



City of West Allis

Ordinance: O-2018-0037

File Number: O-2018-0037

Final Action:

Sponsor(s): License & Health Committee

9-18-18

Ordinance To Amend Subsections 9.02(3)(a), 9.02(3)(d), 9.02(3m)(a), 9.02(3m)(d), 9.02(4)(c), 9.02(4)(e), 9.02(5)(a)3.a., 9.02(5)(b)1., 9.02(8), 9.02(9)(a), 9.02(15), 9.02(16)(b), and Repeal Subsection 9.02(5)(b)2m. Of Chapter 9 Of The Municipal Code Of The City Of West Allis Pertaining To Alcohol Beverage Licensing.

NOW THEREFORE, the Common Council of the City of West Allis, Milwaukee County, do ordain as follows:

SECTION I. Section 9.02(3)(a) of the Municipal Code of the City of West Allis is amended to read as follows:

- (a) **When and Where Filed.** A written application for the licenses required by this section shall be filed with the City Clerk upon forms provided by the City Clerk. The application shall be filed with the City Clerk not less than fifteen (15) days prior to the granting of such license. Except as otherwise provided in this chapter, the license fee shall be paid prior to the issuance of the license by the City Clerk.

Such application shall be filed and completed in accordance with Sec. 125.04(3) of the Wisconsin Statutes. The City Clerk shall not accept an application from a foreign corporation, a foreign limited liability company or a person acting as an agent for or in the employ of another.

SECTION II. Section 9.02(3)(d) of the Municipal Code of the City of West Allis is amended to read as follows:

- (d) **Notice of Change In Application.** Whenever anything occurs to change any fact set out in the application of any licensee, including the written premises description, such licensee shall submit a written notice of such changes to the City Clerk within (10) ten days prior to any change in any fact set out in the application and prior to the next available meeting of the License and Health Committee. It is within discretion of the License and Health Committee and Common Council to approve or disapprove the change in the written premises description. The licensee shall pay a fee as specified in the most recent Schedule of Fees resolution.

SECTION III. Section 9.02(3m)(a) of the Municipal Code of the City of West Allis is amended to read as follows:

- (a) **Filing of Applications.** A written application for a Class "C" license shall be filed with the City Clerk upon forms provided by the City Clerk. The application shall be filed with the City Clerk not less than fifteen (15) days prior to the granting of such licenses. Except as otherwise provided in this chapter, the license fee shall be paid prior to the issuance of the license by the City Clerk.

The application shall be filed and completed in accordance with Sec. 125.04(3) of the Wisconsin Statutes. The City Clerk shall not accept an application from a foreign corporation, a foreign limited liability company or a person acting as an agent for or in the employ of another.

SECTION IV. Section 9.02(3m)(d) of the Municipal Code of the City of West Allis is amended to read as follows:

- (d) Notice of Change. Whenever anything occurs to change any fact set out in the application of any licensee, including the written premises description, such licensee shall submit a written notice of such changes to the City Clerk within (10) ten days prior to the next available meeting of the License and Health Committee. All changes are subject to approval by the License and Health Committee prior to the granting of the license. It is within discretion of the License and Health Committee and Common Council to approve or disapprove the change in the written premises description. The licensee shall pay a fee as specified in the most recent Schedule of Fees resolution.

SECTION V. Section 9.02(4)(c) of the Municipal Code of the City of West Allis is amended to read as follows:

- (c) Plan of Operation. A completed plan of operation on forms provided therefor by the Clerk. The plan of operation shall require:
 - 1. The current or planned hours of operation for the premises.
 - 2. The legal occupancy capacity of the premises.
 - 3. What plans the applicant has to insure the orderly appearance and operation of the premises with respect to noise and litter. This shall include a description of designated or likely outdoor smoking areas, the number and location of exterior and interior trash receptacles.
 - 4. What other types of business enterprises, if any, are planned or currently conducted at the premises.
 - 5. What other licenses and permits, if any, are planned or currently issued for the premises.
 - 6. For applications for premises in locations that have not been licensed previously or within the past year under Section 9.02, whether the premises is less than three hundred (300) feet from any school, hospital, or church, pursuant to Section 9.02(3m)(c)1 and Section 125.68(3) of the Wisconsin Statutes.
 - 7. The number of security personnel expected to be on the premises, their responsibilities, and the equipment they will use in carrying out their duties.
 - 8. Any other reasonable information the License and Health Committee may require either for all applicants or in a particular case.

SECTION VI. Section 9.02(4)(e) of the Municipal Code of the City of West Allis is amended to read as follows:

- (e) Alterations/Amendments. The floor plan and plan of operation are subject to approval by the License and Health Committee prior to the granting of the license and may be subject to the issuance of any building, zoning, or other permits. Applicants seeking such alterations or amendments shall submit a

written notice of such changes to the City Clerk within (10) ten days prior to the next available meeting of the License and Health Committee. It is within discretion of the License and Health Committee and Common Council to approve or disapprove the change in the written premises description and/or floor plan. The License and Health Committee may change all or part of the plan of operation or may impose additional requirements to address problems created by the licensee's operation. Applicants seeking an alteration or amendment to the floor plan or plan of operation shall pay a fee as specified in the most recent Schedule of Fees resolution and upon application.

SECTION VII. Section 9.02(5)(a)3.a. of the Municipal Code of the City of West Allis is amended to read as follows:

- a. Be located on the same site as the building premises described in the license application. For purposes of this subsection, "same site" means one parcel of property or multiple abutting parcels of property as long as the licensee complies with Section 9.02(4)(a) of this Code.

