

Chapter 5.20 ALCOHOL BEVERAGES*

Sections:

For the statutory provisions regarding municipal licenses for the sale of nonintoxicating beverages, see WSA § 66.053; for the provisions regarding licenses for the manufacture of fermented malt beverages, see WSA § 66.054; for the provisions regarding wholesale and retail sales licenses, see WSA § 66.054(5)—(13).

5.20.010 Statutes adopted.

The provisions of Chapter 125 of the Wisconsin Statutes and also all acts amendatory thereof and supplementary thereto relating to alcohol beverages are adopted as a portion of this chapter so far as applicable, except as otherwise lawfully provided by city ordinance.

(Ord. 1396 § 1, 1998; Ord. 1035 § 2(part), 1984).

5.20.011 Class "B" license sale in original package or container election.

The City of Whitewater elects to be governed under Wisconsin State Statute 125.51(3)(b) as opposed to State Statute 125.51(3)(a).

(Ord. 1127 § 1, 1988).

5.20.012 "Class C" licenses authorized.

The City of Whitewater is hereby authorized to issue "Class C" wine licenses, which shall authorize the retail sale of wine by the glass or in an open 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 fifty percent (50%) 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 fifty percent (50%) of gross receipts and which has a barroom in which wine is the only intoxicating liquor sold. "Class C" license holders shall abide by the terms of Wis. Stats 125.51 (3m) and any amendments thereto. In this section a barroom means a room that is primarily used for the sale or consumption of alcohol beverages.

(Ord. No. 1699A, § 1, 10-21-2008)

5.20.015 Temporary "Class B" (picnic) beer and wine licenses.

Pursuant to Wisconsin Statutes Section 125.26(6) and Section 125.51(10), the city manager, or his designee, is authorized to issue temporary "Class B" fermented malt beverage and wine licenses.

(Ord. 1670 § 1, 2007).

5.20.020 License—Application—Investigation—Inspection.

- (a) The city clerk shall notify the neighborhood services director, the chief of police and the fire department of any application for an alcohol license for an establishment.

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- (b) The chief of police, or his or her designee, shall investigate the applicant's arrest and conviction record and furnish the information to the city council in writing.
 - (c) The neighborhood services director or his or her designee shall inspect the premises to determine whether the premises sought to be licensed complies with the State Building Code, the State Plumbing Code, City of Whitewater Zoning Ordinances, and other applicable city ordinances, and shall furnish the information to the city council in writing.
 - (d) The applicant shall supply the city clerk with proof that the premises to be licensed has passed a City of Whitewater Fire Department fire inspection within six months of the date the license will be issued.
 - (e) The applicant shall supply the city clerk with the following:
 - (1) Proof, supplied by the Wisconsin Department of Health Services, that the establishment has a current valid restaurant or food service license issued by the Wisconsin Department of Health Services, or
 - (2) Proof, supplied by the Wisconsin Department of Health Services, that the establishment complies with the sanitation regulations of the State of Wisconsin Department of Health Services related to service of alcohol beverages for the type of license requested.
 - (f) In determining the suitability of the applicant, consideration shall be given to the moral character and the financial responsibility of the applicant, appropriateness of the location and premises where such licensed business is to be conducted, and generally the applicant's fitness for the trust to be reposed.
 - (g) No retail Class "B" or "Class B" 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, and the rules and regulations of the State Board of Health applicable to restaurants, and also conform to all ordinances and regulations adopted by the city.
 - (h) Each premises for which a Class "B" or "Class B" license is granted must be connected with the city water and sewerage facilities, must be properly lighted and ventilated and supplied with separate sanitary toilet and lavatory facilities, equipped with running water, for each sex.

(Ord. 1035 §2(part), 1984).

(Ord. No. 1815A, § 1, 5-3-2011)

5.20.025 Alcohol license review committee.

The city council may establish an alcohol license review committee (hereinafter "committee").

- (a) The committee shall be comprised of three councilmembers.
- (b) The committee shall conduct hearings concerning the revocation, suspension, refusal to issue or renew alcohol licenses or permits which are granted under Chapter 125 of the Wisconsin Statutes.
- (c) After the hearing the committee shall submit a report to the city council including findings of fact, conclusions of law and a recommendation as to what action, if any, the city council should take with respect to the license.
- (d) The committee's findings of fact, conclusions of law and recommendation shall be presented to the council and the council pursuant to Chapter 125 of the Wisconsin Statutes shall determine what action if any the city council should take with respect to the license.

