



AGENDA OF THE PROTECTION AND POLICY COMMITTEE

THURSDAY, FEBRUARY 16, 2023, 4:00 PM
In person at City Hall, Room 207.
Virtual attendance also available via Zoom.

A. Zoom Meeting Information.

- I. This item contains Zoom information, instructions, and a link to the Virtual Comment Form.

B. Roll Call.

C. Approval of the Agenda.

D. Regular Business.

- I. Consideration with possible action on General Ordinance 03-23, an ordinance repealing and recreating Chapter 4, Green Bay Municipal Code, relating to alcohol beverages.

E. Adjournment.

- 1) THIS MEETING IS RECORDED: THE VIDEO OF THIS MEETING AND MINUTES ARE AVAILABLE ONLINE AT www.greenbaywi.gov
- 2) ACCESSIBILITY: Any person wishing to attend who requires special accommodation because of a disability, should contact the City Safety Manager at 920-448-3125 at least 48 hours before the scheduled meeting time so that arrangements can be made.
- 3) QUORUM: Please take notice that a majority or quorum of the Common Council will attend this Protection and Policy committee meeting and will constitute a meeting of the Common Council for purposes of discussion and information gathering relative to this agenda.
- 4) REPRESENTATION: The party requesting the communication, or their representative, should be present at this meeting.
- 5) FOR ALL LICENSING ISSUES, the Committee may convene in closed session pursuant to §19.85 (1)(b) and/or §19.85 (1)(f) Wis. Stats., for the purpose of considering information with respect to licensing for a person, including financial, social, or personal information. The Committee will thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to take action on items discussed in closed session, if appropriate, and to consider the remainder of the agenda.

Virtual Meeting Instructions



Protection & Policy Special Meeting

2.16.2023 4 p.m.

Zoom Meeting Information

Join Zoom Meeting

<https://us02web.zoom.us/j/83092744715>

Meeting ID: 830 9274 4715

Passcode: 362591

One tap mobile

+13052241968,,83092744715#,,,,*362591# US

+13092053325,,83092744715#,,,,*362591# US

Dial by your location

+1 305 224 1968 US

+1 309 205 3325 US

+1 312 626 6799 US (Chicago)

+1 646 931 3860 US

+1 929 205 6099 US (New York)

+1 301 715 8592 US (Washington DC)

+1 689 278 1000 US

+1 719 359 4580 US

+1 253 205 0468 US

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 360 209 5623 US

+1 386 347 5053 US

+1 507 473 4847 US

+1 564 217 2000 US

+1 669 444 9171 US

+1 669 900 6833 US (San Jose)

Meeting ID: 830 9274 4715

Passcode: 362591

Find your local number: <https://us02web.zoom.us/j/83092744715>

Public Comments

If you wish to speak at this public meeting or leave a comment, please fill out the online [Comment Form](#) prior to the meeting.

