

## Chapter 6 - ALCOHOLIC BEVERAGES

### ARTICLE I. - IN GENERAL

#### Sec. 6-1. – Definitions.

~~A person whose blood contains 0.08 percent or more by weight of alcohol is under the influence of an intoxicant for purposes of this chapter. A chemical analysis of a person's blood, breath or urine which has been admitted into evidence and which shows that there was 0.08 percent or more by weight of alcohol in the person's blood is sufficient evidence, without corroborating physical evidence, on which to base a finding that the person's blood contained 0.08 percent or more by weight of alcohol.~~

Alcohol beverage license means a retail license authorizing the sale of fermented malt beverages or intoxicating liquors.

Board means the City of Racine due process board as defined in section 2-261 through 2-265 of the code.

Chief of police means the City of Racine chief of police or his or her designee.

City Attorney means the City of Racine city attorney or his or her designee.

Committee means the City of Racine public safety and licensing committee as defined in section 2-77 of the code.

Convenience store means an establishment offering for retail sale items such as, but not limited to, prepackaged food products, household items, newspapers, magazines, sandwiches and other freshly prepared food for off-site consumption and having a gross floor area of not more than 3,500 square feet excluding any basement area used primarily for storage, and which may also sell motor vehicle fuel.

Fermented malt beverages means any beverage made by the alcohol fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated and degerminated grains or sugar containing 0.5 percent or more of alcohol by volume.

Intoxicated person means a person whose blood contains 0.08 percent or more by weight of alcohol is under the influence of an intoxicant for purposes of this chapter. A chemical analysis of a person's blood, breath or urine which has been admitted into evidence and which shows that there was 0.08 percent or more by weight of alcohol in the person's blood is sufficient evidence, without corroborating physical evidence, on which to base a finding that the person's blood contained 0.08 percent or more by weight of alcohol.

Nuisance under this chapter means a condition, activity or situation that interferes with the use or enjoyment of property and that which has had a substantial adverse effect upon the health, safety, convenience, or prosperity of the neighborhood.

Public street means any street, highway, sidewalk, alley, or any other public right of way.

Sec. 6-2. - Acts constituting offenses under chapter; penalties.

- (a) A person is concerned in the commission of the offense under this chapter if he:
  - (1) Directly commits the offense;
  - (2) Intentionally aids and abets the commission of the offense;
  - (3) Is the holder of a license as defined in section 6-97, 6-98 or 6-99, or other applicable sections in this chapter, if the offense concerns the sale of alcohol to a person under the age of 21, whether or not the person was on the premises at the time of the offense.
- (b) *Party to offense.* Whoever is concerned in the commission of any offense under this chapter is a principal and may be charged with and convicted of the commission of the offense although he did not directly commit such offense and although the person who directly committed such offense has not been convicted or has been convicted of some other degree of the offense or of some other offense based on the same act.
- (c) *Penalties.* Upon conviction in court, any person found to be in violation, either directly or as a party to an offense under this chapter shall forfeit the same amount under the penalties section of this chapter as if he directly committed the offense. In lieu of a court appearance, any person who is party to an offense under this chapter shall pay the forfeiture as enumerated for the applicable offense under section 6-3.

Sec. 6-3. - Forfeitures paid in lieu of court appearance.

- (a) Any person charged with violation of an offense listed under subsection (b) of this section may pay the amount enumerated in subsection (b) of this section at the police department in lieu of a court appearance. Persons wishing to contest the charge contained in subsection (b) of this section may contact the police department to arrange a court appearance date.
- (b) The following forfeitures for the offenses specified may be paid at the police department:

Section number	Violation	Forfeiture
6- <del>52</del> (a)	Sale to underage person	\$300.00
6- <del>52</del> (b)	Sale to underage person by licensee	300.00
6- <del>52</del> (d)	Contributing to possession/consumption	300.00
6- <del>52</del> (e)	Underage person on premises	200.00
6- <del>52</del> (g)	Underage person on premises by operator	200.00
6- <del>52</del> (h)	Possession/consumption by underage	200.00
6- <del>52</del> (i)	False representation of age for alcohol	200.00

6- <del>84</del>	Drinking intoxicants on street	75.00
6- <del>93</del>	Sale of intoxicating beverage and liquor	200.00
6- <del>105</del>	Soft drink as a mix	75.00
6-11	Slot machines	200.00
6- <del>128</del>	Posting alcohol warning	75.00
6- <del>139</del>	Posting licenses	75.00
6- <del>31(a)</del> <del>96</del>	License required	200.00
6-38(a)	Closing hours—Beer	125.00
6- <del>38(b)</del> <del>82</del>	Closing hours—Liquor	200.00
6-83	Exterior door open	30.00
6-84	Advertisements	200.00
6-85	Posting of signs in taverns	75.00
6-107	Liquor taxes	300.00
6-108	Clubs	200.00
6-109	Credit	50.00
6-131(a)	Licensed person on premises	200.00
6-132	Operator's license	200.00
6-167	Posting license	75.00
6-194	Regulation of entertainment	200.00

Sec. 6-4. – Statutory provisions adopted.

The provisions of Wis. Stats.—~~§see:~~ 66.0433 and ch. 125, relating to licenses for nonintoxicating beverages, ~~soda water beverages,~~ fermented malt beverages, and intoxicating liquors are adopted as a portion of this ~~article chapter~~ so far as applicable to the city, unless otherwise provided by ordinance. A violation of any provision of such sections of the statutes shall constitute a violation of this ~~article chapter~~.

Sec. 6-~~5~~. - Underage persons.

- (a) No person may procure for, sell, dispense or give away any alcohol beverage to any underage person not accompanied by his parent, guardian or spouse who has attained the legal drinking age.
- (b) No licensee or permittee may sell, vend, deal or traffic in alcohol beverage to or with any underage person not accompanied by his parent, guardian or spouse who has attained the legal drinking age.
- (c) Reserved.
- (d) No adult may intentionally encourage or contribute to a violation of subsection (h) of this section.
- (e) Except as otherwise provided, no underage person, not accompanied by his parent, guardian or spouse who has attained the legal drinking age, may enter, knowingly attempt to enter, or be on any premises for which a license or permit for the sale of intoxicating liquor or fermented malt beverages has been issued, for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or his employee. The business may not be amusement or the purchase, receipt or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises. This subsection does not apply to those activities specified in Wis. Stats. § 125.07(3)(a)1—~~162~~.
- (f) Underage persons may enter and remain on Class "B" fermented malt beverages, "Class C" wine licensed premises, or "Class B" intoxicating liquor licensed premises separate from any room where alcohol beverages are sold or served, if no alcohol beverages are furnished or consumed by any person in the room where underage persons are present and on the condition that the chief of police or his designee issues a written authorization to the licensee permitting underaged persons to be present on the licensed premises on the date specified. Before issuing such an authorization, the chief of police or his designee shall make a determination that the presence of underage persons on the licensed premises will not endanger their health, welfare or safety or that of other members of the community. A separate authorization is required for each date on which underage persons will be present on the premises, and any such authorization shall be posted in a conspicuous place at all times that underage persons are present on the licensed premises pursuant to this section.
- (g) No person, while a licensee or operator, shall allow an underage person to enter and remain on any premises for which a license or permit for sale of intoxicating liquor or fermented malt beverages has been issued except as permitted by this chapter.
- (h) No underage person, not accompanied by his parent, guardian or spouse who has attained the legal drinking age, shall knowingly possess or consume any alcohol beverage. This subsection does not prevent an underage person in the employ of a licensee or permittee from possessing alcohol beverages for sale or delivery to customers.

- (i) No person shall falsely represent that he has attained the legal drinking age for the purpose of receiving intoxicating liquor or fermented malt beverages from a licensee or permittee.
- (j) Proof of the following facts by a seller of intoxicating liquor or fermented malt beverages to an underage person is a defense to any prosecution for such offense:
  - (1) That the purchaser falsely represented in writing and supported with other documentary proof that he had attained the legal drinking age.
  - (2) That the appearance of the purchaser was such that an ordinary and prudent person would believe the purchaser had attained the legal drinking age.
  - (3) That the sale was made in good faith and in reliance on the written representation and appearance of the purchaser in the belief that the purchaser had attained the legal drinking age.

Sec. 6-6. - Penalties for violation of section 6-~~52~~.

- (a) Upon conviction, any person 18 years of age or over found to be in violation of section 6-~~52~~ shall forfeit the amount as provided in section 1-15, except that any adult who is convicted of an offense under section 6-~~52~~ shall be subject to the following:
  - (1) A forfeiture of:
    - a. Not more than \$500.00 if the person has not committed a previous violation within 12 months of the violation;
    - b. Not less than \$200.00 nor more than \$500.00 if the person has committed a previous violation within 12 months of the violation;
    - c. Not less than \$500.00 nor more than \$1,000.00 if the person has committed two previous violations within 12 months of the violation;
    - d. Not less than \$1,000.00 nor more than \$5,000.00 if the person has committed three previous violations within 12 months of the violation.
  - (2) A court shall suspend any license or permit issued under chapter 6 of this code to a person for:
    - a. Not more than three days, if the court finds that the person committed a violation within 12 months after committing one previous violation;
    - b. Not less than three days nor more than ten days, if the court finds that the person committed a violation within 12 months after committing two other violations;
    - c. Not less than 15 days nor more than 30 days, if the court finds that the person committed a violation within 12 months after committing three other violations.
  - (3) The court shall promptly mail notice of a suspension under this paragraph to the city clerk and to the Wisconsin Department of Revenue.
- (b) Upon conviction of an offense under section 6-~~52~~, an offender under the age of 21 shall be subject to the following penalties:

- (1) For a first violation, a forfeiture of not less than \$250.00 nor more than \$500.00 and suspension of the person's operating privilege, as provided under Wis. Stats. § 343.30(6)(b)1-;
  - (2) For a violation committed within 12 months of a previous violation, a forfeiture of not less than \$300.00 nor more than \$500.00 and suspension of the person's operating privilege, as provided under Wis. Stats. § 343.30(6)(b)2-;
  - (3) For a violation committed within 12 months of two previous violations, a forfeiture of not less than \$500.00 nor more than \$750.00 and revocation of the person's operating privilege, as provided under Wis. Stats. § 343.30(6)(b)3-;
  - (4) For a violation committed within 12 months of three previous violations, a forfeiture of not less than \$750.00 nor more than \$1,000.00 and revocation of the person's operating privilege, as provided under Wis. Stats. § 343.30(6)(b)3.
- (c) Upon conviction, any person found to be in violation of any applicable provision of this chapter shall forfeit an amount as provided in section 1-15.

