol related license for a period of one year from the date of denial of such application.
- (d) *Changes to be reported.* Within ten days of any change in any fact set out in any application or renewal application for any alcohol beverage license, the licensee shall file with the city clerk a written description of the changed fact.
- (e) *Background check.* The city clerk shall forward the names of all applicants to the chief of police, who shall cause an investigation to be made and report the findings of any arrest and conviction record. The city clerk shall forward such findings to the committee only if there is something in the record check that would warrant further review. A non-refundable fee may be charged to the applicant for the cost associated with the background check.

(Ord. No. 0003-18, pt. 1, 5-15-18)

**State Law reference**— Publication of application required, Wis. Stats. § 125.04(3)(g); requirements for applications, Wis. Stats. § 125.04(3); subsequent changes, Wis. Stats. § 125.04(3)(h), qualifications for licenses and permits, Wis. Stat. § 125.04(5); discrimination in licensing, Wis. Stat. § 111.335(4).”

Sec. 6-23. - Application referral process; issuance or denial.

- (a) *Referral process.*
  - (1) Upon receipt of a completed application for a new alcohol beverage license, the city clerk shall forward the names of all applicants to the chief of police to conduct a background check and send a copy of the application to the public safety and licensing committee to be reviewed.
  - (2) The committee shall provide the person with an opportunity to be heard on the matter prior to making its recommendation to the common council. The common council, by a majority vote of the members present, may grant or deny the license.
  - (3) No such license may be issued by the city clerk until favorable action on the application therefor is had by the common council, except that an application for an operator's license and temporary licenses may be issued by the city clerk without action by the common council provided the applicant meets all requirements as set forth in this chapter and in Wis. Stats. ch. 125.
  - (4) The city clerk shall provide written notice to any applicants who are required to appear before the committee. Such notice shall contain the date, time and place of the hearing and shall be mailed to the applicant at least five business days prior to the hearing.
- (b) *Hearing on new license application.*

- (1) At the beginning of every hearing on a new license, the chair of the committee shall administer the oath to the applicant before any questions. At the time of the hearing, the applicant shall have an opportunity at the hearing to present arguments in favor of the granting of the license, to present witnesses on his or her behalf, and to rebut the testimony of any adverse witnesses.
  - (2) The chief of police shall report to the committee the results of any background check for the applicant that may form the basis for denial. Any written report prepared by the chief of police may be presented to the committee and be entered into 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 any written report submitted to the committee must also be provided to the applicant at the time of the hearing.
  - (3) The chair shall allow individuals who wish to speak for or against the proposed establishment to do so, except that the chair may impose time limits and prevent redundant or irrelevant testimony for purposes of conducting a fair but efficient hearing.
  - (4) The committee's recommendation on the license must be based on information presented at the hearing, along with information contained in the application. The committee may make a recommendation immediately following the hearing or at a later date. This recommendation may include revisions to the floor plan and plan of operation or conditions for granting the license as the committee may deem necessary and appropriate, and which are agreed to by the applicant.
- (c) In determining whether a new alcohol beverage license should be granted or denied, the common council may consider factors including but not limited to:
- (1) Whether or not the applicant meets the statutory and municipal requirements;
  - (2) The appropriateness of the location and premises to be licensed and whether the location will create undesirable neighborhood problems including but not limited to lowering property values, increasing noise, traffic congestion, etc. Probative evidence relating to these matters may be taken from the business plan and questionnaire submitted as part of the application packet, concerns from individual neighbors, or any information from the chief of police regarding calls for service or criminal activity occurring on the premises;
  - (3) Whether there is an over-concentration of licensed establishments in the vicinity of the proposed licensed premises;
  - (4) The economic impact of the proposed business;
  - (5) The applicant's prior experience or lack thereof in operating such a business; and
  - (6) Any other factors which reasonably relate to the public health, safety and welfare.
- (d) *Conditions on licenses.* The common council may place reasonable conditions upon the issuance of any alcohol beverage licenses and which are agreed to by the applicant, including the days and hours of operation and in addition to those regulations explicitly stated in this chapter.
- (e) *Appeal.* Once the committee recommends the grant or denial of an alcohol beverage license under this section, the item shall be referred to the common council for its final decision. Prior to the date of the common council hearing, the applicant may submit written arguments to the common council in favor of the granting of the license and/or rebutting evidence as to why the license should be denied. At the discretion of the common council, the applicant may supplement his written arguments with oral statements at the common council hearing in favor of the license. No additional evidence shall be received at the hearing of the common council. The decision of the common council shall be final, except that within 30 days of the common council's decision, any applicant aggrieved by such

decision may request judicial review of the common council's decision by filing an action with the circuit court pursuant to Wis. Stat. § 125.12(2)(d).