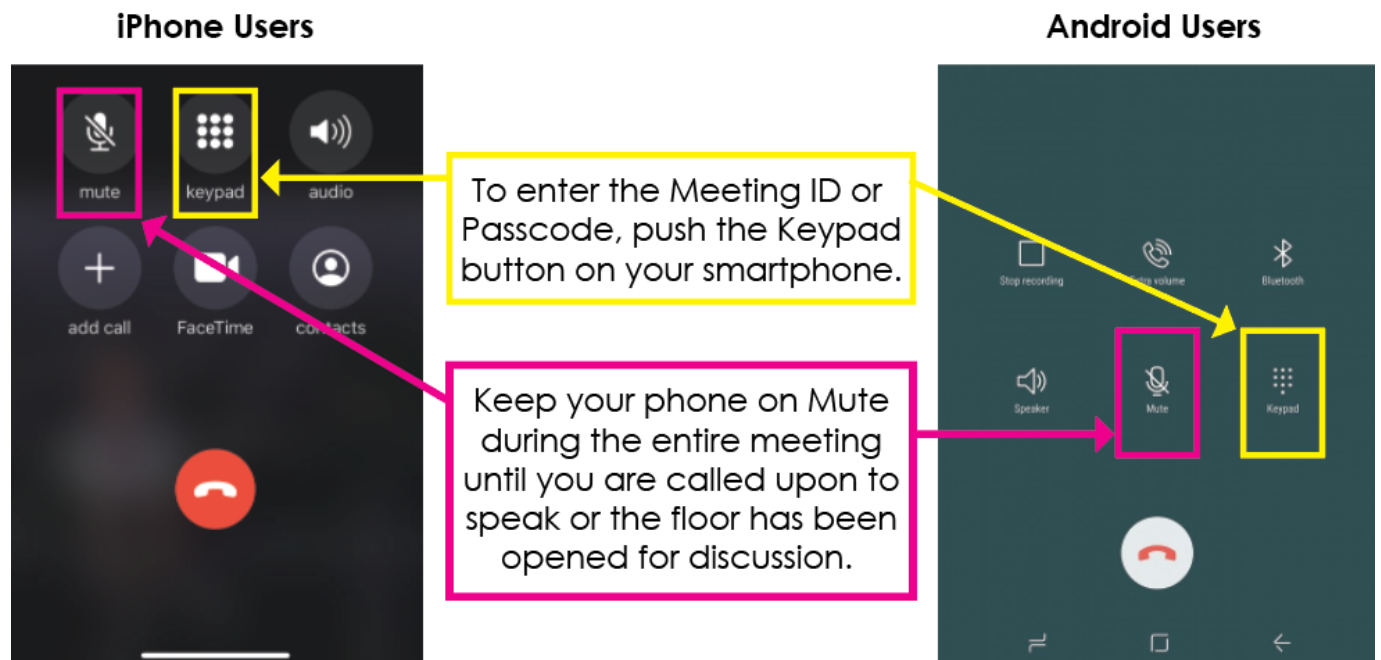
Additional Information

1. Wisconsin Open Meetings Law still applies
 - a. Persons interested in speaking to an item must give their name and address
 - b. Committee/Commission/Board members will still follow *Roberts Rules of Order*
2. Please log into the Zoom meeting 10 minutes before the meeting starts to ensure proper technology is working.
 - a. If you are a Board Member, please log into [CivicClerk](#) with a computer, laptop, or tablet device.
3. Once you are in the meeting please mute yourselves.
 - a. You may unmute yourself when you are called upon to speak.
4. Waiting room
 - a. When you call in, all callers/participants will be placed in a "waiting room."
 - b. Persons on the agenda will be admitted to the meeting, and then once the item is concluded, the host will permanently mute you from the meeting (you can still hear the meeting).
5. Using Zoom with a tablet or computer
 - a. Tablet - Download the app either with the Apple Store or the Play Store
 - b. Computer - You may download the app or click on the link to open Zoom in your web browser.
6. Registering
 - a. The host may ask you to register for the meeting. A registration link will be sent to you along with the invite. You'll receive another email confirming that you're registered for the meeting.
 - b. If you're using a phone, your registration will still be tied to an email.
7. Raising your hand
 - a. Committee members—you can either use CivicClerk and request to speak or you can "raise your hand" in the zoom meeting (you'd need to use a computer or tablet) to let the host know you'd like to speak. You can also un-mute yourselves and start speaking.
 - b. Persons on the agenda—you can "raise your hand" but you'd need to use a computer. You will be allowed to speak, per Wisconsin Open Meetings Rules, once the committee has "opened the floor for interested parties to speak." Once the committee is finished with your agenda item, the host will mute you permanently, unless the committee opens the floor again.
8. What devices should I use?
 - a. Smart phone (please see more detailed instructions on page 3)
 - b. Land line
 - c. Tablet—well in advance of the meeting, please download the Zoom Meeting app before you join a meeting by using either the Apple Store or the Play Store. You will be asked to input your name, thus identifying you for the meeting. You may also be asked to verify your email.
 - d. Computer—well in advance of the meeting, please download the Zoom Meeting app, but you can also click on a link to open the Zoom Meeting in your browser. You will be asked to input your name, thus identifying you for the meeting.
 - e. For tablet and computer users--if you download the app you may be asked to verify your email.

9. Zoom etiquette
 - a. Muting yourselves when you're not talking will prevent your background noise from interfering with others' ability to listen to and participate in the meeting.
 - b. If you're using a telephone, please identify yourself with your phone number and name before you speak. Zoom meeting hosts can see only your telephone number and will ask you to identify yourselves.
10. Closed session
 - a. Persons in the Zoom meeting will be put into a waiting room while the committee meets in Closed Session. Participants will be admitted back into the Zoom meeting once the committee reconvenes in Open Session.
 - b. Persons watching a Common Council meeting live on YouTube will see a gray screen with the City logo during closed session.
11. Persons interested in attending anonymously or listening to the meeting may call in by dialing *67 followed by the phone number above.