Sec. 6-7. –Sale to intoxicated persons.

- (a) No person may procure for, sell, dispense, or give away alcohol beverages to an intoxicated person.
- (b) No licensee or permittee may sell, vend, deal or traffic alcohol beverages to or with an intoxicated person.
- (c) For purposes of this section, evidence of a preliminary breath test (PBT) showing the person to have a .08 or higher prohibited alcohol concentration at the time of the offense shall constitute a rebuttable presumption that the person was intoxicated.

Sec. 6-8. - Prohibited sale, possession or consumption of alcohol beverages in certain public places.

- (a) It shall be unlawful for any person to sell or serve or give to another person, or to offer to sell or serve or give to another person, any fermented malt beverage or intoxicating liquor while upon any public street or sidewalk, or within a parked motor vehicle located on any street within the city except as authorized under a sidewalk cafe permit issued pursuant to chapter 82 and as authorized in subsection (e).
- (b) It shall be unlawful for any person to consume, or to possess an open container containing, any fermented malt beverage or intoxicating liquor while upon any public street or sidewalk, or within a parked vehicle located on any street within the city except as authorized under a sidewalk cafe permit issued pursuant to chapter 82 and as authorized in subsection (e).
- (c) It shall be unlawful for any person to consume, or to possess an open container containing, any fermented malt beverage or intoxicating liquor while upon the premises of any municipal parking lot or municipal parking facility, except where an appropriate license has been issued authorizing the sale and consumption of such beverages in a specified area and under conditions prescribed by the common council.

- (d) No person shall bring into Festival Park or possess or consume at Festival Park any alcohol beverage except as authorized by and under a duly issued license or permit.
- (e) Public events for which a permit has been issued under section 82-4~~9~~4 to barricade and occupy the public right-of-way are exempt from this section.

Sec. 6-9. - Sale or consumption of intoxicating beverages and liquor in amusement centers and places of entertainment.

It shall be unlawful for the owner, operator or any person employed in any place where food or soft drinks or other nonintoxicating drinks are sold, or any place of entertainment or amusement centers, to permit any person to drink intoxicating liquor and/or fermented malt beverages therein. It shall be unlawful for any person to consume while in such premises any intoxicating liquor and/or fermented malt beverages unless such place is licensed to sell intoxicating liquor and/or fermented malt beverages.

Sec. 6-10. - Use of fermented malt beverage or soft drink as a mix with intoxicating beverage prohibited in unlicensed establishments.

Unless such place is licensed to sell intoxicating liquor, it shall be unlawful for the licensee, owner, operator or any person employed in any place where food or soft drinks are sold or licensed to be sold in the city to sell, vend, serve, give away, or in any way deal or traffic in any soft drink or other beverage or liquid to any person which is with his knowledge being used or to be used on such premises as a mix with any alcohol beverage or intoxicating liquor. It shall be unlawful for the licensee, owner, operator or any person employed in any such place of business to permit any person to add any alcohol or liquor containing alcohol or intoxicating liquor to any fermented malt beverage, soft drink or other similar beverage.

Sec. 6-11. – Slot machines prohibited.

No slot machine or any device of chance shall be kept upon any premises licensed under this chapter.

Sec. 6-12-~~8~~. - Warning sign required at licensed establishments.

There shall be displayed in a prominent place at each premises licensed under this chapter for sale of fermented malt beverages or intoxicating liquors a sign stating: "Warning: Drinking alcoholic beverages during pregnancy can cause birth defects." The sign shall be at least 8½ inches wide and 11 inches high, with each letter at least three-fourths-inch high and three-eighths-inch wide. The signs shall have dark color characters on a light color background. Signs may include, in any size lettering, the words "City of Racine Ordinance." The city clerk shall make such warning signs available to licensees, ~~and may charge a fee to cover printing and handling expenses. at the~~ time of issuance and renewal.

Sec. 6-13~~9~~. - Posting licenses.

Every license and permit issued pursuant to this chapter excepting operator's licenses or provisional operator's licenses shall be posted while in force in a conspicuous place in the room or



place where such beverages are kept for sale or sold. It shall be unlawful for any person to post such license or permit, or to be permitted to post it, upon premises other than those premises mentioned in the application for such license or permit, or knowingly to deface or destroy such license or permit, or to remove such license or permit without the consent of the licensee or ~~permitholder~~permit holder. Whenever a license or permit shall be lost or destroyed without fault on the part of the holder or his agent or employee, a duplicate in lieu thereof under the original application shall be issued by the city clerk upon presentation of evidence of such destruction or loss.

Sec. 6-146. - Conditions of license.

- a) All retail Class "A", "Class A", Class "B" and "Class B" and "Class C" licenses granted under this article shall be granted subject to the conditions set out in this article, and all other applicable conditions of this chapter and Wis. Stats. ch. 125, and subject to all other ordinances and regulations of the city applicable thereto.
- b) In addition to the provisions of this chapter, a licensee shall comply with all conditions placed upon its license by action of the common council and which has been agreed to by the licensee.

Sec. 6-157. - ~~Sanitary, health and safety~~Restaurant sanitation requirements.

- (a) ~~No applicant may obtain a "Class B" license or permit or a "Class C" license unless the premises complies with the rules promulgated by the department of agriculture, trade and consumer protection governing sanitation in restaurants. No retail Class "B" or "Class B" or "Class C" license shall be issued unless the premises to be licensed conform to the sanitary, safety and health requirements of the state building code, the state plumbing code, the rules and regulations of the state board of health applicable to restaurants as contemplated in Wis. Stats. § 125.68(5), and the building and health codes of the city.~~
- (b) Failure to maintain or comply with any such regulations shall constitute grounds for suspension, revocation or nonrenewal of the license.

Sec. 6-16. – Restrictions on future applications upon denial, nonrenewal or revocation of license.

- (a) Whenever an application for an operator's license is denied, denied renewal, or revoked, no other license issued under article IV of this chapter shall be granted to such person within 12 months of the date of such denial.
- (b) Whenever an application for an alcohol beverage license is denied, denied renewal, or revoked, no other license issued under article II of this chapter shall be granted to the applicant within 12 months of the date of such denial, except as otherwise provided in section 6-41. Additionally, if the denial relates to the fitness of the location, the applicant may reapply and may be granted such a license if the applicant can demonstrate a change in the character and nature of the location to the extent that the reasons for denial, or denial of renewal, of the license no longer exist. Application for such exception specifying the reasons supporting the change shall be filed with the city clerk, who shall refer the request to the public safety and



licensing committee. In considering whether the character and nature of the location have substantially changed, the following factors, among others, shall be considered:

- (1) A change in the type of license applied for;
- (2) A change in the number of licensed premises in the vicinity of the proposed licensed premises;
- (3) A change in zoning of the premises applied for;
- (4) A change in land uses in the vicinity.

The committee shall hold a hearing on the issue whether changed circumstances exist. If the committee finds that the applicant has not demonstrated changed circumstances, it shall recommend denial of the application. If the committee finds that a change of circumstances exists, the license application shall be considered on its merits at a subsequent meeting.

(c) When a person surrenders an alcohol beverage or operator's license issued under this chapter in lieu of pending non-renewal, suspension or revocation proceedings, no other license issued under this chapter shall be granted to such person within 12 months of the date of such surrender and no refund of the fee paid therefor shall be made.

(d) When any alcohol beverage or operator's license issued under this chapter is revoked, no other license issued under this chapter shall be granted to such person within 12 months of the date of the revocation and no refund of the fee paid therefor shall be made.

Sec. 6-17. – Reserved.

Sec. 6-18. - Social host ordinance.

- (a) This section may be referred to as the social host ordinance.
- (b) The purpose of this section is to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and to hold any person who hosts an event or gathering where persons under 21 years of age possess or consume alcohol responsible regardless of whether the person hosting the event or gathering supplied the alcohol.

*Definitions.* For purposes of this section, the following terms have the following meanings:

*Allow* or *host* means to aid, conduct, entertain, organize, supervise, control, or permit an event or gathering.

*Alcohol* means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

*Alcoholic beverage* means alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.

*Control* means having the authority or power, or both, to direct, manage, oversee, or restrict the affairs, assets, or business of a person or entity.

*Event* or *gathering* means any group of two or more persons who have assembled or gathered together for a social occasion or other activity.

*Parent* means a person having legal custody of a juvenile as a natural, adoptive, or step parent; a legal guardian; or a person to whom legal custody has been given by court order.

*Present* means at hand or in attendance.

*Public* or *private property* includes, but is not limited to, any apartment, condominium, dwelling unit, farm, field, hall, hotel room, home, land, meeting room, motel room, park, place of assembly, or yard, whether occupied on a temporary or permanent basis and whether leased, owned, rented, or used with or without permission or compensation.

*Underage person* means any individual under 21 years of age.

*Prohibited acts.*

- (1) It is unlawful for any person to allow or host an event or gathering at or on any private or public property where alcohol or alcoholic beverages are present when the person knows that an underage person will possess or consume any alcohol or alcoholic beverage if the person fails to take reasonable steps to prevent possession or consumption by any underage person, even if the person who allows or hosts the event or gathering is not present at the event or gathering.
- (2) It is unlawful for any person to intentionally advise, aid, conspire with, counsel, hire, or otherwise procure another person to commit a prohibited act.