SECTION VIII. Section 9.02(5)(b)1. of the Municipal Code of the City of West Allis is amended to read as follows:

1. Authority. The granting of a temporary extension of Class "B" fermented malt beverage or intoxicating liquor licensed premises for special events shall authorize the licensee to sell or serve fermented malt beverages and intoxicating liquors during the period of time and in the area described in the application for such temporary extension, as expressly approved by the Common Council.

SECTION IX. Section 9.02(5)(b)2m. of the Municipal Code of the City of West Allis is hereby repealed.

SECTION X. Section 9.02(8) of the Municipal Code of the City of West Allis is amended to read as follows:

(8) Granting of License.

- (a) Upon the approval of the application by the Common Council, the City Clerk shall issue to the applicant a license, subject to Section 9.02(3)(a) or Section 9.02(3m)(a).
- (b) Pursuant to §§ 125.26(1) and 125.51(1)(a), Wis. Stats., the Clerk may issue temporary Class "B" licenses and temporary operator licenses as provided in § 125.26(6) and 125.51(10), Wis. Stats. without prior approval of the Common Council when the following conditions are met.
 1. The license application is approved by the Chairperson of the License and Health Committee, or, if the Chairperson is not available, by the Vice Chairperson of the License and Health Committee.
 2. At least one of the Alderpersons of the district in which the event is to be held approve the application.
- (c) Applications for a temporary license must be received in the Clerk's Office at least five (5) business days prior to the event. An application for a temporary license received in the Clerk's Office five (5) business days prior to the event without approval of the Common Council must be accompanied by a late fee of fifteen dollars (\$15.00) in addition to the temporary licensee fee to defray administrative costs. An application filed less than five (5) business days prior to the event must be accompanied by a late fee of twenty-five dollars (\$25.00) in addition to the temporary license fee to defray administrative

costs.

SECTION XI. Section 9.02(9)(a) of the Municipal Code of the City of West Allis is amended to read as follows:

- (a) A license shall be transferable from one premises to another, if such transfer is first approved by the Common Council. No licensee shall be entitled to more than one transfer in any one license year. Application for transfer shall be made on a form furnished by the City Clerk at least (15) fifteen days prior to the next available meeting of the License and Health Committee. Proceedings for such transfer shall be had in the same form and manner as the original application. Whenever a license is transferred, the City Clerk shall forthwith notify the Wisconsin Department of Revenue of such transfer. The licensee shall pay a fee as specified in the most recent Schedule of Fees resolution.

SECTION XII. Section 9.02(15) of the Municipal Code of the City of West Allis is amended to read as follows:

(15) Closing Hours.

- (a) No premises for which a Class "B," "Class B," or a Class C license or permit is issued may remain open between the hours of 2:00 a.m. and 6:00 a.m. On Saturday and Sunday, the closing hours shall be between 2:30 a.m. and 6:00 a.m. except that, on the Sunday that daylight saving time begins as specified in sec. 175.095(2) of the Wisconsin Statutes, the closing hours shall be between 3:30 a.m. and 6:00 a.m. On January 1 premises operating under a Class "B" or "Class B" license are not required to close.
- (b) Between 9:00 p.m. and 8:00 a.m. no person may sell fermented malt beverages on Class "B" or Class C licensed premises in an original unopened package, container or bottle or for consumption away from the premises.
- (c) Class "A" and "Class A" premises may remain open for the conduct of their regular business but may not sell fermented malt beverages between 9:00 p.m. and 8:00 a.m. Sec. 9.02 (16)(a) of this Code does not apply to Class "A" premises between 9:00 p.m. and 8:00 a.m. or at any other time during which the sale of fermented malt beverages or intoxicating liquor is prohibited.
- (d) Hotels and restaurants the principal business of which is the furnishing of food and lodging to patrons, bowling centers, movie theaters, painting studios, indoor golf and baseball facilities, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but may not sell fermented malt beverages during the hours specified in par. (a) of this subsection.
- (e) No person shall enter or remain upon licensed premises while such premises are closed, pursuant to statute or ordinance. This section shall not apply to the license holder or agents and employees of the license holder who are performing bona fide services related to the licensed business.

SECTION XIII. Section 9.02(16)(b) of the Municipal Code of the City of West Allis is amended to read as follows:

(b) Provisional Operator's License.

1. The City Clerk is the official charged with issuing and revoking a provisional operator's license. A provisional license requires an additional fee as specified in the most recent Schedule of Fees resolution.
2. Standards for provisional license, unless applicant has a certified copy of a license issued by another municipality, are as follows:
 - a. The applicant has applied for an operator's license;
 - b. The applicant for a provisional operator's license shall complete an application attesting he/she has not been convicted of any crime against life and bodily injury, against children, or a violent crime against a child, as set forth in sec. 111.335 (4) of the Wisconsin Statutes, or crime that substantially relates to the licensing activity. Any false statements made by the licensee on the application may result in revocation of the license by the City Clerk.
 - c. No provisional operator's license may be issued to a person who has been previously denied an operator's license by the council.
 - d. Applicant must provide evidence of completion or enrollment in responsible beverage server course.
3. Such provisional license shall be valid for not to exceed sixty (60) days or until action of the Common Council, whichever first occurs.

SECTION XIV: All Ordinances or parts of Ordinances contravening the terms and conditions of this Ordinance are hereby to that extent repealed.

SECTION XV: SEVERABILITY. The several sections of this ordinance are declared to be severable. If any section shall be declared by a Court of competent jurisdiction to be invalid, such decisions shall not affect the validity of other portions of the ordinance.


SECTION XVI: EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its passage and publication.

PASSED 9/18/18

APPROVED 9/19/18



Steven A. Braatz, Jr., City Clerk



Dan Devine, Mayor