

9.02 (3)(a)

(3) Applications for Class "A" and "B" Retail License.

(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 to the City Clerk not less than fifteen (15) days prior to the granting of the license, or such other later time as the Common Council shall determine, but in no case shall the license be issued prior to payment of the fee.~~

**Comment [SBJ1]:** Wis Stats. 125.04(8) states that no city or village may require an applicant to pay a license fee more than 15 days before the date of issuance.

Such application shall be filed and ~~completed in accordance with Sec. 125.04(3) of the Wisconsin Statutes~~ sworn to by the applicant if an individual, by all partners if a partnership, or by the president and secretary if a corporation.

**Comment [SBJ2]:** Act 289 changed the law to provide that alcohol beverage license application forms may not require more than one signature on behalf of the applicant and are not required to be sworn to or notarized.

9.02 (3)(d)

(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 file with the issuing authority a notice in writing of such change of such changes to the City Clerk within (10) ten days after 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 occurrence thereof. The License and Health Committee may change all or part of the written premises description. The licensee shall pay a fee as specified in the most recent Schedule of Fees resolution.~~

**Comment [SBJ3]:** Clarifying language including the ability for the L&H Committee to be able to change the submitted premises description. Provide for a fee to process premises description changes and provide for a fee schedule.

9.02 (3m)(a)

(3m) Class "C" Licenses.

(a) Filing of Applications. A written application for a Class "C" license shall be filed with the City Clerk ~~Treasurer~~ upon forms provided by the City Clerk ~~Treasurer~~. The application shall be filed with the City Clerk ~~Treasurer~~ 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 to the City Clerk/Treasurer not less than fifteen (15) days prior to the granting of the license, or such other later time as the Common Council may determine, but in no case shall the license be issued prior to payment of the fee.~~

**Comment [SBJ4]:** Wis Stats. 125.04(8) states that no city or village may require an applicant to pay a license fee more than 15 days before the date of issuance.

The application shall be filed and ~~completed in accordance with Sec. 125.04(3) of the Wisconsin Statutes~~ sworn to by the applicant, if an individual; by all partners, if a partnership; or, by the president and secretary, if a corporation. Pursuant to ~~sec. 125.51(3m)(c) of the Wisconsin Statutes,~~ the City Clerk ~~Treasurer~~ 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.

**Comment [SBJ5]:** Act 289 changed the law to provide that alcohol beverage license application forms may not require more than one signature on behalf of the applicant and are not required to be sworn to or notarized.

**9.02 (3m)(c)**

(c) Granting of License. A Class "C" license may be granted to an applicant only if the applicant meets the qualifications set forth in sec. 125.04(5) of the Wisconsin Statutes; the premises to be licensed is a restaurant ~~in sec. 125.02(18) of the Wisconsin Statutes in which the sale of alcohol beverages accounts for or will account for less than fifty percent (50%) of gross receipts; the restaurant does not contain a barroom; and, no Class "B" license is available, pursuant to the quota set forth in sec. 9.01 of the Revised Municipal Code.~~

1. No Class "C" license or permit may be issued for premises, the main entrance of which is less than three hundred (300) feet from the main entrance of any public or parochial school, hospital or church, except that this prohibition may be waived by a majority vote of Common Council. The distance shall be measured by the shortest route along the highway from the main entrance of the school, church or hospital to the main entrance of the premises covered by the license or permit.
  - a. The prohibition in this subsection does not apply to any premises covered by a Class "C" license or permit on the date this ordinance is published or premises covered by a Class "C" license or permit prior to the occupation of real property within three hundred (300) feet thereof by any school, hospital or church building.

**Comment [SBJ6]:** 2017 Wisconsin Act 17 modified the definition of restaurant for purposes related to the regulation and licensing of alcohol beverage premises, removing the requirement that "the predominant activity" in the building room or place was the preparation, service or sale of meals to transients or the general public. The Act provides that places where meals are prepared, sold or served to the general public may qualify for an alcohol beverage license as a restaurant, even if that is not the predominant activity at that place. Some clerks expressed concerns to the Department of Revenue that defining a restaurant as any business room or place at which the predominant activity is the preparation, service or sale of meals to the general public, limits their ability to issue "Class C" (wine) licenses to food service establishments, like movie theaters, stadium concession areas, skating rinks, painting studios, coffee shops and other places that are not predominantly serving meals. As a result the department sought to restore the definition of restaurant to the definition that existed prior to Act 55, thereby preserving the ability of municipalities to continue to issue "Class C" licenses to such premises, if the municipality chooses to.