(Ord. 1311 § 1, 1995)

5.20.030 Licensee—Conditions.

- (a) All retail Class "A" and "B" licenses granted under this chapter shall be granted subject to the following conditions, and all other conditions of this chapter are subject to all other ordinances and regulations of the city applicable thereto:
- (1) Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the city at all reasonable hours for the purpose of inspection and search, and consents to the removal from the premises of all things and articles there had in violation of city ordinances or state laws, consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
 - (2) It is a condition of any license issued under this chapter that the licensed premises may be entered and inspected at any reasonable hour by any police officer of the city without any warrant, and application for a license under this chapter shall be deemed a consent to this provision. Any refusal to permit such inspection shall automatically operate as a revocation of any license issued under this chapter and shall be deemed a violation of this section.
 - (3) Any licensed premises shall provide by clear glass window a clear view into the entire licensed premises. There shall be no partitions, boxes, stalls, screens, curtains or any other devices which shall obstruct the view of the room from the general observation of persons; provided, however, that partitions, subdivisions or panels not higher than forty-eight inches from the floor shall not be construed as in conflict with the foregoing. But, such partitions, boxes, stalls, screens, curtains or other devices shall not be so constructed as to interfere with the clear view of the entire premises.
 - (4) No retail Class "A" or "B" licensee shall sell or offer for sale any alcohol beverage to any person on credit excepting credit extended by a hotel to a resident guest or a club to a bona fide member, and by grocers and druggists who maintain a credit system in connection with their other business. It is unlawful for any licensee to sell intoxicating liquors or wines 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.
 - (5) No licensee shall sell, offer for sale or give away any alcohol beverage to any underage person.
 - (6) Each licensed premises shall at all times be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.
 - (7) No gambling or games of chance of any sort shall be permitted in any form upon the licensed premises. Slot machines or any devices of chance are prohibited and shall not be kept upon the premises.
 - (8) No alcohol beverage shall be given away free by the licensee or any employee of the licensee or member of his family at any time.
 - (9) No alterations, changes, or additions shall be made to such designated licensed premises without first securing a permit for such alterations, changes or additions from the inspector of buildings.
 - (10) Wearing Apparel.
 - (A) All persons involved in the operation of any licensed premises under this section, whether as a licensee, member of the immediate family of licensee, licensed operator, unlicensed operator under supervision of the licensee or licensed operator, officer or agent of the licensed corporation, waiter, waitress, entertainer, dancer, or any other employee, shall observe the following applicable minimum standards for such licensed premises:

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- (i) The costume, uniform, or attire of any female shall completely cover the breasts, the mons veneris genitals, and the buttocks at all times. Those areas to be covered shall be covered with a nontransparent material.
 - (ii) The costume, uniform, or attire of any male shall completely cover the mons pubis genitals and buttocks at all times. Those areas to be covered shall be covered with a nontransparent material.
- (B) It shall be the responsibility of the licensee to maintain such minimum standards on the licensed premises. Any violation taking place upon a licensed premises shall be deemed to be a violation of both the violator and the licensee.

(Ord. 1177 §1, 1990; Ord. 1135 §3, 1988; Ord. 1035 §2(part), 1984).

