

ARTICLE II. LICENSES

DIVISION 2. OPERATOR'S LICENSES

Sec. 6-61. State statutes relating to operators' licenses adopted.

The rules and regulations pertaining to operators licenses, specifically Wis. Stats. §§ 125.04, 125.17, 125.18, 125.32, and 125.68, together with any future additions, deletions or supplements thereto, are incorporated as part of this chapter and shall be enforced with the same force and effect as though set forth in full in this section. Providing, however, that where such rules and regulations are less stringent than other provisions found in this Code, the provisions of this Code shall apply. The rules and regulations pertaining to licensing shall apply within the city.

(Ord. No. OR97-17, § I, 11-24-1997)

Sec. 6-62. Required.

- (a) *Class "A", class "B", or "class C" premises.* Except as provided under Wis. Stats. §§ 125.32(3)(b) and 125.07(3)(a)10, no premises operated under a class "A", class "B", or "class C" license or permit may be open for business unless there is upon the premises the licensee or permittee, the agent named in the license or permit if the licensee or permittee is a corporation, or some person who has an operator's license and who is responsible for the acts of all persons serving any fermented malt beverages to customers. An operator's license issued in respect to a vessel under Wis. Stats. § 125.27(2) is valid outside the municipality that issues it. For the purpose of this section, any person holding a manager's license under Wis. Stats. § 125.18, or any member of the licensee's or permittee's immediate family who has attained the age of 18, shall be considered the holder of an operator's license. No person, including a member of the licensee's or permittee's immediate family, other than the licensee, permittee or agent, may serve fermented malt beverages in any place operated under a class "A", class "B", or "class C" license or permit unless he or she has an operator's license or is at least 18 years of age and is under the immediate supervision of the licensee, permittee, agent or a person holding an operator's license, who is on the premises at the time of the service.
- (b) *Immediate supervision.* Any person 18 or older who is serving alcohol beverages in an establishment with a licensee under this division must obtain an operator's license, unless the person is under the "immediate supervision" of one of the following:
- (1) The licensee.
 - (2) Someone with the privilege of an operator's license (Wis. Stats. §§ 125.32(2) and 125.68(2)).
 - (3) The approved agent of a corporation or limited liability company.
 - (4) A person with an operator's license.
 - (5) A person with a manager's licensee (Wis. Stats. § 125.18).

- (c) *Use by another prohibited.*
 - (1) No person may allow another to use his or her class "A" or class "B" license or permit to sell alcohol beverages.
 - (2) The license or permit of a person who violates subsection (c)(1) of this section shall be revoked.

(Ord. No. OR97-17, § I, 11-24-1997)

State law references: Operator licenses generally, Wis. Stats. §§ 125.17 and 125.32.

Sec. 6-63. Qualifications.

- (a) The applicant for a license under this division must be at least 18 years of age by the time of issuance.
- (b) Subject to Wisconsin's Fair Employment Law, Wis. Stats. ch. 111, the applicant may not have been convicted of a felony or be a "habitual law offender."
- (c) Applicants must complete a responsible beverage server training course.
- (d) Applicants who are renewing an existing operator's license shall have completed the training course within the last two years, or have held a retail license, manager's or operator's license anywhere in the state within the last two years (Wis. Stats. § 125.17(6)).

(Ord. No. OR97-17, § I, 11-24-1997)

Sec. 6-64. Application.

- (a) An application for an operator's license must be in writing, on forms as prescribed by the city. All applications shall be investigated by the chief of police. No license shall be issued unless approved by the common council.
- (b) The common council may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from the city clerk/treasurer only to persons 18 years of age or older. Operator's licenses shall be operative only within the limits of the city.
- (c) All applications are subject to an investigation by the chief of police and/or other appropriate authority to determine whether the applicant and/or premises to be licensed complies with all regulations, ordinances and laws applicable thereto. The police department shall conduct an investigation of the applicant including, but not limited to, requesting information from the state, surrounding municipalities, and/or any community where the applicant has previously resided concerning the applicant's arrest and conviction record.

(Ord. No. OR97-17, § I, 11-24-1997)

Sec. 6-65. Provisional operator's license.

- (a) The city clerk/treasurer shall issue a provisional operator's license only to a person who

has applied for an operator's license.