Calling into the Zoom meeting using a smartphone

1. Dial the phone number listed at the beginning of this document.
2. When prompted, enter the Meeting ID number followed by #
3. Once you are in the meeting, notify the meeting host that you are in and state your name.
4. If you do not need to talk, please make sure your phone is on **Mute**
 - a. If you're using a smartphone, look at your screen and click the Mute button





Report to the
Protection and Policy Committee
of the City of Green Bay

MEETING DATE

February 16, 2023

PREPARED BY

AGENDA ITEM # D.I

Consideration with possible action on General Ordinance 03-23, an ordinance repealing and recreating Chapter 4, Green Bay Municipal Code, relating to alcohol beverages.

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

- I. DRAFT CH. 4 February 2023 First Committee Mtg

GENERAL ORDINANCE NO. 03-23

**AN ORDINANCE
REPEALING AND RECREATING CHAPTER 4,
GREEN BAY MUNICIPAL CODE,
RELATING TO ALCOHOL BEVERAGES**

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 4, Green Bay Municipal Code, is hereby repealed and recreated to read:

Sec. 4-1. Definitions.

Except as provided in this section, the terms and phrases in this chapter shall have the meanings given in Wis. Stats. § 125.02, as amended from time to time. The following terms and phrases shall have the following meanings:

Granted license means a license approved for issuance by the Common Council.

Inoperative license means a license that has been issued to the licensee but under which the licensed activity is not occurring on the licensed premises.

License means a written authorization for the sale of alcohol issued by the Clerk.

Licensed patio means an area immediately adjacent to a licensed premises, not including any part of a public right-of-way, which is licensed for the sale and consumption of alcohol beverages.

Outdoor area means a licensed patio, or any other outdoor area used in conjunction with a licensed premises.

Picnic license has the meaning ascribed to Temporary Class “B” licenses in Wis. Stats. § 125.26(6).

Sec. 4-2. Wisconsin Statutes Chapter 125 incorporated by reference.

Wis. Stats. Ch. 125 is hereby adopted and incorporated by reference in this chapter as if fully set forth herein. Future amendments, revisions, or modifications of Wis. Stats. Ch. 125 are also adopted prospectively, incorporated herein, and intended to become a part of this chapter. Any provisions of this chapter not contained in Wis. Stats. Ch. 125 and not in conflict therewith are intended as additional regulations for the sale of alcohol beverages in the City.

Sec. 4-3. License classes.

The Council is hereby authorized to grant the following licenses:

- (1) *Class “A” (beer) license.* Authorizes the retail sale of fermented malt beverages, in original packages, containers, and bottles, for consumption off the premises where sold.
- (2) *“Class A” (liquor) license.* Authorizes the retail sale of intoxicating liquor, in original packages and containers, for consumption off the premises where sold.

- (3) “Class A” (cider only) license. Authorizes the retail sale of cider, an alcohol beverage made from the fermentation of the juice of apples or pears and that contains not less than 0.5% alcohol by volume and not more than 7% alcohol by volume, for the consumption off the premises.
- (4) *Class “B” (beer) license.* Authorizes the retail sale of fermented malt beverages to be consumed either on or off the premises where sold.
- (5) *“Class B” (liquor) license.* Authorizes the retail sale of intoxicating liquor, by the glass and not in the original package or container, for consumption on the premises where sold or for consumption off the premises if the licensee seals the container of intoxicating liquor with a tamper-evident seal before it is removed from the premises. Also authorizes the sale of wine or intoxicating liquor, in the original package or container and in any quantity, to be consumed off the premises where sold.
- (6) “Class B” combination license. License that is issued to a premise that applies for both a Class “B” (beer) and a “Class B” (liquor) license.
- (7) *Wineries.* A “Class B” license issued to a winery authorizes the sale of wine to be consumed by the glass or in opened containers on the premises where sold or off the premises if the licensee seals the container of wine with a tamper-evident seal before the wine is removed from the premises. It also authorizes the sale of wine in the original package or container to be consumed off the premises where sold but does not authorize the sale of fermented malt beverages or any intoxicating liquor other than wine.
- (8) *“Class C” (wine) license.* Authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.
- (9) *Picnic license.* A license issued for a period not to exceed four (4) consecutive days to bona fide clubs, county or local fair associations, or agricultural societies, churches, lodges, or societies that have been in existence for not less than six (6) months prior to the date of the application, or to veteran organizations or posts, authorizing them to sell fermented malt beverages and wine containing not more than six (6) percent alcohol by volume at a particular picnic, gathering, or meeting, or during a fair conducted by a fair association or an agricultural society. All applications for a picnic license shall be filed with the Clerk at least five (5) days prior to the event. An application for a Picnic License may be submitted as early as November 1 of the prior year.
- (10) *Wine Walk.* The Clerk will accept applications for special event wine walks for the upcoming year December 1 through December 15. If more than two applications are received, the Protection and Policy Committee shall recommend two permits for approval by the Common Council. If two applications that can be granted are not approved, a qualifying organization may apply after December 5, on a first-come, first-served basis.