5.20.027 Licensing standards for considering new alcohol license applications.

- A. Alcohol License Review Committee Review. All new (as opposed to renewal) applications for open "Class A" sale of intoxicating liquor to consumers in original packages for off premises consumption licenses, and open "Class B" sale of intoxicating liquor to consumers by the glass for on premises consumption licenses, shall be reviewed by the alcohol license review committee (at times hereafter referred to as the ALRC) before the application is acted upon by the common council. The ALRC shall recommend that the council grant, deny, or grant with conditions each license. The common council shall consider the recommendation of the ALRC when considering license applications. The term "open" in this subsection shall mean an application for a license that has not been issued for at least twenty-four hours, and therefore is an open and available license. This section is not intended to apply when a license holder surrenders a license pursuant to a contract to transfer the business associated with the license, and the same license is issued immediately to the purchasing party.
- B. Staff input. The ALRC and the common council shall consider the below listed factors in reviewing and judging the adequacy of applications. Appropriate city staff shall review the application in the context of these factors and report to the committee. The city staff may include the city manager, the police department, the fire department, the community development authority, the city clerk's office, the city attorney's office, the neighborhood services director's office, the department of public works office, and any other staff as deemed necessary or desirable. It shall not be required that all of the foregoing participate in any particular recommendation, rather it is the intent that the make-up of the staff involved be flexible to meet the needs of each particular situation.
- C. Factors to be considered. The ALRC in making its recommendation, and the council in making its decision, shall consider the following factors:
 - 1. Factors to be considered for reviewing new license applications:
 - a. Economic development considerations. The council finds that while all of the factors listed below are important considerations in licensing issuance decisions, economic development consideration should be a primary factor in the decision. In considering the economic development impact of an application, the ALRC and the council will favor license applications that support important additional desirable development, such as businesses that provide high quality employment opportunities, businesses that provide attractive entertainment opportunities, or establishments that feature high quality restaurants.

The council also finds that establishments whose primary purpose is to serve alcohol, and that do not support other important additional developments should be given low priority in the application process because the city has an excess supply of similar establishments and those establishments do not foster economic

development. Also, such businesses' tend to cause more police enforcement related problems, and often detract from the immediate neighborhood and at times diminish the quality of life in the City of Whitewater.

The council also finds that it is appropriate and in the public's best interest to at times hold in reserve one or more licenses that are limited by quota so that there will be a license or licenses available if a highly desirable development that needs a license seeks to locate in the City of Whitewater.

- b. Character of applicant, agent, managerial personnel, and owners.
 - c. Experience of applicant and manager in operating a licensed establishment.
 - d. History of applicant and manager in operation of licensed establishments.
 - e. History of premises.
 - f. Design, type, and size of the proposed establishment.
 - g. Proximity to other licensed establishments.
 - h. Proximity to residential buildings or areas.
 - i. Ability of police department to ensure public safety at this location.
 - j. Condition of building/premises.
 - k. Compatibility of proposed use with the surrounding neighborhood.
 - l. Zoning and land use considerations.
 - m. Likely impact on property values.
 - n. Any other relevant considerations.
- D. Ranking applications. When deciding between applications, those applications which best meet the listed factors shall be judged as superior to other applications. If there are multiple applications pending for licenses, whether the licenses are available or not, the timing of the filing of the application shall not create any preference. If more than one license application is pending for any particular license, the alcohol licensing committee shall recommend which application, if any, in order of priority, should be granted.

(Ord. No. 1726A, § 1, 4-21-2009; Ord. No. 1762A, § 1, 4-20-2010)

5.20.031 Non-alcohol events—Underaged persons.

The presence of underage persons on a licensed premises as provided under Section 125.07(3)(a)10, Wis. Stats., shall be subject to the following:

- (1) The licensee or agent of a corporate licensee shall notify the police department at least seventy-two hours in advance of any date on which underage persons will be present on the licensed premises. Each such non-alcohol event notice shall specify the date(s) on which the event is to occur and the time(s) of commencement. All notices shall be filed with the police department during normal working hours (8:00 a.m. to 5:00 p.m., Monday through Friday) and shall be given on forms prescribed by the department. After a non-alcohol event notice has been given, the licensee may cancel an event(s) only by giving like notice to the department in accordance with the provisions of this subsection. Regardless of date given, all notices shall expire and be deemed cancelled no later than the date of expiration or revocation of the applicable retail Class "B" license.
- (2) During the period of any non-alcohol event, a notice card prescribed by the police department shall be posted at all public entrances to the licensed premises notifying the general public that no alcohol

beverages may be consumed, sold or given away on or carried into the licensed premises during the event. Such notice cards shall be made available by the department to a requesting licensee at no cost.

- (3) Once a non-alcohol event has commenced, no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises until the next day following the closing hours as specified in Section 5.20.090, Hours.
- (4) During the period of any nonalcohol event, all alcohol, all beverages not stored in a locked portion of the licensed premises, shall be stored in a secure place out of sight and physical reach of any patron present, and shall be under the direct and immediate control and supervision of the licensee or a licensed bartender in the employ of the licensee. All beer taps and automatic dispensers of alcohol beverages ("speed guns") shall be either disconnected, disabled or made inoperable.
- (5) No underage person under the age of eighteen shall be allowed on the premises at any time unless accompanied by a parent or legal guardian.
- (6) A licensed premises may only schedule one nonalcohol event per week. Said event may not last more than twenty-four hours.