- (b) The fee for a provisional license shall be \$5.00.
- (c) A provisional license expires 60 days after its issuance or when a regular license is issued, whichever is sooner.
- (d) The city clerk/treasurer may revoke a provisional license if he discovers that the holder of the license made a false statement on the application or if the holder does not complete the course in which he enrolls.

(Ord. No. OR97-17, § I, 11-24-1997)

Sec. 6-66. Temporary license.

- (a) The city clerk/treasurer may issue a temporary operator's license, provided that:
 - (1) The license may be issued only to **operators** employed by, or donating their services to, nonprofit corporations.
 - (2) No person may hold more than one license of this kind per year.
 - (3) The license is valid for any period from one day to 14 days, and the period for which it is valid shall be stated on the license.
- (b) The fee for a temporary license shall be \$5.00.

Sec. 6-67. Duration.

Standard operator's licenses issued under the provisions of this chapter shall be valid for a period of two years and shall expire on June 30.

Sec. 6-68. Fees.

The fee for an operator's license is \$20.00 for a two-year period.

(Ord. No. OR97-17, § II, 11-24-1997)

Sec. 6-69. Issuance or denial.

- (a) After the common council approves the granting of an operator's license, the city clerk/treasurer shall issue the license. Such licenses shall be issued and numbered in the order they are granted and shall give the applicant's name and address and the date of the expiration of such license.
- (b) If the application is denied by the common council, the city clerk/treasurer shall, in writing, inform the applicant of the denial, the reasons therefor, and of the opportunity to request a reconsideration of the application by the common council in a closed session. Such notice must be sent by registered mail to, or served upon, the applicant at least ten days prior to the common council's reconsideration of the matter. At such consideration hearing, the applicant may present evidence and testimony as to why the license should be granted. If, upon reconsideration, the council again denies the application, the city clerk/treasurer shall notify the applicant in writing of the reasons

therefor. An applicant who is denied any license upon reconsideration of the matter may apply to circuit court pursuant to Wis. Stats. § 125.12(2)(d) for review.

- (c) Consideration for the granting or denial of a license will be based on:
 - (1) Arrest and conviction record of the applicant, subject to the limitations imposed by Wis. Stats. §§ 111.321, 111.322, and 111.335;
 - (2) The financial responsibility of the applicant;
 - (3) The appropriateness of the location and the premises where the licensed business is to be conducted; and
 - (4) Generally, the applicant's fitness for the trust to be reposed.

If a licensee is convicted of an offense substantially related to the licensed activity, the common council may act to revoke or suspend the license.

- (d) An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two offenses which are substantially related to the licensed activity within the five years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the common council, the common council reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the common council, at its discretion, may, based upon an arrest or conviction record of two or more offenses which are substantially related to the licensed activity within the five years immediately preceding, act to suspend such license for a period of one year or more.

Sec. 6-70. Training course.

- (a) No operator's license may be issued unless the applicant has successfully completed a responsible beverage server training course at any location offered by a technical college district and that conforms to curriculum guidelines specified by the technical college system board or comparable training course that is approved by the department or the department of education, or unless the applicant fulfills one of the following requirements:
 - (1) The person is renewing an operator's license.
 - (2) The person held a class "A", "class A" or "class C" license or a class "B" or "class B" license or permit or a manager's or operator's license within the past two years.
 - (3) The person has completed such a training course within the past two years.
- (b) The common council may issue a provisional operator's license to a person who is enrolled in a training course under subsection (a) of this section and shall revoke that license if the application fails to successfully complete the course in which he or she enrolls.

- (c) The common council may not require that applicants for operator's licenses undergo training in addition to that under subsection (a) of this section, but may require applicants to purchase, at cost, materials that deal with relevant local subjects not covered in the course under subsection (a) of this section.

(Ord. No. OR97-17, § I, 11-24-1997)

Sec. 6-71. Display.

Whenever the operator dispenses beverages, each license issued under the provisions of this chapter shall be posted on the premises or be in the operator's possession, or the operator shall carry a license card.

Sec. 6-72. Revocation.

Violation of any of the terms or provisions of the state law or of this chapter relating to operator's licenses by any person holding such operator's license shall be cause for revocation of the license.

Secs. 6-73--6-90. Reserved.