Sec. 4-4. License applications.

- (a) *Generally.* An application for a license must comply with the following requirements.
 - (1) *Deadline.* Consistent with Wis. Stats. § 125.04(3)(f), all applications for licenses to sell alcohol beverages shall be filed with the Clerk at least fifteen (15) days prior to the granting of the license.

- (2) *Receipt*. All licenses are received on a first come basis, subject to completeness. Complete applications will be issued a date and time received.
- (3) *Time limitation*. An application shall not be valid after the license year for which it is filed.
- (4) *Complete Application*. An application for a license must contain the following documents and publication fee. Applications lacking any of the required documents or received without payment shall not be accepted by the Clerk.
- a. Applications shall be made upon forms provided by the Clerk, which shall be completed in their entirety.
 - b. Original Alcohol Beverage Retail License Application.
 - c. Liquor Auxiliary Questionnaire. Each person listed by each applicant, by each member of a partnership, and by each officer, director and agent of a corporation or nonprofit organization, and by each member/manager and agent of a limited liability company.
 - d. Appointment of Agent for corporations and not-for-profit organizations.
 - e. Driver's license or photo ID for each person required to fill out an auxiliary questionnaire.
 - f. *Property interest*. Applications shall be accompanied by proof of one of the following:
 1. Ownership of the premises to be licensed.
 2. A valid option to purchase the premises to be licensed.
 3. A valid lease for the premises to be licensed for the term of the license.
 4. A valid option to lease the premises to be licensed for the term of the license.
 - g. For individuals, partners, or agents, a copy of the Responsible Beverage Server course certification issued in the past two years or a copy of a current operator's license issued in the last two years, or proof of agency for another establishment.
 - h. Surrender form from present license holder (if applicable).
 - i. Wisconsin Seller's Permit issued by the Wisconsin Department of Revenue. The legal entity on the Seller's Permit must match the legal entity on the Original Alcohol Beverage Retail License Application.
 - j. Floor plan for the facility. Hand drawn diagrams are acceptable.
 - k. Picture of outdoor premise (if applicable).
 - l. Security Plan
 - m. *Payment*. A publication fee of \$25 must be submitted with the application and required documents to be deemed complete.
- (b) *Transfer applications*. All applications for transfer of licenses from place to place and person to person are subject to inspections by the City, and the qualifications, review proceedings, and time constraints provided in this chapter and the Wisconsin Statutes. In addition, applications to transfer a license from person to person must be accompanied by written

consent of the person from whom the license is to be transferred on a form provided by or acceptable to the Clerk.

- (c) *Renewal applications.* All applications for renewal of licenses are subject to the qualifications, review proceedings, and time constraints provided in this chapter and the Wisconsin Statutes.

(1) *Renewal Application deadline.* Applications may be sent after March 1st and s are due on or before April 15 of each year. The Common Council shall grant, issue, or deny each timely-filed application no later than June 15 for the ensuing license year. If a renewal application is received after April 15, notice of Council’s intent to grant, issue, or deny the renewal application, as well as notice of any accompanying hearing, may not be available before the license expires on June 30.

(2) *Late application fee.* Renewal applications received after the April 15 deadline shall be subject to a late filing fee as provided in the City Fee Schedule. Said late fee is imposed to recover the cost of processing the late application. Applications filed after May 15 will not be processed until after July 1.

4-5. Provisional License.

- (a) *Issuance.* To allow applicants an opportunity to conduct business before a regular license may be granted but after all other requirements for licensing have been met, the City has identified limited circumstances under which a provisional license may be granted. The Clerk shall only issue a provisional retail license to an applicant who has submitted a regular Class “A,” Class “B,” “Class A,” “Class B,” or “Class C” retail license application for the same type of activity, to permit the applicant to engage in the activity while approval of the regular license application is pending and in accordance with the requirements herein. The Clerk shall have three business days to grant or deny a provisional license.