(Ord. 1275 §1, 1994; Ord. 1274 §1, 1994; Ord. 1088 §1, 1986).

5.20.032 Cancellation.

- A. Findings of fact and purpose. The common council finds that the nonuse of alcohol licenses that are available in limited numbers is generally contrary to the public's best interest. This is because alcohol licenses, if used responsibly, can attract and retain businesses such as restaurants and hotels, and thereby create jobs and provide non-alcohol-related entertainment and service opportunities for the general public. Furthermore, the nonuse of alcohol licenses, limited by quotas, is unfair to persons or businesses that seek to earn income through the use of a license, but are unable to receive a license because of the limited number available to be issued by the city.
- B. Cancellation for nonuse. Any "Class A" or "Class B" license granted under this chapter may be cancelled by the common council 1) if it is not used within sixty days after its initial issuance (this sixty-day nonuse provision applies only to initial license issuance and does not apply to license renewals); 2) if its usage is discontinued for a period of ninety consecutive days or more; 3) if the holder does not use the license for at least fifty days during the one-year period of the license term; 4) if the licensee does not open and use its license on the minimum days and hours it submits under subsection C three or more times during a license term.

For the purpose of this section, a day within the yearly license term shall be defined as a day during which the license grantee or holder is open for business and therein uses the license for a minimum period of six hours. Said hours shall be consecutive on the particular day. In order to be considered open, a "Class B" licensed premises must have a licensed bartender on duty and available and present on the premises to dispense alcohol. If there are two licensed premises in any one building, each premises must have a separate bartender available, present, and on duty during the time the premises is required to be open.

- C. Reporting requirements: Each "Class A" or "Class B" licensed premises shall complete a form as part of the initial and annual renewal application process that lists the specific days of the week and specific hours it represents will be open which satisfies the minimum opening and use requirements set forth above. If any licensee changes its minimum required days or hours of operation stated in the application, the licensee shall immediately report the change in writing to the municipal clerk. Licensees are not required to disclose all hours it or they expect to be open, rather only those mandatory minimum hours it will be open.

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- D. Exceptions: In the event the grantee or holder of a "Class A" or "Class B" license issued under this chapter demonstrates to the satisfaction of the city council that, due to undue hardship or unusual circumstances beyond the grantee's or holder's control, the grantee or holder could not meet the minimum use requirements set forth herein within the yearly term of the license, the license grantee or holder may request that the city council grant an exception to the requirements found in subsections B and C above. Exceptions which the city council may consider in not imposing the requirements of subsections B and C are the following:
- (1) Damage to the licensed premises rendering it temporarily unfit for safe operation under the license;
 - (2) Closing for reasonable periods of time to alter, repair, remodel or redecorate the premises;
 - (3) Certain factors of death, illness or contractual impossibility;
 - (4) Any other unusual circumstances not under the control of the license grantee or holder.
- E. Investigations and inspections to determine compliance with this section may be conducted by the City of Whitewater Police Department, or any city employee or official directed by the city manager to conduct an investigation or inspection to determine compliance. If a licensee is found to be in violation of the terms of this section, future inspections shall subject the licensee to the imposition of reinspection fees under Chapter 1.29. Violations of this section shall also subject a licensee to the imposition of the penalties set forth in Section 5.20.160.
- F. Prior to cancellation: Prior to the cancellation of any license, the city shall notify the licensee in writing of the city's intention to cancel the license for nonuse and provide the licensee with an opportunity for a due process hearing. Such hearing shall be conducted by the alcohol license review committee generally under the procedures set forth in Whitewater Municipal Code 5.20.025.

(Ord. 1106 §1, 1987).

(Ord. No. 1720A, § 1, 3-3-2009)

5.20.040 License—Issuance restrictions.

- A. Delinquent Taxes, Assessments, Etc.
- (1) Premises. No initial or renewal alcohol beverage license shall be granted for any premises for which taxes, assessments or other claims of the city are delinquent and unpaid.
 - (2) Persons. No initial or renewal alcohol license shall be granted to any person:
 - (a) Delinquent in payment of any taxes, assessments or other claims owed to the city;
 - (b) Delinquent in payment of a forfeiture resulting from a violation of any ordinance of the city;
 - (c) Delinquent in payment to the state of any state taxes owed.