*Exceptions.*

- (1) This section does not apply to a person who procures for or dispenses, gives, or sells alcohol or any alcoholic beverage to an underage person if the underage person is in the direct company of the underage person's parent, guardian, or spouse and the parent, guardian, or spouse has attained the legal drinking age, has consented to the underage person possessing or consuming the alcohol or alcoholic beverage, and is in a position to observe and control the underage person.
- (2) This section does not apply to legally protected religious observances.
- (3) This section does not apply to an underage person who is lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

*Penalties.*

- (1) A person will, upon conviction for a violation of any provision of this section, forfeit not less than \$1,000.00 nor more than \$5,000.00 for each offense, together with any applicable assessment, cost, surcharge, and the cost of prosecution.
- (2) A person who has the ability to pay a forfeiture entered pursuant to this section, but who fails or refuses to do so may be confined in the county jail until the forfeiture and costs are paid, but the period of confinement may not exceed 30 days for each offense. In determining whether a person has the ability to pay, all items of income and all assets

may be considered regardless of whether the income and assets are subject to garnishment, lien, or attachment by creditors.

Sec. 6-19. – Reserved.

## ARTICLE II. - LICENSING.

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 only by the glass on the premises where sold, and in the original unopened package and container to be consumed off the licensed premises. 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 otherwise 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. Stat. § 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 4 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 2 for any one entity in any 12-month period except as otherwise permitted under Wis. Stat. § 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 2 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.

(a)(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.

Sec. 6-21. – 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 shall 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. Stat. 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 5 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. If there is a possibility that the license may be denied, the chair shall ask the applicant to affirm that he or she has received notice and is aware of the possibility that the license application may be denied. 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 before the committee makes its decision.
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.

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 evidence 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 which are agreed to by the applicant.

(c) In determining whether a new alcohol beverage license should be granted, the common council shall consider the following factors giving to each whatever weight is appropriate in the particular factual circumstances:

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) 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, and the name of the licensee. 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.

(f) 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.

(g) Appeal. If the committee recommends denial of an alcohol beverage license under this section, the applicant has the right to file an appeal by submitting with the city clerk a written notice of intent to appeal within 5 days of the committee's decision. The applicant shall thereafter submit a written appeal within 20 days containing arguments in favor of the granting of the license and/or rebutting evidence for denial of the license. The matter shall be scheduled before the common council for a hearing within 30 days of the written appeal, at which time the applicant may present further oral statements. No additional evidence shall be received at the hearing of the common council.

Sec. 6-22. – Qualifications.

- (a) No alcohol beverage license may be issued to any person, corporation or limited liability company unless that person or entity meets all of the qualifications for licensing pursuant to Wis. Stat. § 125.04(5).
- (b) No alcohol beverage license shall be granted except to a person who has resided in Wisconsin continuously for not less than 90 days prior to the date of filing the application for license. If the applicant is a corporation or limited liability company, this subsection shall apply to the agent who is appointed pursuant to Wis. Stat. § 125.04(6).
- (c) Such individuals shall continue to be a bona fide resident of Wisconsin during the term of his or her license. Failure to meet these qualifications shall constitute grounds for suspension or revocation.

Sec. 6-23. – Application for alcohol beverage licenses.

(a) Timing. Written application for an alcohol beverage license under this chapter shall be filed and sworn to by the applicant and submitted with the city clerk upon forms provided by the clerk at least 30 days prior to the common council meeting for which the item is scheduled to be considered, along with the applicable fees.

(b) Content.

If the applicant is an individual, the application shall contain the name, home residence and age of the applicant. If the applicant is a corporation or company, the application shall contain the names of the principal officers and the holders, whether legal or equitable, of ten percent or more of the stock along with their residences and ages, state of incorporation, and the name of one or more persons whom such corporation shall designate as manager or persons in charge and address of such person. 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 6 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. Any person providing a false statement or omission on any such license application shall be subject to the forfeitures provided in section 1-15, upon conviction. A false statement or omission on the license application shall constitute grounds for denial, denied of renewal, suspension or revocation of a license.

d) Changes to be reported. Within 10 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 that may form the basis for denial. 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.

#### 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. The committee shall meet no later than June 15 of such year to act on each application which has been timely filed.
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 any 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 regarding the nonrenewal of licenses.
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 the nonrenewal by submitting a written request with the city clerk no later than 10 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 are causes for nonrenewal under Wis. Stat. § 125.12(2)(ag).

Sec. 6-25. – Grounds for revocation, suspension and nonrenewal.

- (a) Licenses issued under this chapter may be suspended, revoked or denied renewal in accordance with the provisions of Wis. Stat. § 125.12(2) and the procedures of this chapter.
- (b) Any license issued under this chapter may be suspended or, revoked for cause after notice to the licensee and a hearing in front of the due process board. In cases where renewal is denied, the licensee shall be afforded an opportunity to request such a hearing. Such licenses may be suspended, revoked or denied renewal for any of the following causes:
  - 1) The person has violated any provisions of Wis. Stats. ch. 125 or chapter 6 of this code.
  - 2) The person keeps or maintains a disorderly or riotous, indecent or improper house.
  - 3) The person has sold or given away alcohol beverages to known habitual drunkards.
  - 4) The person does not possess the qualifications required under Wis. Stats. ch. 125 or chapter 6 of this code to hold the license.
  - 5) The licensed premises is operated in such a manner that it constitutes a disorderly premises or a public or private nuisance contrary to section 6-197 of this code.
  - 6) The person failed to operate the premises in accordance with the floor plan or plan of operation as submitted with the application contrary to section 6-88 of this code, or the conditions of the license contrary to section 6-14 of this code.
  - 7) The person has failed to maintain the premises according to standards prescribed for sanitary, safety and health requirements of the state building code, the state plumbing code, or the rules and regulations of the state board of health applicable to restaurants

as contemplated in section 6-15 of this code; or failed to comply with the health, building or fire codes of the city contrary to section 6-30 of this code.

- 8) The licensee has accumulated 100 or more points under the alcohol license demerit point system.
- 9) Any other factors which reasonably relate to the public health, safety and welfare.

Sec. 6-26. – Disciplinary procedures for suspensions and revocations.

(a) Commencement of disciplinary proceedings. Whenever there is cause for suspension or revocation under Wis. Stat. §125.12, disciplinary proceedings may be instituted by the office of the city attorney or upon sworn written allegations made and filed with the city clerk by the chief of police or upon sworn written complaint filed with the city clerk by any city resident.

1. Complaint; summons. Whenever such charge or complaint is filed with the city clerk setting forth specific allegations against a licensee involving conduct which would violate statutes or ordinances which would constitute grounds for suspension or revocation of a license under this chapter or ch. 125 of the Wisconsin Statutes, the city clerk shall issue a summons, as authorized by Wisconsin Statutes, demanding that the licensee appear before the public safety and licensing committee, not less than 3 days nor more than 10 days from the date of issuance, to show cause as to why the license should not be revoked or suspended.
2. Service. A police officer shall serve the summons upon the licensee, along with a copy of the allegations or complaint.
3. Preparation of report. The chief of police shall prepare a report with information relating to the allegations contained in the written allegations or complaint. The report may be offered and made part of 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 by the chief of police must also be provided to the applicant at least 3 days prior to the hearing.

(b) Hearing.

1. The due process board shall convene at the date and time designated in the summons for the purpose of taking evidence and making findings of fact, conclusions of law and a recommendation to the full common council in connection with the proposed suspension or revocation.
2. If the licensee does not appear as required by the summons, the allegations of the complaint shall be taken as true and if the board finds the allegations sufficient, the license shall be revoked.

3. If the licensee appears before the board at the time designated in the summons and denies the allegations contained in the complaint, an evidentiary hearing in connection with the suspension or revocation shall be conducted by the board. If the hearing is held before the board, the board shall submit a report to the common council, including findings of fact, conclusions of law and a recommendation as to what action, if any, the common council should take with respect to the license.
4. If the complaint is found to be true, the license shall either be suspended for not less than 10 days nor more than 90 days or revoked, except that, if a complaint under Wis. Stat. § 125.12(2)(ag)(4) is found to be true with respect to a license issued under Wis. Stat. § 125.51 (4) (v), the license shall be revoked.
5. If the complaint is found to be untrue, the board shall dismiss the proceedings without cost to the accused. If the board finds the complaint to be malicious and without probable cause, the costs shall be paid by the complainant.
6. A record shall be made of the hearing and a written copy of the transcript shall be provided to the licensee upon the licensee's request and at his or her expense.

(c) Report by the board.

1. Within 5 business days after the hearing, the board shall prepare and serve a report and recommendation with respect to the licensee and transmit a copy thereof to the city clerk, who shall then forward a copy to the complainant and licensee. The report shall include specific findings of fact, conclusions of law and recommendations made by the board based on evidence presented at the hearing. The report shall be distributed to each member of the common council for their consideration.
2. The city clerk shall thereafter, or in conjunction with when the report is sent out, notify the complainant and the licensee by first class mail sent to the licensee and the complainant of the time and place where the common council will convene to vote on the matter. Notice must be sent to the licensee not less than 5 business days prior to the common council meeting.
3. Upon receiving a copy of the report and recommendation, the complainant and licensee may file an objection to the report and have an opportunity to present written arguments supporting the objection. Any such arguments must be submitted with the city clerk by noon on the Friday before the common council meeting.

(d) Procedure at hearing.

1. The chair shall preside over the hearing and ensure that an orderly hearing is conducted in accordance with the requirements of this subsection. So far as practicable, the rules of evidence provided in Wis. Stat. § 227.45, shall be followed. The complainant shall have the burden of proving the allegations by a preponderance of the evidence. The chair shall rule on objections to the admissibility of evidence. Any ruling of the chair shall be final unless appealed to the board, and the board shall reverse such ruling only upon the vote of a majority of its members present and voting.

2. All witnesses, including the licensee, shall testify under oath and be sworn in by the chair. Both the complainant and the licensee may subpoena and present witnesses. All witnesses shall be subject to cross-examination.
3. At all stages of the proceedings before the board and the common council, the licensee shall be entitled to appear both in person and by an attorney at his or her expense.
4. The complainant shall present evidence in support of the allegations or complaint, including any report prepared by the chief of police. At a hearing to determine whether to grant or deny renewal of a license, the complainant shall be represented by the city attorney, who shall present evidence showing cause as to why the license should be denied.
5. After the complainant rests, the licensee may present evidence in opposition to the allegations or complaint.
6. At the close of the testimony, both the complainant and licensee shall be given reasonable time to make arguments upon the evidence produced at the hearing.