**Comment [SBJ7]:** Currently, Class "B" licenses are not being considered when applying for Class C Wine licenses. Class "B" are Class B Beer licenses. Many businesses that get a Class C license also get a Class "B" (Beer) license.

**Comment [SBJ8]:** Clarifying language including the ability for the L&H Committee to be able to change the submitted premises description. Provide for a fee to process premises description changes and provide for a fee schedule.

**9.02 (3m)(d)**

(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 and change in any fact set out in the application and 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. The License and Health Committee may change all or part of the written premises description. The licensee shall pay a fee as specified in the most recent Schedule of Fees resolution. Whenever anything occurs to change any fact set out in the application of any licensee, such licensee shall file a notice with the City Clerk/Treasurer, in writing, of such changes within ten (10) days after the occurrence thereof.~~

**9.02 (4)(c) (under the Right to Premises, Floor Plan, and Plan of Operation section)**

(c) Plan of Operation. A completed plan of operation on forms provided therefor by the Clerk/~~Treasurer~~. 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.

**9.02 (4)(e) (under the Right to Premises, Floor Plan, and Plan of Operation section)**

- (e) Alterations/Amendments. The floor plan and plan of operation ~~is~~ are subject to approval by the License and Health Committee prior to the ~~granting~~ issuance 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. Any alteration, change, or addition to the plan of operation shall be approved by the License and Health Committee. The License and Health Committee may change all or part of the floor plan and 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 prior to issuance of the amended license.

**Comment [SBJ9]:** Include floor plan. Provide for a timely process of changes to the floor plan and plan of operation. Provide for a fee to process such changes and provide for a fee schedule.

**9.02 (5)(a)3.a. (under the Extension of Premises section for Outdoor Areas)**

- 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.

**Comment [SBJ10]:** Clarify the definition of "same site" due to recent application concerns

**9.02 (5)(b)1.** (under Temporary Extension of Class "B" Tavern Licensed Premises for Special Events

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 wine coolers, 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.

**Comment [SBJ11]:** Intoxicating liquors is mentioned in the first part of the paragraph, but then is not included in the allowable alcohol. Alderperson Weigel requested we include intoxicating liquors.

9.02(5)(b)3m.

- 3m. ~~Farmers Market. In addition to temporary extensions for fermented malt beverages and wine coolers, the holder of a Class "A" and "B" fermented malt beverage and intoxicating liquor license premises may also obtain a permit to sell wine and intoxicating beverages on the farmers market premises. Whether for beer, wine, wine coolers or intoxicating beverages, all other requirements for such permit shall apply to the farmers market (including insurance requirements) except that the requirement in 9.02(5)(b)2 that the area be enclosed shall be deemed complied with if the licensee issues and patrons wear wrist bands or other similar evidence that the person may be on the premises and served alcohol beverages for the event.~~

**Comment [SBJ12]:** Not allowed in State law.

**9.02 (8)**

(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).
- (b) Pursuant to §§ 125.26(1) and 125.51(1)(a), Wis. Stats., the Clerk/~~Treasurer~~ may issue temporary Class "B" ~~and Class "A"~~ 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 ~~Chairman~~-Chairperson of the License and Health Committee, or, if the ~~Chairman~~-Chairperson is not available, by the Vice ~~Chairman~~-Chairperson of the License and Health Committee.
  2. The ~~Aldermen~~-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/~~Treasurer~~'s Office at least five (5) business days prior to the event. An application for a temporary license received in the Clerk/~~Treasurer~~'s Office five (5) business days~~

**Comment [SBJ13]:** We will be looking more in depth into this section for more clarification revisions. This will come back at a future meeting. However, read Comment SBJ14, as I am still interested in knowing if you would be willing to allow the Clerk's Office to issue Temp Class B Beer and Wine licenses without Committee/Council approval. State law allows it and many communities allow it for efficiency purposes.