It is unlawful for any person to whom a license has been granted to permit any person to leave the licensed premises with an open container containing any alcohol beverage.

(Ord. 1035 §2(part), 1984).

5.20.045 Maximum number of licenses.

- A. The common council finds that limiting the number of alcohol licenses in one building is in the public's best interest because it will assure that there will not be an unnecessary use of two alcohol licenses for a building when one alcohol license could serve the building.
- B. The total maximum number of "Class A" and "Class B" licenses issued to premises in any single building shall be limited to two. Also, no building shall be allowed to have more than one "Class A" or more than one "Class B" license. Therefore, when a "Class A" or "Class B" license is issued to a building, no other license of the same class shall be issued to a premises in the same building. If the council finds that it is in the public's best interests, the council may grant exceptions to these limitations. For the purpose of this section, a combination license issued to a premises shall be considered one license.

(Ord. No. 1721A, § 1, 3-3-2009)

5.20.050 License—Quotas.

The number of the following described licenses to be issued by the city shall be limited to the quota established in this section:

- (1) Combined "Class A" intoxicating liquor, twelve;
- (2) "Class B" intoxicating liquor, twenty-four.

(Ord. 1183 §1, 1990; Ord. 1161 §1, 1989; Ord. 1035 §2(part), 1984).

(Ord. No. 1844A, § 1, 8-21-2012; Ord. No. 1864A, § 1, 10-15-2013; Ord. No. 2030A, § 1, 11-2-2021; Ord. No. 2050, § 1, 11-15-2022)

5.20.055 Reserve "Class B" liquor license fees.

- (a) Purpose. This section is enacted pursuant to Wisconsin Statutes Section 125.51(3)(e)2. (1997) which requires municipalities to establish a fee of at least \$10,000.00 for the initial issuance of reserve "Class B" licenses for the retail sale of alcohol beverages.
- (b) Establishment of Fee. Pursuant to Section 125.51 of the Wisconsin Statutes (1997), there is hereby established a \$10,000.00 fee for the initial issuance of a reserve "Class B" license as defined in Wisconsin Statutes Section 125.51(4)(a)4. (1997). This \$10,000.00 fee shall not apply to a reserve "Class B" license issued to any bona fide club or lodge situated or incorporated in this state for at least six years, or to any full-service restaurant that has a seating capacity of three hundred or more persons, or to any hotel that has one hundred or more rooms of sleeping accommodations and that has either an attached restaurant with a seating capacity of one hundred fifty or more persons or a banquet room in which banquets attended by four hundred or more persons may be held. The fee for these exempted "Class B" licenses shall be the same as the annual fee for regular "Class B" licenses as established by Section 5.20.060.

(Ord. 1447 §1, 2000).

5.20.056 Grants for certain reserve "Class B" liquor licenses.

- (a) Definition. Reserve "Class B" license shall have the meaning defined in Section 125.51(4)(a)4, Wisconsin Statutes.

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- (b) Findings and Purpose. The common council finds that businesses such as restaurants, hotels, and taverns make important contributions to the city's economy. These establishments serve important public purposes, including increasing the city's property tax base, providing employment and promoting tourism. Excess license fees deter new business and are contrary to the above-stated public purposes. Wisconsin Statutes 125.51(3)(e)2 imposes upon municipalities the duty to establish a minimum issuance fee of \$10,000.00 for each reserve "Class B" liquor license issued. Since the new issuance fee far exceeds the actual cost of licensing the activity, additional revenue will be available to the city. It is the purpose of this section to utilize revenue generated by Wisconsin Statutes 125.51(3)(e)2 to assist new reserve "Class B" licensees achieve the important public purposes identified herein.
- (c) Grants. Following the issuance of an original reserve "Class B" liquor license, and upon application, the community development authority may provide a grant to the licensee in an amount not to exceed the amount actually paid by the licensee to the City of Whitewater for issuance of the new reserve "Class B" liquor license, less that amount attributable to the reserve "Class B" liquor license. Prior to awarding any grant hereunder, the community development authority shall make such findings and establish such conditions to ensure that any funds awarded hereunder further the important public purposes identified herein.