(1) *Qualification for provisional license.* In accordance with Wis. Stats. § 125.185, a provisional license is available to an applicant who has met all the following criteria:

- a. The applicant has applied for a regular license;
- b. The applicant has submitted an application for a provisional license which authorizes only the type of activity allowed by the type of regular license applied for;
- c. The applicant meets all licensing requirements set forth in this section; and
- d. One of the following conditions exists:
 - 1. The Protection and Policy Committee has approved the applicant’s regular license application, but final approval of that application by the Common Council remains pending.
 - 2. The applicant has applied for a new regular license, following the sale or transfer of an existing business that held a City-issued regular license of the same type, and the provisional license is necessary to maintain the continuity of said business while approval of the new application is pending. The applicant must provide the Clerk with proof of control and/or occupancy of

the premises to which the provisional license will be issued before the Clerk will issue the provisional license.

3. The applicant held a City-issued regular license of the same type during the expiring licensing year and did not timely submit a renewal application because of excusable neglect on the part of the applicant.
4. An administrative error caused by the City resulted in a delay in the application.

(2) *Provisional License Applications.* A provisional license is available to an applicant for the same type of regular license if all the following conditions are met:

- a. The applicant has filed a complete regular license application form, as otherwise described in this section, for the same type of activity for which the provisional license is sought.
 - b. The applicant has paid the fees associated with the type of regular license applied for, as well as the provisional license fee, as provided in the City Fee Schedule.
 - c. The applicant qualifies for the type of regular license applied for, in accordance with Wis. Stats. § 125.04.
 - d. The applicant has not held another provisional license of the type applied for within the current license year.
 - e. The applicant has obtained all necessary approvals for the regular license from the Green Bay Police Department.
 - f. The applicant has obtained all necessary approvals for the regular license from the Inspections Division of the Department of Community and Economic Development, as required by Section 4-7(c)2.
 - g. For “Class B” license applications, the City’s quota under Wis. Stats. § 125.51(4) does not prohibit the City from issuing a “Class B” license.
 1. In accordance with Wis. Stats. § 125.185(5), provisional licenses are not available for reserve licenses.
 2. Issuance of “Class B” regular licenses will not exceed the number of available licenses under the City’s quota. In the event more regular license applications are received than there are licenses available under the City’s quota, no provisional licenses will be issued for any such applications.
- (b) *Expiration.* The provisional license expires sixty (60) days after it is issued, or upon approval or denial of the applicant’s regular license application, whichever occurs sooner. The provisional license may not be renewed.
- (c) *Revocation.* The Clerk may revoke the provisional license at any time if they discover that the provisional license holder made a false statement on the application.

4-6. Premise expansion on City property

- (a) *Approval.* The Common Council may authorize an establishment holding an alcohol beverage license to expand the licensed premise to include a sidewalk cafe approved for use by the Department of Public Works.
- (1) *Expanded Premise.* The expanded premise is limited to property immediately adjacent and contiguous to the licensed establishment.
 - (2) *Application.* A licensee holding any Class “B” (beer), “Class B” (liquor), or “Class C” (wine) license, as defined under Section 4-3, shall submit to the Clerk a separate application for Expansion of Licensed Premises on City property. The application shall include all the following:
 - a. A description and map of the area to be included in the expansion. The expanded area is subject to the requirements of Wis. Stats. Ch. 125 and this Code. Hand-drawn maps are acceptable.
 - b. Proof that the licensee has the right to occupy the City right-of-way. The licensee must obtain a revocable occupancy permit by applying through the Department of Public Works in accordance with Section 34-11.
 - c. A security plan indicating how the area will be monitored and secured to delineate area boundaries.
 - (3) *Possession of intoxicants on expanded premises owned by the City.* Individuals may consume intoxicating liquor or fermented malt beverages on any premises authorized under this section subject to the following:
 - a. Alcohol beverages shall only be served to patrons of the establishment. No carry in or carry out of alcohol beverages by any patron to or from the licensed shall be permitted, except as authorized by statute.
 - b. Each licensee serving alcohol beverages shall be responsible for monitoring the area to ensure that customers are of legal drinking age and that alcohol beverages are not impermissibly removed from the premises.
 - c. The sale of alcohol beverages shall be limited to the hours of 8:00 a.m. to 11:00 p.m. All alcohol shall be removed from the expanded premises no later than 11:30 p.m.
- (b) *Special Events.* An establishment holding an alcohol beverage licensee may apply for a temporary expansion of a licensed premises to a public area, by submitting an application to the Clerk. Expansion is limited to property owned or controlled by the licensee. A licensee may be authorized by a special event permit to utilize a street or park property, but may not sell alcohol in the public area. The temporary expansion of a licensed premise for a one-day or otherwise limited day event shall be approved by the Protection and Policy Committee.

Sec. 4-7. Licensing procedures.