(e) Common council action.

1. The common council, if after considering the report and recommendations of the board, along with any objections and supporting arguments submitted by the complainant or licensee, finds the complaint to be true or if there is no objection to a report recommending suspension or revocation, shall suspend or revoke the license pursuant to Wis. Stat. § 125.12(2)(b)2.
2. If the common council finds the complaint to be untrue, the proceedings shall be dismissed without costs to the accused.
3. The city clerk shall give notice of each suspension or revocation to the person whose license is suspended or revoked within 10 days of the disciplinary action.

(f) Judicial review. Within 30 days of the common council's decision, any licensee or 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).

Sec. 6-27. –Alcohol beverage license demerit point system.

- (a) The purpose of this subsection is to provide an alcohol license demerit point system as a nonexclusive method of identifying habitually troublesome licensees who repeatedly violate state statutes and/or the city ordinances using an objective criteria, to take consistent action against such licensees, to create more transparency, and to ensure due process for the accused. The number of demerit points is assigned pursuant to the demerit point schedule below. This point system shall serve as a guide to the common council in determining when suspension and/or revocation of a liquor license is warranted. Demerit points are not deemed a penalty hereunder, but merely act as a means of tracking the performance of licensees under this chapter.
- (b) Demerit Point System. Use of the following demerit point schedule by the city is not an exclusive remedy and does not preclude the city from seeking other remedies, including

suspension, revocation or nonrenewal of a license upon notice to the licensee and pursuant to chapter 6 of this code. The city may also seek such suspension, revocation or nonrenewal under Wis. Stat. § 125.12, notwithstanding the fact that the licensee has accumulated less than 100 demerit points.

Demerit Point Schedule

<u>Type of Violation</u>	<u>Ordinance or Statute Section Number</u>	<u>Point Value</u>
<u>Violation of any section in Wis. Stats. ch. 125</u>	<u>6-4</u>	<u>50</u>
<u>Providing alcohol to underage person</u>	<u>6-5</u>	<u>30</u>
<u>Underage person on premises</u>	<u>6-5</u>	<u>15</u>
<u>Providing alcohol to intoxicated persons</u>	<u>6-7</u>	<u>20</u>
<u>Violating a condition of the license</u>	<u>6-14</u>	<u>30</u>
<u>Violation of restaurant sanitation requirements</u>	<u>6-15</u>	<u>100</u>
<u>Failure to report changes to application</u>	<u>6-21(g)</u>	<u>15</u>
<u>Failure to meet qualifications for licensee</u>	<u>6-22</u>	<u>100</u>
<u>False statement on application</u>	<u>6-23(d)</u>	<u>100</u>
<u>Failure to abate health, sanitation, building or fire code violations</u>	<u>6-30</u>	<u>100</u>
<u>Operating without the necessary license</u>	<u>6-31(a)</u>	<u>100</u>
<u>Allowing use of license by another</u>	<u>6-31(c)</u>	<u>100</u>
<u>Altering premises without permission</u>	<u>6-32</u>	<u>30</u>
<u>Closing hours violation</u>	<u>6-38</u>	<u>25</u>
<u>Employment of underage persons</u>	<u>6-40</u>	<u>20</u>
<u>Failing to operate business within time frame specified for issuance of license</u>	<u>6-41, 6-23(c)</u>	<u>100</u>
<u>Exceeding occupancy</u>	<u>6-86</u>	<u>25</u>

<u>Failure to continuously operate business</u>	<u>6-87</u>	<u>50</u>
<u>Failing to operate business in accordance with plan</u>	<u>6-88</u>	<u>25</u>
<u>No operator on premises</u>	<u>6-131</u>	<u>30</u>
<u>Refusal to permit inspection</u>	<u>6-192</u>	<u>50</u>
<u>Violation of entertainment related conduct</u>	<u>6-194</u>	<u>25</u>
<u>Employee or licensee under the influence</u>	<u>6-195(b)</u>	<u>25</u>
<u>Disorderly premises</u>	<u>6-197(a), 6-198</u>	<u>30</u>
<u>Operating as a nuisance</u>	<u>6-197(b)</u>	<u>50</u>
<u>Violation of an order of the common council or committee</u>	<u>6-198</u>	<u>100</u>
<u>OWI/BAC (criminal)</u>	<u>346.63</u>	<u>80</u>
<u>OWI/BAC (civil)</u>	<u>346.63</u>	<u>50</u>
<u>Controlled substances violation – manufacturing / delivery / conspiracy / possession with intent to deliver</u>	<u>961.41</u>	<u>80</u>
<u>Obstructing / resisting</u>	<u>66-162; 946.41</u>	<u>25</u>
<u>Unauthorized purchase of alcohol</u>	<u>125.69(6)(a); 125.33(9)</u>	<u>30</u>
<u>Open intoxicants in motor vehicle driver</u>	<u>346.935(1)</u>	<u>20</u>
<u>Chapter 125 violation not specified</u>	<u>Wis. Stat. ch. 125</u>	<u>15</u>
<u>Chapter 6 violation not specified</u>	<u>Chapter 6</u>	<u>15</u>

(c) Calculating Violations.

1. In determining the accumulated demerit points against a licensee, the points shall be counted within a 24-month period. Any violations or convictions outside of the 24-month time period shall not count for purposes of initiating disciplinary procedures under this section, but may be considered with respect to the period of suspension or revocation. The date of the violation shall be used as the basis for assigning demerit points. For violations continuing for more than one calendar day, each day shall



constitute a separate violation. Points shall be assigned only after conviction in a court of law for such violations.

2. Demerit points may not be assessed for multiple ordinance and/or statute violations resulting from a single incident. For violations that are contrary to more than one ordinance section or statute, penalty shall be based only upon the ordinance or statute violation that carries the higher demerit point assessment. For any violations of this chapter or of Wis. Stat. ch. 125 not specifically listed in the demerit point schedule, the point value shall be 15.

3. Demerit points shall be assessed after entry of a judgment of conviction in a federal, state or municipal court for violation of any statute or ordinance provision listed under the types of violations in the chart above.

4. Violations from any other jurisdiction which are substantially similar or in conformity to those violations listed in the demerit point schedule shall be assigned the same number of demerit points listed above.

(d) Suspension and revocation of license. The city attorney's office shall notify the public safety and licensing committee of any conviction for violations that result in the assessment of demerit points against any licensee. Points are assessed against the licensee at the time of the conviction and are counted from the date of conviction.

1. Whenever a licensed premise has been assessed more than 10 points but less than 100 points in a 24-month period, the committee through the city clerk may mail a notice by first class mail to the licensee commanding licensee to appear before the committee for a formal expression of concern. In the alternative, the committee may issue a formal written warning to the licensee of the consequences of additional violations. If the licensee appears for the formal expression of concern, no discussion of the alleged facts may be permitted unless the licensee requests such discussion and only after the licensee has been advised that any statements made by him or her and/or his or her representatives regarding the alleged underlying facts may be considered by the due process board in any subsequent suspension/revocation hearing which may result from the alleged violations which are the subject of the formal expression of concern.

2. When any licensed premise has accumulated 100 points in any 24-month period, the city attorney's office shall draft a complaint and file it with the city clerk to start the disciplinary procedure under section 6-26 of this code.

3. If the board finds that a licensed premises has accumulated more than 100 points, the board shall either recommend a suspension of not less than 10 days nor more than 90 days, or revocation of the license.

4. The judgment of conviction in any court of law may be presented to the board and accepted as prima facie evidence that the violation did occur for purposes of this section. The licensee is entitled to present mitigating circumstances with respect to any judgment of conviction.

5. In determining what actions to take with respect to the license, the board shall consider the facts and circumstances surrounding the violations, as well as the health, safety and welfare of the public.

6. Any suspension or revocation recommendation by the board under this section shall be forwarded to the common council. The common council shall have the discretion to reduce a demerit point assessment, but only in circumstances where the licensee has cooperated with the city in addressing the violations associated with his or her establishment. Evidence of such cooperation includes, but is not limited to:

i. A report from the chief of police indicating that he or she has met with the licensee and that the licensee is working to diligently and effectively abate problems at the property.

ii. If demerit points were assessed for health or building code violations, a report from the building or health department indicating that he or she is now in full compliance with all health and building regulations.

iii. Participation in a responsible retailer training or other program/initiative that evidences an intent to be a responsible liquor establishment.

5) Judicial Review. Within 30 days of the common council's decision, any licensee or 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).

(e) Demerit points and license renewal. The city clerk shall forward a report to the committee by April 30<sup>th</sup> of each year listing all licensees who have received demerit points within the past 24-month period. The report shall include the liquor/beer agent's name, the name of the licensed establishment, a list of the point violations by title and the point value of each violation. The committee shall evaluate this report to determine whether an application for a renewal alcohol beverage license should be separated out for the following potential actions, based on any number of points assessed:

1. Nonrenewal hearing;

2. Placement of conditions;

(f) Scope. Nothing in this section shall be construed to conflict with, abridge or modify, the rights or procedures established for revocation or suspension of licenses in Wis. Stat. § 125.12 provided there is cause for disciplinary proceedings under the relevant ordinances or statutes. Notwithstanding the requirements of this section, the committee may require the appearance before it of any licensee at any time, regardless of whether points have been assessed.

#### Sec. 6-28. – Residential premises.

No alcohol beverage license shall be issued to any person for the purpose of possessing, selling or offering for sale any fermented malt beverage or intoxicating liquor in any dwelling house, flat or residential apartment.