(Ord. 1620A §1, 2007).

5.20.060 License fees.

Intoxicating beverage licenses and permits shall be as follows for fiscal year ending June 30 of each year:

(1)	Class "A" Licenses—Fermented malt beverage	\$100.00
	Intoxicating liquor	250.00
(2)	Class "B" Licenses—Fermented malt beverage	100.00
	Intoxicating liquor	500.00
(3)	Class "B" Picnic—Fermented malt beverage	10.00 per event
(4)	Wholesale beer	25.00
(5)	"Class C"—wine license	100.00

(Ord. 1035 §2(part), 1984).

(Ord. No. 1699A, § 2, 10-21-2008)

5.20.070 Prorated licenses.

Licenses may be granted which shall expire on the thirtieth day of June, upon payment of such proportion of the annual license fee as the number of months or fraction of a month remaining until June 30 bears to twelve.

(Ord. 1035 §2(part), 1984).

5.20.080 License refunds upon transfers.

Refunds shall be made of license fees only if business ownership changes in month of July.

(Ord. 1035 §2(part), 1984).

5.20.090 Hours.

Every person licensed in accordance with this chapter and his employees, agents or representatives shall observe the following regulations:

Closing Hours. No premises for which a wholesale or retail liquor license has been issued shall be permitted to remain open:

- (1) If a wholesale license, between 5:00 p.m. and 8:00 a.m., excepting on Saturday, when the closing hours shall be 9:00 p.m.;
- (2) If a retail Class "A" license, between 9:00 p.m. and 6:00 a.m., except that a retail Class "A" licensed premises may remain open at any and all other times, provided there is no sale of alcohol beverages between the hours of 9:00 p.m. and 6:00 a.m.;
- (3) If a retail Class "B" license, closing hours shall be in conformity with state statute 125.32(3)(a) through 125.32(3)(c), and state statute 125.68(4)(a) through 125.68(4)(c)4, and all acts amendatory thereof and supplementary thereto so far as applicable to closing hours;
- (4) Hotels and restaurants whose principal business is the furnishing of food or lodging to patrons shall be permitted to remain open for the conduct of the regular business, but shall not be permitted to sell intoxicating liquors during the hours mentioned in subsection (3) of this section;
- (5) No seller shall permit nor shall any person carry out or remove from the Class "B" licensed premises, any alcohol beverage in an original unopened package, container or bottle for consumption away from the premises after midnight.
- (6) The licensee, employees, salespersons, and service personnel are permitted on the premises during hours when the premises are not open for business if those persons are performing job-related activities. All other employees and patrons shall vacate the premises at the required closing time. Under no circumstances shall the consumption of alcohol beverages be permitted after the required closing time. The doors to the premises shall be locked during the hours that the premises is closed;
- (7) Commercial janitorial service personnel shall be permitted to enter the licensed premises for the purpose of cleaning during the time the premises is closed and the doors locked. The premises shall be well lighted during cleanup;
- (8) Prior approval must be requested and granted by the chief of police or his designee for any variation of the above for exigent circumstances.

(Ord. 1136 §1, 1988; Ord. 1125 §1, 1988; Ord. 1064 §1, 1985; Ord. 1035 §2(part), 1984).

(Ord. No. 1834A, § 1, 2-7-2012)

5.20.100 Beverage operator's license required.

- (a) There shall be upon premises operated under a retail Class "A" or Class "B" liquor license, at all times, the licensee or some person who has an operator's license under Section 125.17 of the State Statutes and who is responsible for the acts of all persons serving, as waiters or in any other manner, any alcohol beverage to customers. No person other than the licensee and his immediate family shall serve alcohol beverages in any place operated under a retail Class "A" or Class "B" alcohol beverage license unless he possesses such operator's license, or unless he is under the immediate supervision of the licensee or a person holding an operator's license who is at the time of such service upon the premises.