- (a) *Common Council approval.* Applications complying with the provisions of this chapter and the Wisconsin Statutes shall be forwarded to the Common Council for action in the order in which they are filed, upon availability of a license type. The Common Council shall review

the application, the applicant's qualifications, and all other relevant factors and determine whether to grant the license application under the provisions of this chapter and the laws of the State of Wisconsin.

- (b) *Conditional approval.* The Common Council may place additional conditions upon a license consistent with the provisions of this chapter and the laws of the State of Wisconsin. Violation of any such condition shall be considered a violation of this section and grounds for suspension or revocation of the license.
- (c) *Administrative approval.*
 - (1) Prior to Common Council approval, the Chief of the Green Bay Police Department shall certify that the applicant has successfully completed a background check, completed business security plan and signed a stipulation agreement
 - (2) Prior to Issuance, the Chief Building Official shall certify that the premises complies with all applicable laws and regulations, including any applicable building code requirements. No license shall be granted for a premises not in compliance with such laws and regulations.
- (d) *Licensing fee.* Upon approval by the Common Council and Administrative Approval, the Clerk shall request a licensing fee pursuant to the Fee Schedule. The licensing fee must be paid prior to issuance of the license. The licensing fee is nonrefundable.
- (e) *Form and expiration of license.* All licenses shall be numbered in the order in which the application was accepted. The date of issuance, the fee paid, and the name of the licensee shall appear on said license. All retail licenses shall expire on June 30 following issuance, unless a license is issued as a 6 Month License, or unless sooner revoked. The Clerk shall affix a signature and seal to each license.
- (f) *License amendment.* A licensee may request change to the licensed premises by submitting a change of premises application to the Clerk. Changes to a licensed premises shall be approved by the Community and Economic Development Department – Inspections. Change of premises applications approved or denied by the Protection and Policy Committee.

Sec. 4-8. Inoperative licenses.

Any license that has not been in continuous use in a manner indicating an ongoing business for a period more than sixty (60) days shall be subject to revocation or nonrenewal, unless otherwise authorized by the Common Council.

Sec. 4-9. Revocations, suspensions, and nonrenewals.

- (a) *Intent; due process.* It is the intent of the Common Council that no license granted under this chapter be revoked, suspended, or nonrenewed without first affording the license holder the due process described herein, including an opportunity for a public evidentiary hearing.
- (b) *Grounds.* Licenses may be the subject of revocation, suspension, or nonrenewal proceedings as described in this section for any violation of Wis. Stats. Ch. 125 or of this Code including, but not limited to, the following:
 - (1) The running of a disorderly house as proscribed by Wis. Stats. § 125.12.

- (2) Activity by any licensee or operator that directly interferes with police officers or otherwise violates the law in a manner substantially related to the operation of the licensed facility.
- (3) Any violation of any health provision of this Code dealing with public health, welfare, and safety.
- (4) Any violation of the building, electrical, or plumbing provisions of this Code or a conditional approval plan letter issued by the Chief Building Official affecting the public health, welfare, and safety.
- (5) Any liquor-related violation involving juveniles as proscribed by Wis. Stats. Ch. 125, including, but not limited to, Wis. Stats. § 125.07.
- (6) Any violation of general statutory restrictions pertaining to licensed premises and operations as proscribed by Wis. Stats. Ch. 125 and this chapter.
- (7) Any failure to maintain the qualifications required of all license holders as detailed by Wis. Stats. § 125.04 and as modified by the conditions of this Code or as a condition of granting or renewing a license.
- (8) Any violation of any restriction, stipulation, or agreement entered with the City or signed in consideration of a license issued under this chapter or Wis. Stats. Ch. 125.
- (9) A lack of continuous use of the license in a manner indicating an ongoing business for a period exceeding sixty (60) days, in accordance with section 4-8.
- (10) The licensee no longer has legal ownership or control of the property included in the premises description. If a portion of the property remains under the licensee's ownership or control and not other reasons for revocation exist, the licensee may modify its licensed premises and continue to operate.

(c) *Correction Meeting.*

- (1) *Notice.* Whenever the Chief of Police determines that, on two (2) or more occasions within a twelve-month period, a licensee has violated any provision of this chapter or Wis. Stats. Ch. 125 in a manner resulting in enforcement action, the Chief may notify the licensee in writing. The notice shall contain the street address of or other description sufficient to identify the licensed premises, a description of the violations and enforcement actions that have occurred at the premises, and notice of the time and place at which the licensee is scheduled to meet with the Chief and the City Attorney as described in this section.
- (2) Any licensee receiving notice pursuant to subsection (1) shall meet with the Chief of Police or designee and the City Attorney or designee at the date and time prescribed in the notice. The parties shall review the problems occurring at the licensed premises. Within ten (10) days of this meeting, the licensee shall submit to the Chief and City Attorney an abatement plan to end the alcohol beverage-related violations and enforcement actions on the premises. The plan shall also specify the name, address, and telephone number of a person living within sixty (60) miles of the property who can be contacted in the event of further police, fire, or inspection contact. Additionally, the plan shall include a signed statement from the licensee indicating their understanding that if they fail to comply with the abatement plan or to take the actions discussed at the

meeting, the City may move forward with efforts to revoke, suspend, or not renew their license.