#### Sec. 6-29.- Restrictions on issuing Class A licenses.

- (a) No Class “A” or “Class A” licenses shall be issued to any convenience stores or boat and marine retail stores, except that a license for a convenience store or boat and marine retail stores that was in existence as of January 1, 2018, may be renewed if application for the renewal is submitted at least 45 days prior to expiration of the license.
- (b) Notwithstanding the above provision, a place of business which operates as a convenience store as defined in section 6-1 or place of business which operates primarily as a boat or marine related retail store and which maintains on the premises a minimum inventory value of those goods customarily marketed by such businesses of not less than \$15,000.00, at cost, excluding fermented malt beverages, intoxicating liquors and gasoline, may hold both a fermented beverage license and intoxicating liquor license under this provision. Compliance with the conditions of this section requiring a minimum inventory shall be demonstrated semi-annually beginning six months following the issuance of both such licenses.

Sec. 6-30 – Restrictions on issuance or renewal of Class B licenses.

- (a) In addition to the requirements set forth in section 6-15 of this code, no Class “B,” “Class B” or “Class C” licenses shall be issued or renewed hereunder for the sale of alcohol beverages on any premises unless such premises comply with and conform to any health, sanitation, building and fire regulations or orders of the city and of the state which deal with the health, safety or welfare of the licensed premises within the time frame specified in the order for correcting the violation.
- (b) Notwithstanding the above provision, a license for the sale of fermented malt beverages or intoxicating liquors for any premises for which the requirements of par. (a) above have not been complied with, may nevertheless be issued or renewed and the privileges of such license may be enjoyed by the licensee thereof provided that the licensee file with the city clerk a performance bond in such sum as shall be determined by the chief building inspector or director of public health conditioned for the full compliance and performance of the requirements of par. (a), to be completed within 60 days from the granting or renewal of said license.
- (c) The granting of an alcohol beverage license or license renewal pursuant to par. (b) does not serve to modify or extend the timeline for compliance of such orders as required by the health, building or fire department orders.
- (d) In case of the failure of the licensee to perform the conditions of said bond and the requirements of said paragraph within such 60 days, the bond shall be forfeited and the licensee shall surrender the license to the city clerk. Failure to comply with the requirements of this subsection or the refusal of the licensee to surrender his or her license as aforesaid shall be cause for revocation of the license.

Sec. 6-31. – Licenses required; transfer prohibited.

- (a) No person shall vend, sell, deal or traffic in or, for the purpose of evading any law or ordinance, give away any fermented malt beverage or intoxicating liquor in any quantity

whatever, or cause the same to be done, without having procured the appropriate license as provided in this article, or without complying with all the provisions of this chapter, and all statutes, ordinances and regulations applicable thereto.

(b) A separate license shall be necessary for each premises or place of business where fermented malt beverages or intoxicating liquors are distributed, kept, sold or offered for sale, and each license shall particularly describe the premises for which issued.

(c) Use of license by another prohibited.

1. No person may allow another to use his or her alcohol beverage license to sell alcohol beverages.

1.2. No license issued under this ~~article~~ ~~chapter~~ shall be transferable, either as to licensee or location, except as provided by Wis. Stats. § 125.04(12), and except that the common council may authorize a transfer of location if the licensed premises become unsuitable for occupancy, except as otherwise provided by law.

3. Existing licensees may not sell, give away, or transfer any alcohol beverage license to another individual or entity with the intent that it be used at a different location; nor shall any alcohol beverage license be surrendered with the condition that another person or entity receive a license for any premises other than the premises for which the license is currently issued.

Sec. 6-32. – Change in premises.

(a) Each license shall particularly describe the area in which alcohol is stored, sold or served. Alcoholic beverages may not be consumed by patrons or others outside of the licensed premises, and it shall be unlawful for a license holder to permit said consumption contrary to the terms of this section.

(b) The licensed premises as described in the application and approved by the common council shall not be expanded or changed during the license year without the approval of the common council, except that no prior approval is required for a hotel which does not involve a change or expansion of any bar or restaurant. No prior common council approval is required if the only change to the premises is to the exterior façade or any other exterior construction or reconstruction not affecting interior floor space or layout, or the area of the licensed premises.

(c) Any person holding a valid Class “A” fermented malt beverage, “Class A” intoxicating liquor, Class “B” fermented malt beverage, “Class B” intoxicating liquor, or “Class C” wine license may apply for a permanent extension of the licensed premises. The area which the licensee wishes to include in a permanent extension of the licensed premises shall be owned by or under the control of the licensee. Application for the permanent extension of the licensed premises shall be made in writing to the city clerk

on forms provided by the city clerk and shall go before the public safety and licensing committee for consideration and common council for approval.

Sec. 6-35. –Withdrawal of applications.

An application for a Class “A,” "Class A," Class “B,” "Class B," or a "Class C" license may be withdrawn by the applicant at any time prior to the decision by the public safety and licensing committee to grant or deny. Except as otherwise indicated in section 6-41, the amount of any license fee deposited less any costs incurred shall be refunded to the withdrawing applicant.

Secs. 6-36—6-37. - Reserved.

ARTICLE III. - REGULATIONS.

Sec. 6-38. - Closing hours.

(a) Fermented malt beverage.

1. No premises for which a Class “B” license is issued may remain open between the hours of 2 a.m. and 6 a.m., except as provided in this paragraph and par. (c). On Saturday and Sunday, the closing hours shall be between 2:30 a.m. and 6 a.m. except that, on the Sunday that daylight saving time begins as specified in s. 175.095 (2), the closing hours shall be between 3:30 a.m. and 6 a.m. On January 1 premises operating under a Class “B” license or permit are not required to close.

2. No premises for which a Class “B” license is issued may, between 12 midnight and 6 a.m., sell fermented malt beverages in an original unopened package, container or bottle or for consumption away from the premises.

3. No licensee of a Class "B" license establishment or any operator or any other person shall allow the premises covered by such license to be open for business during the hours mentioned in subsection (a)(1) of this section. The licensee of any such premises shall be guilty of a violation of this article if any person other than the licensee or his employees are in the premises during the hours specified in this section.

4. No music shall be played in any premises covered by a Class "B" license during the hours mentioned in subsection (a)(1) of this section, nor during the half hour prior thereto.

5. A premise for which a Class “A” license is issued may remain open for the conduct of their regular business but may not sell fermented malt beverages between 12 midnight and 8 a.m.

(b) Intoxicating liquor.

1. No premises for which a "Class A" or a "Class B" license issued under Wis. Stat. § 125.51(3)(am) may remain open for the sale of intoxicating liquor between the hours of 9:00 p.m. and 8:00 a.m.

2. No premises for which a "Class B" or "Class C" license or permit has been issued may remain open between the hours of 2:00 a.m. and 6:00 a.m., except that on Saturday and Sunday no premises may remain open between 2:30 a.m. and 6:00 a.m., and except that on January 1 such premises are not required to close.

3. Between 12:00 midnight and 6:00 a.m. no person may sell intoxicating liquor on a "Class B" licensed premise in an original unopened package, container or bottle or for consumption away from the premises or on a "Class C" licensed premise as authorized under Wis. Stat. § 125.51(3r)(a).

Sec. 6-39. – Reserved.

Sec. 6-39. — License required.

~~No person shall sell, barter, exchange or offer for sale, or have in his possession with intent to sell, deal or traffic in, fermented malt beverages or manufacture fermented malt beverages without a license as provided in this division.~~

Sec. 6-40. - Employment of underage persons by Class "B" licensee.

No retail Class "B" licensee shall employ any underage person, except as otherwise provided by Wis. Stats. § 125.07(4)(bm)3).

Sec. 6-41. — Conditional ~~Grant of conditional~~ license.

(a) Notwithstanding the time limits set forth herein, whenever the proposed licensed premises is a building to be newly constructed or an existing building upon which major alteration, addition, renovation or other similar work is required in order to bring the premises in conformity with the representations made to the common council as part of the application and consideration of the application, the common council, ~~upon recommendation of the public safety and licensing committee,~~ may grant a license ~~conditioned~~ upon the satisfactory completion of such construction, alteration, addition, renovation or other work, or such annexation.

(b) In cases where the proposed licensed premises is not yet open for regular business at the time of the application, the common council may grant a license conditioned upon the entity completing all work and obtaining the necessary permits to start operating under such license.

(c) The common council, in making such a conditional grant of a license under par. (a) or (b), may shall direct the city clerk to withhold the issuance of the license for such time, not to exceed six-6 months, as the common council deems a reasonable period for completion of such anywork renovation, addition, or work and procurement of any necessary permits in

order to start operating under the license in conformity with all such representations made to the common council, ~~and/or completion of the renovation.~~ The common council's approval of a conditional grant of a license under this section does not constitute the issuance of a license unless and until the city clerk issues the license to the applicant after all work has been completed and all conditions for the license have been met.

During such period of time as the referenced work is being completed, the applicant must provide written progress reports to the city clerk every 60 days. ~~The license fee would be nonrefundable, and the license would not be issued should the applicant complete construction after the granted deadlines.~~

Upon written request of the applicant to the public safety and licensing committee, this period may be extended one time for an additional period not to exceed ~~three~~ 3 months, ~~and the license may be renewed one time with issuance withheld,~~ but no such extension shall be granted unless the applicant can demonstrate that he or she has already completed a substantial portion of the work, construction or renovation of the premises with the original time set by the common council for withholding of the issuance of the license pending completion of the work. The applicant shall notify the city clerk upon completion of the work when the applicant is ready to start operating under the license, after which the city clerk shall cause such inspection of the premises as is deemed appropriate to ascertain that the premises is in conformity with all material representations made to the common council at the time of the granting of the license. Upon satisfactory completion of the work and/or other conditions within the permitted time frame, the public safety and licensing committee may direct the city clerk to issue the license.

~~(de)~~ Any material failure ~~Failure~~ to conform with all such representations made to the common council and/or the public safety and licensing committee as to the proposed licensed premises within the time set for completion of such work and/or other conditions and any extensions of such time shall render the decision to grant the license void, and shall be deemed a denial of the application by the common council and/or the public safety and licensing committee as of the expiration of the time or extended time for completion of construction. If the license is not issued to the applicant within the allotted time frame, such application shall be considered denied and the applicant may reapply for a license, if there is one available.