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- (b) The city clerk may issue an operator's license, which shall be granted only upon application in writing. Such license shall be issued only to persons who have attained the age of eighteen and meet the requirements of the state statutes and who have submitted the proper fee. The city clerk may also issue temporary licenses or provisional licenses as described in 125.17(5) of the Wisconsin Statutes. The below standards shall control the issuance of provisional operator's licenses:
- (1) After a person applies for an operator's license, the following procedure shall apply:
 - (A) An application for an operator's license shall also be considered an application for a provisional operator's license.
 - (B) The City of Whitewater Police Department shall, prior to the clerk issuing an operator's license or provisional operator's license, at its earliest convenience, conduct an investigation regarding the applicant's qualifications to hold an operator's license. If at any time the police department recommends that the operator's license be issued, the clerk shall issue the license at his or her earliest opportunity.
 - (C) If within fifteen business days of an application for an operator's license the police department has recommended denial of the operator's license, the clerk shall refuse to issue the operator's license and provisional license, and the applicant shall be advised of his or her right to appeal the decision before the alcohol licensing committee.
 - (D) If within fifteen business days of the application the police department has not made a recommendation to deny or grant the operator's license, the applicant shall be issued a provisional license upon request if he or she is enrolled in a training course required by Wisconsin Statutes 125.17(6). If a provisional license has been issued prior to the police department's recommendation, and the police department subsequently recommends denial of the license, the matter shall be set before the alcohol licensing committee for consideration of revocation of the provisional license.
 - (c) The fee for an operator's license granted pursuant to Section 125.17 of the State Statutes shall be twenty-five dollars for a license valid for two years, and fifteen dollars for a license valid for one year.
 - (d) The city clerk may issue provisional operator's licenses pursuant to Wisconsin Statutes 125.17(5)(1991-1992). A provisional license may only be issued to a person who has applied for an operator's license, and shows proof of enrollment in a beverage serving training course. A provisional license may not be issued to any person who has been denied an operator's license by the city under Wisconsin Statutes 125.17(1) (1991-1992). A provisional operator's license shall expire sixty days after its issuance or when an operator's license is issued to the holder, whichever is sooner. A provisional license is nonrenewable. The city clerk may revoke a provisional license if he or she discovers the holder of the license made a false statement on the application. There shall be no fee required for the provisional license.

(Ord. 1525 §1, 2002; Ord. 1326 §1, 1995; Ord. 1277 §1, 1994; Ord. 1115 §1, 1987; Ord. 1110 §1, 1987; Ord. 1089 §1, 1986).

5.20.110 Licensee responsible for acts of employees.

A violation of this chapter by an agent or employee of a licensee or permit holder shall constitute a violation by the licensee or permit holder. Whenever the holder of any license or permit under this chapter violates any portion of this chapter or any regulation adopted pursuant thereto, proceedings for the revocation of the license or permit may be instituted in the manner and under the procedure established in Section 125.12 of the Wisconsin Statutes and the provisions relating to granting a new license shall likewise be applicable.

(Ord. 1443, 2000; Ord. 1035 §2(part), 1984).

5.20.120 Tavern licensee—Regulations.

Fermented malt beverages shall not be sold, dispensed, given away or furnished to any underage person unless accompanied by a parent, guardian or adult spouse. Intoxicating liquors or wine shall never be furnished to underage persons.

Every keeper of any place, of any nature or character whatsoever, for the sale of any alcohol beverage, shall not directly or indirectly suffer or permit any underage person of either sex, unaccompanied by his or her parent or guardian, who is not a resident employee or bona fide lodger or boarder on the premises controlled by the proprietor or licensee of such place and of which such place consists or is a part, to enter to be on such licensed premises for any purpose excepting the transaction of bona fide business other than amusement, the purchase, receiving or consumption of edibles or beverages, and no underage person may enter or remain on said premises as aforesaid who is not a resident, employee or a bona fide lodger or boarder on such premises, or who is not accompanied by his or her parent or guardian. This subsection shall not apply to hotels, drugstores, grocery stores, bowling alleys, premises in the state fair park, concessions authorized on state-owned premises in the state parks and state forests as defined or designated in Chapters 27 and 28 of the State Statutes, parks owned or operated by agricultural societies receiving state aid, cars operated on any railroad, regularly established athletic fields or stadiums nor to premises operated under both a license granted under this chapter and a restaurant permit where the principal business conducted therein is that of a restaurant. It shall be presumed where such premises are so operated under both a license granted under this chapter and a restaurant permit, that the principal business conducted therein is that of the sale of alcohol beverages, until such presumption is rebutted by competent evidence. The prohibition shall apply to any person who is not a resident, employee or bona fide lodger or boarder on such premises, after the legal hour for closing.