(d) *License revocation procedure.*

(1) *Complaint.*

- a. Any resident of the City may file a sworn written complaint with the Clerk alleging one or more of the grounds listed in Wis. Stats. § 125.12(2)(ag) about any licensee holding a license under this chapter.
- b. The City Attorney may commence revocation or suspension proceedings against a licensee by filing a formal complaint with the Clerk stating the specific violations comprising the grounds for the revocation or suspension. The City Attorney may initiate revocation or suspension proceedings against a licensee if:
 1. The licensee has been the subject of a correction meeting; and
 2. The licensee commits one or more subsequent violations of this chapter, Wisconsin's criminal code, or Wis. Stats. Ch. 125 which results in enforcement action.

(2) *Summons.* Upon the filing of a complaint under this subsection, the Common Council shall issue a summons signed by the Clerk commanding the licensee complained of to appear before the Common Council on a day and at a place named in such summons, not less than three (3) nor more than ten (10) days from its date, and show cause why the license should not be revoked. Such summons shall be served with a copy of the complaint in accordance with Wis. Stats. Ch. 801 at least three (3) days before the time at which the licensee is commanded to appear.

(3) *Evidentiary hearing.* The Common Council shall conduct a hearing on a complaint filed under this section. Said hearing shall be governed by the provisions of Wis. Stats. § 125.12. The licensee may be represented by counsel, present and examine witnesses, and have prepared, at the licensee's expense, a transcript of the hearing.

(e) *Council action.* At the conclusion of the evidentiary hearing, which may be held in open or closed session depending on the nature of the evidence to be produced, the Common Council, following deliberation in open or closed session, shall make one of the following determinations. The Clerk shall give notice of Council's action to the licensee.

- (1) No action shall be taken due to insufficiency of the evidence.
- (2) No action shall be taken at present because an accommodation on the part of the licensee has been reached.
- (3) A suspension of not less than ten (10) nor more than ninety (90) days shall be imposed.
- (4) The license shall be revoked.
- (5) The complaint shall be tabled pending disposition of pending criminal or Municipal Court proceedings, at which time the matter will be considered and a recommendation made.

(f) *Nonrenewal.* A license may be nonrenewed for any of the grounds identified in this section. Prior to April 15 of each year, the Clerk, shall identify any license for nonrenewal and provide

that recommendation to the Common Council for determination on renewal or intent to nonrenewal the license. If the Common Council determines it will not renew, a Notice shall be sent to the licensee stating the grounds for nonrenewal and the right to a hearing. The Notice shall include the specific reasons for the nonrenewal and include any supporting records. The licensee shall have ten (10) days to request, in writing, an evidentiary hearing on the nonrenewal of their license. This hearing shall be held before the Common Council pursuant to Wis. Stats. § 125.12(2)(b). The licensee may be represented by counsel, present and examine witnesses, and have prepared, at the licensee's expense, a transcript of the hearing. The Clerk shall issue the licensee a Final Decision document stating the decision of the Common Council to grant the renewal or nonrenew the license within 5 days of the hearing.

- (g) *Appeal.* Appeal from the decision of the Common Council shall be to the Brown County Circuit Court within 30 days of the receipt of Final Decision.
- (h) *Return of licenses.* Licensed revoked or nonrenewed shall be returned to by the pool of available licenses by the Clerk after 30 days following a Notice of Final Decision.

Sec. 4-10. License restrictions.