- (f) *Approval.* Upon approval of such application by the common council and proof of payment of the required license fee to the city treasurer, the city clerk shall issue to the applicant a license. In the case of a conditional grant of a license under section 6-41 of this code, the city clerk shall not issue a license to the applicant until all conditions for the license has been fulfilled. Each license issued shall be signed by the mayor, attested to by the city clerk, and shall specifically state the premises for which issued, the date of issuance, the date of expiration, the fee paid, the name of the licensee, and any conditions of the license. The license shall remain in effect through June 30 of the license year for which issued, unless sooner revoked in the manner provided by this chapter.
- (g) *Denial.* Upon denial of such application by the common council, the city clerk shall provide written notice to the applicant stating reasons for the denial.

(Ord. No. 0003-18, pt. 1, 5-15-18)

**State Law reference**— Refusals by local authorities to issue licenses, Wis. Stats. § 125.12(3m).

Sec. 6-24. - Renewal process.

(a) *Renewal of license.*

- (1) An application for renewal of an alcohol beverage license under this chapter must be filed with the city clerk no later than April 15 of every year or in the case of operator's licenses, every other year. The common council shall meet to act on each application which has been timely filed with the city clerk no later than June 15 of such year.
- (2) Applicants who submit a renewal application after the application deadline shall pay a late fee of \$50.00 per license and may request a special meeting of the committee and common council to avoid a lapse in the licensing period.
  - a. The common council may hold a special meeting, when requested due to late application, between June 15 and June 30 to consider and act upon any application for an alcohol beverage license under this section, provided that such application was filed with the city clerk at least 20 days prior to its expiration date.
  - b. In addition to any other late fee prescribed in this section, in order to defray administrative expenses a late fee of \$500.00 shall accompany any application for which consideration at a special meeting is requested, which fee shall be nonrefundable.

(b) *Procedure for nonrenewal.*

- (1) If the committee determines that there is cause for nonrenewal of a license under this chapter, it shall refer the matter to the due process board and cause the city clerk to send notice to the licensee. The board shall be responsible for holding hearings to determine whether there is cause for nonrenewal, provided that a hearing is requested.
- (2) The notice shall contain a statement of the city's intention not to renew the license upon a finding of cause, along with the possible reasons for the nonrenewal. The notice shall further state that the licensee may request a hearing in front of the board to determine cause for such nonrenewal by submitting a written request with the city clerk no later than ten days from the date of the notice of nonrenewal.
- (3) If a timely request is made, the city clerk shall schedule a hearing date for the board to convene as soon as possible thereafter and send out notices to both the licensee and the city attorney.

- (4) The board shall conduct a hearing as prescribed in section 6-26 of this Code and shall determine whether there is cause for nonrenewal under Wis. Stats. § 125.12(2)(ag).

(Ord. No. 0003-18, pt. 1, 5-15-18)

**State Law reference**— Revocation, suspension, refusal to issue or renew, Wis. Stats. § 125.12; refusals by local authorities to renew licenses, Wis. Stats. § 125.12(3).

Sec. 6-106. - Payment of property tax.

No person shall be granted a license for the sale of intoxicating liquor or fermented malt beverages or be permitted to transfer such a license until he or she has paid all personal property taxes assessed against him or her, as well any real estate taxes, owed to the city, if applicable to him or her.

(Ord. No. 0003-18, pt. 1, 5-15-18)

Sec. 6-133. - Qualifications for operator's license; false statement.

- (a) An operator's license may be issued by the city clerk to a person who is at least 18 years of age, does not have an arrest or conviction record, subject to Wis. Stats. §§ 111.321, 111.322, 111.335 and 125.12(1)(b), and has successfully completed a responsible beverage server training course as provided in Wis. Stats. § 125.17(6), or is exempt thereunder.
- (b) An applicant who provides a materially false statement on a license application relating to the person's arrests or conviction record shall be disqualified and such application shall be denied based on the false statement. The application shall be summarily denied based on the false statement and a notice of the denial shall be sent to the applicant by the city clerk. A person denied a license under this section may appeal in writing to the public safety and licensing committee within ten days of the notice. The appeal shall contain a written explanation specifying good cause for why he or she is not disqualified.
- (c) The operator shall carry his operator's license on his person at all times during which the licensee is providing services under the operator's license.

(Ord. No. 0003-18, pt. 1, 5-15-18)

**State Law reference**— Qualifications for license, Wis. Stats. § 125.04(5)(d); issuance of operator's license, Wis. Stats. § 125.17.

Sec. 6-193. - Inspection of licensed premises; consent.

- (a) It shall be a condition of any license under this chapter that the licensed premises may be entered and inspected by any police officer or other authorized representatives of the city at all reasonable hours for the purpose of inspection. Further, any things and articles constituting evidence of violations under this chapter or Wis. Stats. ch. 125 may be confiscated as evidence in the prosecution of such violations. For the purpose of this section, the terms "premises" and "licensed premises" shall include all living rooms directly connected with such premises which are not in another story.
- (b) Refusal to permit inspection or immediately allow entry as required under this section shall be deemed a violation and constitute grounds for non-renewal, suspension or revocation.

(Ord. No. 0003-18, pt. 1, 5-15-18)

DRAFT