~~(ed)~~ In any case where there is a conditional grant of license, and the license is ordered withheld for a time period or periods to allow for construction and/or completion of other work, and the applicant subsequently fails to satisfy the conditions of the grant of the license by satisfactory completion of such conditions ~~construction~~ within the allotted time, or failure to meet other requirements herein, the entirety of the license fee shall be nonrefundable, and the license in question shall not be issued even if the applicant ultimately completes the construction.

Sec. 6-42 – 6-81. – Reserved.

Sec. 6-83. - Exterior doors in "Class B" and "Class C" licensed establishments.



No "Class B" or "Class C" licensee shall permit any primary exterior door at any entrance to or exit from such licensed premises to remain open or ajar any night between 11:00 p.m. and closing, except during the entering or exiting of persons to or from the premises.

Sec. 6-84. - Advertisements.

No person shall advertise or display for sale at retail any intoxicating liquors unless licensed to sell intoxicating liquors at retail in the manner in which the intoxicating liquors are advertised or displayed.

Sec. 6-85. - Posting of signs in "Class B" and "Class C" licensed premises.

In all premises for which a retail "Class B" or "Class C" license is issued, a sign, to be approved by the public safety and licensing committee of the common council, shall be prominently displayed apprising the patrons of the establishment of relevant ordinances regulating the conduct of the patrons and the operation of the establishment.

Sec. 6-86. – Exceeding occupancy.

No person or licensee shall permit or allow occupancy of the licensed premise in excess of the lawfully established occupancy capacity. Occupancy capacity includes all staff and persons on the premise.

Sec. 6-87. - Continuous operation of business.

(a) No retail Class "B", "Class B" or "Class C" license shall be held by any person who is not actively engaged in the business. Failure to be engaged in business in accordance with the conditions of the license shall constitute an abandonment of such license and shall be cause for its revocation. In the case of corporations licensed, this section shall apply to all officers and directors of such corporation.

(b) Failure to operate a licensed place of business for 60 days shall be cause for revocation of the license except that where the licensed place of business is operated in connection with a seasonal business, it may be closed during the closed season of such seasonal business.

(c) Any person holding any alcohol beverage retail license in violation of par. (a) or (b) shall surrender the license upon ceasing operations and return the license to the city clerk no later than 5 business days following the day on which operations permitted by the license ceased.

Sec. 6-88. – Operation of business in accordance with floor plan or plan of operation.

Each licensee shall operate his or her business in accordance with the floor plan or plan of operation, including the days and hours of operation, as submitted to the public safety and licensing committee at the time of the application. Failure to do so shall constitute grounds for suspension or revocation of the license.

Secs. 6-89—6-96. - Reserved.

Sec. 6-97. - Class "A" and "Class A" licenses quota and geographic restrictions.

- (a) *Number of licenses.* At the time of the enactment of this section, there were 40 Class "A" license holders and 26 "Class A" holders. As part of a comprehensive effort to decrease the incidence of alcohol-related problems, to protect the safety and welfare of the community from increasing rates of alcohol-related crime and violence and to reduce the strain on public resources, the common council seeks to reduce the number of "Class A" and Class "A" alcohol beverage licenses in the city in accordance with the following prospective quotas:

The total number of Class "A" licenses shall not exceed 36, and

The total number of "Class A" licenses shall not exceed 24.

- (b) *Geographic restrictions.* Notwithstanding any other provisions of this chapter, no new retail "Class A" or Class "A" intoxicating liquor license shall be issued for any establishment located within a radius of 1,000 feet from any other licensed establishment (regardless of the type of Class A alcohol license held) or within a radius of 300 feet of any active place of worship, licensed day care center, school, community center or other facility predominantly attended by individuals under the age of 21. Said distances are measured from lot line to lot line.
- (c) *Public hearing.* The common council shall hold a public hearing upon every Class "A" and "Class A" license application and/or petition in order to exceed the quota and shall notify all property owners within a radius of five-tenths of a mile of the proposed site of the date of the hearing. The notice shall be given at least five days before the hearing and may be given by mail or other publication.
- (d) *Exceeding quota or geographic concentration restrictions.* Notwithstanding the provisions of this chapter, the common council may, by a two-thirds vote of all the members present of the common council, grant a new retail Class "A" fermented malt beverage or a new retail "Class A" intoxicating liquor license in excess of the quota set forth in subsection (c) or the geographic concentration restrictions set forth in subsection (d). This license is not intended to permanently increase the quota, but rather to temporarily exceed the quota for reasons of benefiting the community as set forth in subsections (1)—(4).

It having been found by the common council in imposing the quotas or in exceeding the geographic concentration restrictions in this section that the proliferation of taverns and liquor stores can be a detriment to the city and the community by reducing property values, deteriorating the quiet enjoyment of neighborhoods and costing considerable tax dollars to police said business, it is determined that quota may be exceeded if the establishment meets the provisions set forth in this chapter and the following criteria be met:

- (1) The applicant shall submit to the city ~~clerk's office~~clerk a petition for exceeding quota. The petition shall include a business plan of operation and the relevant experience, background and signatures of the individual, partners or directors, officers and agent of a corporation or limited liability company, as well as the signature of the owner or owners of the building or land and any and all other information required in section 6-54;
- (2) The applicant shall supply proof of ownership or lease of options to purchase or lease of land or a building that is properly zoned for the proposed venture;

- (3) The applicant shall show that the proposed establishment will have a greater economic impact upon the community than simply the addition of another tavern, liquor store, convenience store or restaurant; and
- (4) The applicant shall show that the proposed establishment will benefit the community by substantially improving the tax base (i.e. the establishment will extensively rehabilitate a blighted or deteriorated building, ~~will~~ construct a new building on vacant land, ~~will or~~ benefit the community by conferring some other tangible and substantial improvement for the area).
- (e) *Exemptions.* When an establishment with a valid "class A" or class "A" license as of June 30, 2009, is thereafter sold, the subsequent buyer shall not be subject to either the quota or geographic restrictions set forth in this article when applying for a new license. New licenses may be granted in such instances, contingent upon surrender of the existing license by the seller and upon the buyer's meeting all other requirements established by the city. An establishment whose license has been ~~denied nonrenewaled or~~ revoked or has otherwise expired, does not qualify for this exemption. Any conditions previously placed on the seller's licensed premises transfer to the buyer's licensed premises in addition to any new conditions that may be imposed. This exemption only applies if there is no change to the location of the premises.

Sec. 6-98 – 6-105. – Reserved.

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

No person shall be granted a license for the sale of intoxicating liquor or be permitted to transfer such 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.

Sec. 6-107. - State liquor taxes.

No licensee shall possess, sell or offer for sale any intoxicating liquors upon which the state tax established by Wis. Stats. ch. 139 has not been paid.

Sec. 6-108. - Clubs.

No club shall sell intoxicating liquor except to members and to guests invited by members.

Sec. 6-109. - Credit.

No retail Class "A" or Class "B" licensee shall sell or offer to sell any intoxicating liquor to any person on credit except credit extended by a hotel to a resident or guests, and by grocers and druggists who maintain a credit system in connection with other purchases as well. It shall be unlawful for such licensee to sell any intoxicating liquor to any person on a passbook or store order, or to receive from any person any goods, wares, merchandise or other articles in exchange for intoxicating liquor.

Secs. 6-110—6-130. - Reserved.

ARTICLE IV. - OPERATOR'S LICENSE

Sec. 6-131. - Operator's license required.

(a) There shall be upon the premises operated under a retail class "A" or class "B" fermented malt beverage license or "class A" or "class B" intoxicating liquor license, or temporary class "B", or "class C" wine license or "class B" license at all times, the licensee or some person who shall have an operator's license under Wis. Stats. § 125.17, and who shall be responsible for the acts of all persons serving as waiters, or serving in any other manner, any fermented malt beverages or intoxicating liquor to customers. For the purpose of this section, any member of the licensee's immediate family who has attained the age of 18 shall be considered the holder of an operator's license.

(b) No person other than the licensee shall serve fermented malt beverages or intoxicating liquor in any place operated under a retail class "A" or class "B" fermented malt beverage license or "class A" or "class B" intoxicating liquor license, or "class C" wine license, unless he or she shall possess on his or her person such operator's license or otherwise be under the immediate supervision of the licensee or a person holding an operator's license or who shall at the time of such service be upon such premises. The retail class "A" or class "B" fermented malt beverage licensee or "class A" or "class B" intoxicating liquor licensee, "class C" wine licensee shall be responsible for the observance of this provision and shall be subject to the penalties provided for any violation thereof on the premises for which he holds the retail class "A" or class "B" fermented malt beverage license or "class A" or "class B" intoxicating liquor license, "class C" wine license.

Sec. 6-132. - Sales authorized; fee.

(a) *Operator's license.* An operator's license shall authorize the holder to serve or purvey those alcohol beverages for which sale is authorized at the premises where the operator is employed. The licenses shall expire on the second June 30 following issuance. The fee for an operator's license will be prorated as follows:

12—24 months ..... \$75.00

9—12 months ..... 40.00

3 months or less ..... 75.00 for the next licensing period and the three months would not be charged.

Sec. 6-133. - Qualifications for operator's license.

(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) The operator shall carry his or her operator's license on his or her person at all times during which the licensee is providing services under the operator's license.

Sec. 6-135. - Application.

- (a) Written application for an operator's license shall be filed with the city clerk upon forms provided by the city clerk. Such application shall contain the name, residence and age of the applicant. Such application shall include a signed statement and consent to a record check, and any further state such additional information as the city clerk shall require.
- (b) All applications for operator's licenses shall be forwarded to the chief of police for a background check. Such application is then forwarded to the public safety and licensing committee only if the results of the record check warrant further review. Prior to denying an application, the applicant shall be afforded an opportunity to present evidence in favor of the granting of the license and to rebut evidence against granting of the license.
- (c) Within ten days of any change in any fact set out in any application for any operator's license, the licensee shall file with the city clerk a written description of the changed fact.
- (d) Providing a false statement on any license application constitutes grounds for denial or non-renewal.
- (e) If the committee recommends denial of an operator's license application, the applicant has the right to file an appeal by submitting with the city clerk a written notice of intent to appeal within 5 days of the committee's decision. The applicant shall thereafter submit a written appeal within 20 days containing arguments in favor of the granting of the license and/or rebutting evidence in opposition of granting of the license. The matter shall be scheduled before the common council for a hearing within 30 days of the written appeal.