**Comment [SBJ14]:** There is no such thing as a Temporary Class "A" license.

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.

**Comment [SBJ15]:** Sec. 9.02 (8)(b) delegates the authority to grant Temp Class B (picnic) licenses to the City Clerk, as allowed in Wis Stats 125.26(1) and 125.51(1)(a). There are no other requirements in the Code that require picnic licenses to be approved by Common Council. Common practice is that it goes to Common Council. Should this change or stay the same? If it is the notification of the event that is needed by the Alderperson of the District and the chair of the L&H Comm, then the yet-to-be proposed special event permit ordinance will take care of that. If so, we can revisit this section in the future.

**9.02 (9)(a) (under Transfer and Lapse of License section)**

(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 within (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 State Treasurer/Wisconsin Department of Revenue of such transfer. The licensee shall pay a fee as specified in the most recent Schedule of Fees resolution.

**Comment [SBJ16]:** Provide for a timely process premises-to-premises transfers.

**Comment [SBJ17]:** Provide for a fee to process premises-to-premises transfers. Provide for a fee schedule.

**9.02 (15)**

(15) Closing Hours.

~~(a) Class "A" Premises. Class "A" premises may not remain open for the sale of fermented malt beverages or intoxicating liquor:~~

~~1. Between 9:00 P.M. and 8:00 A.M.~~

~~2. On Christmas Eve, December 24, of each year, between the hours of 7:00 P.M. and 8:00 A.M. of the following day, except when December 24 falls on a Sunday, in which event, between the hours of 7:00 P.M. and 10:00 A.M. on the following day.~~

~~(b) Class "B" Premises. Between 9:00 P.M. and 8:00 A.M., no person may sell fermented malt beverages or intoxicating liquor in an original unopened package, container or bottle or for consumption away from the premises.~~

~~(c) 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.~~

(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.

**Comment [SBJ18]:** Clarifies the hours allowed for sale and consumption of alcohol better than what is currently in the Code. Effectively copies the verbiage from the statutes and retains the more restrictive hours the City currently has. Except... (see next comments)

(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.

**Comment [SBJ19]:** State law is midnight to 6am. Would you consider changing either or both ends of the range? Currently, bars and restaurants can sell alcohol starting at 6am, except for in original packages, in which they have to wait until 8am. Several communities allow the original package sale until midnight and several allow starting at 6am.

(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.

**Comment [SBJ20]:** State law was changed in 2011/2012 to reduce the time for Class A establishments from 8am to 6pm. Would you consider changing the time?

(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.

## 9.02 (16)(b) (under Operator's Licenses section)

~~(b) Provisional Operator's License. The City Clerk is authorized to issue a provisional operator's license. Such provisional license shall be issued only when the City Clerk has determined that the applicant has a satisfactory record. Or, the City Clerk shall issue a provisional operator's license to an applicant who, at the time of application for an operator's license and payment of the fee, files with the City Clerk a certified copy of a valid operator's license issued by another municipality. Any false statements made by the licensee on the application may result in revocation of the license by the City Clerk. Such provisional license shall be valid for not to exceed sixty (60) days or until action of the Common Council, whichever first occurs.~~

**Comment [SBJ21]:** Adds a couple conditions. Removes requirement that they need to have a satisfactory record to get a provisional license. These licenses are meant for people who are awaiting the approval process of their regular 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.

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.

**Comment [SBJ22]:** 2017 Wisconsin Act 278 modified the exception allowing a municipality to deny a license on the basis of a pending criminal charge to provide that a municipality may only deny a license under this exception if the charge is for one of certain specified crimes against life and bodily security, certain specified crimes against children, or a violent crime against a child. As under current law, the circumstances of the charge must also substantially relate to the circumstances of the particular licensed activity. The bill also prohibits a licensing agency from denying a license because the individual was adjudicated delinquent of an offense under the Juvenile Justice Code, unless the individual was adjudicated delinquent for one of certain crimes against life and bodily security or certain specified crimes against a child. Finally, the bill also requires a licensing agency that denies or terminates a license based on a prior conviction to state in writing its reasons for doing so and provides a process for a person who is denied a license to show evidence of rehabilitation and fitness to engage in the licensed activity

- 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.