(Ord. 1035 §2(part), 1984).

5.20.130 Tavern—Health rules.

Each premises shall be conducted in a sanitary manner and shall be a safe and proper place for the purpose for which used. The health officer of the city is authorized and empowered to make reasonable and general rules for the sanitation of all places of business possessing licenses under this chapter. Such rules or regulations may be classified and made applicable according to the class of business conducted. All such rules and regulations shall have the same force as this chapter and infraction thereof may be punished as a violation of this chapter.

(Ord. 1035 §2(part), 1984).

5.20.140 Sale of alcohol beverages to intoxicated persons.

(a) Restrictions.

- (1) No person may procure for, sell, dispense or give away alcohol beverages to a person who is intoxicated.
- (2) No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with a person who is intoxicated.

(b) Penalties. Any person who violates subsection (a) shall be fined not less than one hundred dollars nor more than five hundred dollars and in default of the payment of such penalty shall be imprisoned not to exceed six months.

(Ord. 1035 §2(part), 1984).

5.20.150 Alcohol beverages—Licensing or sale in or on city-owned parks or other properties.

It is unlawful for any owner, operator of or any person employed in any place, other than a public park, where food or soft drinks are sold, or any place of entertainment or amusement, to permit any person to drink fermented malt beverages therein, and it is unlawful for any person to consume therein any fermented malt beverages unless such place is licensed to sell fermented malt beverages.

- (a) No organization shall publicly offer for sale and consumption any form of alcohol beverage (or any other form of intoxicant) in any city park or buildings located therein, without having first complied with all the requirements of this section.
- (b) The applicant shall first meet all of the requirements of the Wisconsin Statutes, federal statutes and city ordinances to be considered as a qualified recipient for the license.
- (c) All applications shall be made on forms to be provided by the state and the city clerk and shall be submitted to that office.

The city clerk shall forward the applications to the police department and the parks and recreation board within five calendar days of receipt of the application.

The parks and recreation board will review the application and make its recommendation.

The city manager or his designee will make the final decisions as to whether or not the license will be granted.

- (d) The information form will contain provisions for the following information:
 - (1) Name of the organization;
 - (2) The title of the event;
 - (3) The dates of the event;
 - (4) The name of the chairman or person in charge of event and his or her address and telephone number;
 - (5) The names of the licensed bartenders for the event;
 - (6) A statement by applicant of the intended disposition of profits from the scheduled event.
- (e) No event shall be held for more than five consecutive days.
- (f) No license shall be granted for more than two successive weekends; a weekend being defined as a Saturday or Sunday.
- (g) No license shall be granted for another event until ten calendar days have elapsed from the expiration of the last event.
- (h) No applicant may receive a license for more than two events in any license year.
- (i) Licenses are not transferable between qualified applicants.
- (j) The dispensing shall be closed between the hours of eleven p.m. and twelve noon on Sunday through Thursday each day inclusive, and from twelve midnight to twelve noon on Fridays, Saturdays or any legal holiday. If a legal holiday follows Sunday through Thursday, the council may permit dispensing until midnight on the day preceding the holiday.
- (k) Any dispensing of alcohol beverages must be dispensed in plastic or paper cups.

(Ord. 1327 §1, 1995; Ord. 1155 §1, 1989; Ord. 1035 §2(part), 1984).

5.20.160 Penalty.

The provisions of Chapter 125 of the Wisconsin Statutes, exclusive of any criminal jail penalties, and also all Acts amendatory thereof and supplementary thereto relating to penalties are adopted as a portion of this chapter so far as applicable. Any person who violates any provision of this chapter for which a specific penalty is not provided, shall be subject to a forfeiture of:

- (1) Not more than five hundred dollars if the person has not committed a previous violation within twelve months of the violation;
- (2) Not less than two hundred dollars nor more than five hundred dollars if the person has previously committed a violation within twelve months of the violation;
- (3) Not less than five hundred dollars nor more than one thousand dollars if the person committed two previous violations within twelve months of the violation; and
- (4) Not less than one thousand dollars nor more than five thousand dollars for the fourth and subsequent offenses within one year.

(Ord. 1391 §1, 1997; Ord. 1179 §1, 1990; Ord. 1091 §1, 1986; Ord. 1035 §2(part), 1984).

(Ord. No. 1826A, 9-27-2011)