Sec. 6-136. – Suspension or revocation of operator's license.

Disciplinary proceedings may be initiated against the licensee pursuant to the provisions of Wis. Stat. § 125.12 and in the same manner as disciplinary proceedings under sections 6-26 and 6-27.

Secs. 6-137—6-160. - Reserved.

ARTICLE V. - NONINTOXICATING BEVERAGES ~~AND SODA WATER BEVERAGES~~<sup>(7)</sup>

Sec. 6-161. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Nonintoxicating beverages* means beverages containing less than one-half of one percent of alcohol by volume.

~~*Soda water beverages* means all beverages commonly known as soft drinks or soda water, whether carbonated, uncarbonated, sweetened or flavored, but such term does not include alcohol beverages.~~

(Code 1973, § 22.01.020)

**Cross reference**— Definitions generally, § 1-2.

**State Law reference**— Definition of nonintoxicating beverages, Wis. Stats. § 66.0433053; ~~definition of soda water beverages, Wis. Stats. § 97.34.~~

Sec. 6-162. - License required.

No person shall sell, barter, exchange, offer for sale or have in his possession with intent to sell, deal or traffic in nonintoxicating beverages ~~or soda water beverages~~ or sell nonintoxicating beverages ~~or soda water beverages~~ at wholesale or retail, or sell such beverages for consumption on or off the premises, or keep such beverages for sale at wholesale or retail.

(Code 1973, § 22.01.030(a))

**State Law reference**— Authority to require license, Wis. Stats. § 66.0433053.

Sec. 6-163. - License fees, terms.

(a) *Nonintoxicating beverage license.* A nonintoxicating beverage license shall authorize the manufacture, sale and distribution of nonintoxicating beverages. The license fee shall be \$10.00 per year or fractional part thereof, except that the license fee shall be \$5.00 for premises where nonintoxicating beverages shall be sold but not consumed on the premises. The license shall expire on June 30 of the license year.

~~(b) *Soda water beverage license.* A soda water beverage license shall authorize the sale of soda water beverages to be consumed on or off the licensed premises. The fee for a soda water beverage license is \$5.00 per year or fractional part thereof.~~

(b) *Late application fee.* If an application for renewal of a nonintoxicating beverage license ~~or a soda water beverage license~~ is filed with the city clerk later than June 20, the applicant shall pay a late fee of \$5.00 per license location.

(Code 1973, § 22.01.040(f), (g); Ord. No. 17-91, pt. 1, 5-21-91; Ord. No. 39-92, pt. 1, 1-19-93; Ord. No. 2-93, pt. 3, 2-2-93; Ord. No. 8-93, pt. 2, 4-19-93)

**State Law reference**— Nonintoxicating ~~and soda water beverage~~ licenses, Wis. Stats. § 66.0433053.

Sec. 6-164. - Compliance with sections required.

Licensees holding a nonintoxicating beverage license ~~and/or a soda water beverage license~~ shall comply with the requirements, regulations and prohibitions of sections 6-194 relating to entertainment and other practices.

(Code 1973, § 22.01.040(h); Ord. No. 17-91, pt. 1, 5-21-91; Ord. No. 39-92, pt. 1, 1-19-93; Ord. No. 2-93, pt. 3, 2-2-93; Ord. No. 8-93, pt. 2, 4-19-93)

Sec. 6-165. - Application for license.

Written application for a license under this article shall be filed with the city clerk upon forms provided by the city clerk. The city clerk shall present all applications ~~except soda water beverage license applications,~~ to the common council. Such application shall contain the name, residence and age of the applicant, if an individual, or the names of the principal officers and the holders, whether legal or equitable, of ten percent or more of the stock if the applicant is a corporation, their residences and ages, together with the state of incorporation. The application shall also contain the names of one or more persons whom such corporation shall designate as manager or person in charge, with the address of such manager or person in charge. Such application shall further state such additional information as the city clerk shall require.

(Code 1973, § 22.01.100; Ord. No. 8-93, pt. 5, 4-19-93)

Sec. 6-166. - Referral of application for license; issuance or denial; transfer of license.

- (a) Each application for a nonintoxicating beverage license, upon being received by the common council, shall be referred to the public safety and licensing committee of the common council, except as otherwise provided in this article. The public safety and licensing committee may refer the application to any officer or department of the city for investigation and recommendation. The committee shall report its recommendations to the common council. The common council, by a majority vote of the members present, may authorize or deny the license. No such license shall be issued by the city clerk until favorable action on the application therefor is had by the common council.
- (b) No nonintoxicating beverage ~~or soda water beverage~~ license shall be transferable, either as to licensee or location, except as provided by Wis. Stats. § ~~§~~ 66.0433 or 125.04(12), and except that the common council may authorize a transfer of location as provided in Wis. Stats. § 66.0433 if the licensed premises become unsuitable for occupancy, except as otherwise provided by law.
- ~~(c) The soft drink beverage license, which is necessary for each premises from which soft drink beverages are distributed or at which they are kept, sold or offered for sale, shall be issued by the city clerk.~~
- ~~(c)~~ In the case of nonintoxicating beverage licenses, the original application for such license shall be granted under the procedure outlined in subsection (a) of this section, but such licenses shall thereafter be renewable by the city clerk without action by the common council.

(Code 1973, § 22.01.110; Ord. No. 9-92, pt. 3, 3-17-92; Ord. No. 8-93, pt. 6, 4-19-93; Ord. No. 15-05, pt. 4, 7-19-05; Ord. No. 33-06, pt. 1, 9-5-06)

Sec. 6-167. - Posting of license.

Every person licensed in accordance with the provisions of this ~~article~~ chapter shall immediately post such license and keep the license posted while in effect in a conspicuous place in the room or place where such beverages are drawn or removed for service or sale. It shall be unlawful for any person to post such license or to permit any person to post such license upon



premises other than those mentioned in the application, or to knowingly deface or destroy such license.

(Code 1973, § 22.01.070; Ord. No. 8-93, pt. 4, 4-19-93)

**State Law reference**— Display of license, Wis. Stats. § 125.04(10)(b).

Sec. 6-168. - Nonrenewal, suspension, revocation of license.

- (a) A nonintoxicating beverage license ~~and a soda water beverage license~~ issued under this article may not be renewed or may be suspended or revoked by the common council at any time after giving notice to the licensee of an opportunity to be heard, upon a finding that the licensed person keeps or maintains a disorderly, riotous, indecent or improper house or that the person has violated the provisions of this article relating to such licenses.
- (b) Notice of the nonrenewal, suspension or revocation hearing under this section and the reasons therefor shall be served in writing on behalf of the common council upon the licensee by mailing such notice to the address given in the application or by delivering a copy of such notice to any person named as the applicant therein.
- (c) When any license issued under this article is suspended or revoked, no refund of any unearned portion of the fee paid shall be made. 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 may be granted within 12 months of the date of revocation to the person whose license was revoked.

(Code 1973, § 22.01.130(b); Ord. No. 8-93, pt. 7, 4-19-93)

Secs. 6-169—6-190. - Reserved.

## ARTICLE VI. - CONDUCT

Sec. 6-191. - Licensee defined.

The term "licensee" as used in this article shall mean the holder of a retail Class "A", "Class A", "Class B", "Class B", ~~intoxicating liquor license, a retail "Class C", wine license or, a retail Class "B" fermented malt beverage license, license,~~ or a nonintoxicating beverages license ~~or a soda water beverage license~~ granted under the provisions of this chapter.

(Code 1973, § 24.17.020; Ord. No. 8-93, pt. 11, 4-19-93; Ord. No. 7-00, pt. 12, 5-17-00)

Sec. 6-192. - Scope.

In addition to any other conditions, regulations or ordinances of the city applicable to the operation and maintenance of the licensed premises or its owners or operators, all retail Class "A", "Class A", Class "B", "Class B", ~~or intoxicating liquor licenses, all retail~~ "Class C" wine licenses ~~retailers, all retail Class "B" fermented malt beverage licenses,~~ and all nonintoxicating beverage

~~licenses and all soda water beverage~~ licenses granted under the provisions of this chapter shall be subject to compliance with the rules, regulations and conditions set forth in this article.

(Code 1973, § 24.17.010; Ord. No. 8-93, pt. 10, 4-19-93; Ord. No. 7-00, pt. 13, 5-17-00)

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 or other authorized representatives of the city at all reasonable hours for the purpose of inspection and search. 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 or indirectly 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.

~~Sec. 6-193. - Revocation of license and other penalties.~~

- ~~(a) Whenever a licensee as defined in section 6-191 is found to have violated any provision of this article, or any regulation adopted pursuant thereto, or any amendment or addition to this article or such regulation, such license shall be subject to revocation as provided in this chapter for such license.~~
- ~~(b) In addition to the revocation of license provided in subsection (a) of this section, any licensee as defined in section 6-191 who shall violate any of the provisions of this article and amendments or additions thereto shall, upon adjudication to that effect, forfeit the sum as provided in section 1-15.~~

~~(Code 1973, §§ 24.17.040, 24.17.050; Ord. No. 8-93, pts. 12, 13, 4-19-93)~~

Sec. 6-194. - Entertainment related conduct of licensee, employees.

- (a) No licensee, as defined in section 6-191, either personally or through his agent or employee, shall furnish entertainment by, or permit the performance of, any act, stunt or dance by dancers, performers or entertainers, whether such dancers, performers or entertainers are paid or not, unless such dancers, performers or entertainers shall meet the following wearing apparel standards when performing:
  - (1) That portion of every costume to be worn by female dancers, performers or entertainers by the provisions of this subsection, which relates to the breast or chest area and/or to the area of the sex organs and buttocks shall be of nontransparent material.
  - (2) As a minimum, the top portion of the costume worn by a female dancer, performer or entertainer, or a female impersonator, shall encircle the body at the breast or chest area. Across the breast or chest area, such portion of the costume shall consist of a band of material at least two inches in width, and shall be so conformed, fabricated and affixed to

the body so as to keep the areola of the breast (or its counterpart of a female impersonator) completely covered at all times.

- (3) As a minimum, the lower portion of the costume worn by a female dancer, performer or entertainer, or a female impersonator, shall encircle the body at the area of the sex organs and the buttocks. This portion of the costume shall be of such dimensions and so conformed, fabricated and affixed to the body so as to completely cover the sex organs and the mons pubis (or its counterpart of a female impersonator) and the cleavage of the buttocks at all times. Under no circumstances shall any animal fur piece or other device simulating the hair surrounding the mons pubis area that is worn in the area of the genitals and/or mons pubis constitute compliance with the costume requirements of this section.
  - (4) As a minimum, the lower portion of the costume worn by a male dancer, performer or entertainer shall encircle the area of the sex organs and the buttocks. This portion of the costume shall be of such dimensions and so conformed, fabricated and affixed to the body so as to completely cover the sex organ and the cleavage of the buttocks at all times.
- (b) No licensee, either personally or through his agent or employee, shall permit any person upon the licensed premises to perform acts of or acts which simulate:
- (1) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;
  - (2) The touching, caressing or fondling of the breast, buttocks, anus or genitals; or
  - (3) The displaying of the pubic hair, anus, vulva or genitals.
- (c) No licensee, either personally or through his agent or employee, shall show or permit the showing of films, still pictures, electronic reproductions, or other visual reproductions depicting:
- (1) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
  - (2) Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals;
  - (3) Scenes wherein a person displays the pubic hair, anus, vulva or genitals; or
  - (4) Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described in this subsection.
- (d) No licensee, either personally or through his agent or employee, shall furnish entertainment by, or permit the performance of, any act, stunt or dance unless such act, stunt or dance shall be performed on a stage area designated for such purpose. The use of the surface of the bar proper as a stage area is prohibited. When the stage area is located behind the bar, the nearest point of any such stage area shall be not less than six feet from the outer limits of patrons' side of the bar. When the stage area is located outside of the bar (that is, on the patrons' side of the bar), such area shall be raised from the floor level and shall be separated by a railing or other device so as to provide a distance of at least six feet between the patrons and the performers, so as to deter patrons from participating in any act, stunt or dance.
- (e) No licensee, either personally or through his agent or employee, shall permit any patron to participate in any act, stunt or dance with performers who are under the auspices of the management.

- (f) No licensee, either personally or through his agent or employee, shall permit the solicitation by any entertainer or employee of a drink of intoxicating liquor, fermented malt beverage or other drink from any customer or patron or other person on the premises; and no entertainer or employee shall solicit any such drink from any customer, patron or other person on such premises.
- (g) No licensee, either personally or through his agent or employee, shall permit any entertainer, waiter, waitress or other employee to sit at any table or in any booth or elsewhere on the licensed premises with any customer or patron; provided, however, that this subsection shall not apply to a member of the immediate family of the licensee or to any person claiming under him who lives in the same household as the licensee and has attained the legal drinking age.

(Code 1973, § 24.17.030)

Sec. 6-195. – Conduct of employees.

- (a) Responsibility for actions of employee. A violation of this chapter by a duly authorized agent or employee of a licensee or permittee under this chapter shall constitute a violation by the licensee. Whenever any licensee under this chapter violates any portion of this chapter, proceedings for the suspension or revocation of the license of the holder thereof may be instituted in the manner prescribed in this chapter.
- (b) ———It shall be unlawful for the licensee, his agent or employee to be under the influence of an intoxicant, a controlled substance or any combination thereof while performing services on the licensed premises. Under the influence means that the person has consumed a sufficient amount of alcohol, controlled substance or any combination thereof, to cause the person to be less than able to exercise clear judgment and reasonable care in the exercise of services performed.
- (c) It is the affirmative duty of a licensee, his agent and employees to answer fully and truthfully all questions of an identified police officer who inquires or investigates incidents concerning persons or events in or around the licensed business; to cooperate with the police in any such inquiry or investigation, including the giving of oral or written statements to the police at reasonable times and locations in the course of investigations.

Sec. 6-196. – Unruly patron.

It is unlawful for any person who has engaged in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances that tend to cause or provoke a disturbance and who has been ordered by a City of Racine police officer not to enter or remain on a licensed premises, to so enter or remain during any period after having been ordered not to do so by any officer. It is not necessary for the police officer to have cited the person for disorderly conduct prior to issuing such an order. Such order prohibiting entry may be for up to 6 months. Upon conviction, the person is subject to a forfeiture of not less than \$50.00 nor more than \$500.00.

Sec. 6-197. – Disorderly premises and nuisances prohibited.

- (a) Disorderly premises prohibited. It shall be unlawful for any licensee to cause or permit, on any licensed premises, violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances that tend to cause or provoke a disturbance.
- (b) Nuisance prohibited. It shall be unlawful to operate a licensed premises in such a manner as to constitute a public or private nuisance, including but not limited to areas in which there is constant loitering, excessive noise, threats, fighting, weapons use or display, illegal drug use or sale, public urination or otherwise illegal activity or disorderly conduct. A licensee may be cited under this section even if the premises do not meet the definitions of a chronic nuisance premises under section 66-1001 of this code.

Sec. 6-198. - Off-licensed premises conduct of patrons and persons as a basis for disciplinary actions.

- (a) *Purpose.* The purpose of this section is to protect the peace, tranquility and property values of the neighborhood in which a Class "A", Class "A," Class "B," "Class B", or "Class C" (if available) premises licensed under this ordinance is located.
- (b) *Responsibility of licensee.* Over and above the other provisions of this chapter and Wis. Stats. ch. 125, every "Class A", Class "A," Class "B," Class "B", or "Class C" (if available) licensee licensed under this chapter shall, during hours of operation of the licensed premises, be responsible for the conduct of patrons and persons who are not on the licensed premises, but are present on the following described off-licensed premises' property:
  - (1) Parking lot owner or operated by licensee which serves the licensed premises;
  - (2) The lot upon which the building being the subject of the license or parking lot serving the licensed premises is situated;

Examples of conduct which could form the basis for an order hereunder include, but are not limited to:

- (13) Loitering where accompanied by loud noise, threats, fighting, open intoxicants, consumption of intoxicants, weapons use or display, illegal drug use or sale, urination, or otherwise disturbing, disorderly, or illegal conduct;
- (24) Loitering of persons under the influence of alcohol beverage or drugs.

The licensee shall be responsible to monitor off-licensed premises property for compliance with this section. The licensee shall have a duty to direct patrons or persons engaged in loitering to immediately leave property. The licensee is not to use physical force to remove any such person or patron. Should notified persons and patrons fail to comply, licensee shall have an obligation to call the city police department for assistance. The licensee may elect to first call the police department if the licensee has concern for their safety.

*Licensee* shall mean and include any person having control of the operation of the licensed premises.

- (c) *Complaints.* Complaints may be made by the mayor, common council, committee, state, an alderperson, police chief, city attorney, and any resident of the city.

Complaints shall be made in writing and filed with the city clerk. The city clerk shall direct the complaint to the chair of the public safety and licensing committee. With respect to complaints of illegal drug use or sale, the city clerk shall not direct the complaint to the committee until first consulting with the police department and receiving a determination that the review of the complaint by the committee will not interfere with a law enforcement investigation. The chair shall review the complaint and any other documentation available to the chair, including, but not limited to, police reports and statements of the complainant, licensee, or others, to determine whether the complaint has sufficient merit to be placed on the committee agenda.

- (d) *Committee action on complaint.* The committee shall order the licensee to appear before it to discuss the complaint and potential remedies. After hearing from the complainant, licensee and all interested parties, and reviewing all applicable reports, statements and documentation, the committee shall have four options:
- (1) *No action taken.* No action shall be taken on the complaint if it is unfounded, without merit, or if the alleged conduct is outside of the effective control of the licensee.
  - (2) *Oral recommendations.* Oral recommendations may be given from the committee to the licensee on how the licensee could address the issues raised in the complaint.
  - (3) *Written recommendations.* If the committee finds that the complaint has merit and that a reasonable remedy exists, the committee may cause a written recommendation be sent to licensee through the U.S. mail, first class, postage prepaid. The written recommendation shall include the committee's finding on the complaint, the remedies, the timetable and/or deadlines for compliance, and an order to appear back before the committee on a specific date or dates to determine compliance with directives. The only portion of the written recommendation which would subject the licensee to discipline for noncompliance is that portion ordering the licensee to appear before the committee.
  - (4) *Orders.* If the committee finds the complaint has merit, and that a reasonable remedy exists, and that written recommendations are inappropriate or ineffective, the committee may recommend to the common council that formal orders be issued by the common council. Unless otherwise stated, orders are permanent, unless rescinded, as long as the licensee maintains the same type of license at the location being the subject of the complaint. Orders may include, but are not limited to, the following remedial actions.
    - a. Reduction in hours of operation of licensed premises;
    - b. Prohibition of the sale of carryout alcohol beverages;
    - c. Establishment of specified security measures;
    - d. Prohibition of loitering.
- (e) *Common council action on complaint.* Upon recommendation by the committee for written orders as provided herein, the common council shall order the licensee to appear before the common council. After meaningful opportunity for the licensee to be heard, the common council shall issue the order that it deems appropriate. Orders from the common council will be sent to the licensee at the address of the licensed premises by first class mail, postage prepaid.

- (f) *Committee review.* After orders issued by the common council, the committee shall conduct such reviews as it deems necessary and sufficient in order to monitor compliance by licensee with the orders. If at any review it appears to the committee that the licensee is materially noncompliant, it may require the city attorney to commence formal disciplinary proceedings for violation of the orders.
- (g) *Violations.* Violations of a final order of the common council, regardless of subsequent remedial measures, shall constitute grounds for disciplinary action, including a ten-day suspension per violation of noncompliance.

(Ord. No. 41-06, pt. 1, 11-21-06)