- (a) *Statutory requirements.* Any license granted pursuant to this chapter to sell intoxicating liquor or fermented malt beverages shall be subject to the regulations, conditions, and restrictions imposed by Wis. Stats. Ch. 125. In addition, the City of Green Bay, pursuant to the authority of Wis. Stats. § 125.10, specifically adopts certain other restrictions and requirements by this section.
- (b) *Moratoria.* The Common Council may by resolution or ordinance establish an alcohol license moratorium in a specific geographical area.
- (c) *Restrictions on location.* No liquor license shall be issued for a premises when any portion of the structure housing the premises would be fewer than 300 feet from the entrance to a structure housing any established public school, parochial school, hospital, or church. Said restriction may be waived by a two-thirds vote of the Common Council. This subsection shall not apply to:
 - (1) Any premises for which a license under this chapter was issued on or before March 25, 2000, and which license has been continuously retained to date;
 - (2) Any premises for which a license under this chapter was issued prior to the occupation within 300 feet thereof of any school, hospital, or church building, and which license has been continuously retained to date;
 - (3) Any picnic license; or
 - (4) Any premises operated as both a restaurant and an establishment for which a Class "B" (beer) or "Class B" (liquor) license has been issued, where the principal business conducted is that of a restaurant.
- (d) *Closing hours.* For the purposes of this section, the term "open" shall mean allowing any person other than the licensee or an employee actively performing job-related duties to enter, loiter, or remain in or on the licensed premises.

- (1) A premises for which a “Class A” (liquor) license has been issued may remain open for the conduct of its regular business but may not sell intoxicating liquor between the hours of 9:00 p.m. and 6:00 a.m.
 - (2) A premises for which a Class “A” (beer) license has been issued may remain open for the conduct of its regular business but may not sell fermented malt beverages between 12:00 midnight and 6:00 a.m.
 - (3) No premises for which a Class “B” (beer), “Class B” (liquor), or “Class C” (wine) license has been issued may remain open between the hours of 2:00 a.m. and 6:00 a.m., except as otherwise provided in this section. On Saturday and Sunday, no premises may remain open between 2:30 a.m. and 6:00 a.m. On the Sunday that daylight saving time begins, as specified in Wis. Stats. § 175.095(2), no premises may remain open between 3:30 a.m. and 6:00 a.m.
 - (4) On January 1, premises for which a Class “B” (beer), “Class B” (liquor), or “Class C” (Wine) license has been issued are not required to close.
 - (5) No licensee or person in charge of a premises for which a Class “B” (beer) or “Class B” (liquor) license has been issued may sell alcohol beverages in their original unopened packages, containers, or bottles for consumption away from the premises between the hours of 12:00 midnight and 6:00 a.m.
 - (6) No establishment for which a “Class C” (liquor) license has been issued shall sell wine in an original bottle or container for consumption either on or off the premises where sold between the hours of 12:00 midnight and 6:00 a.m.
 - (7) Bowling centers, golf courses, movie theatres, painting studios, indoor golf and baseball facilities, racetrack grounds, indoor horseshoe-pitching facilities, curling clubs, golf clubs, and golf clubhouses may remain open for the conduct of their regular business pursuant to the hours of operation specified by its license type. An establishment remaining open for the purpose of its regular business must, always allow for open public access to the licensed establishment after such closing hours. When a question arises as to whether an establishment is open for a purpose other than selling alcohol beverages, the burden shall be on the licensee to demonstrate such other purpose.
 - (8) No person shall loiter in a licensed establishment after closing hours.
- (e) *Disorderly house.*
- (1) *Duty to maintain order.* A licensee under this section shall have a duty to maintain order and peace in and around the licensed premises. This duty shall extend to and include any parking lot or facility adjacent to and servicing the licensed premises.
 - (2) *Police power to close licensed premises.*
 - a. *Police Department.* The Police Department may order any disorderly house closed until 8:00 a.m. the following day when, in the reasonable view of the Department, the licensee or person in charge failed to maintain peace and order, or the Department otherwise believes that the public peace and safety is served by such closing by reason of threat to the bodily security, property, or peaceful repose of any member of the public.

- b. *Department of Community and Economic Development, Inspection Division.* The Inspection Division of the Department of Community and Economic Development may order the temporary suspension of a license under this chapter where an imminent health hazard exists on the licensed premises pending a hearing pursuant to Section 10-24. Such closing may act as grounds for suspension or revocation of a liquor license privilege under this chapter.
 - c. *Brown County Health Department.* The Brown County Health Department may order a licensed establishment to temporarily close due to code violations until such time that those violations are remedied (Brown County Ordinance Ch. 37 Public Health and Wis. Stat. § 33.124).
- (3) *Open containers.* For the purposes of this section, “open container” refers to an alcohol beverage which is no longer sealed in its original container nor sealed by the licensee with a tamper-evident seal, and which is removed from the licensed premises for purposes of off-premises consumption.
- a. *Prohibited.* A licensee or person in charge shall not allow the sale, service, consumption, or carry out of alcohol beverages in open containers outside of the licensed premises. This section is not intended to prohibit the sale of alcohol beverages for off-premises consumption in containers with a tamper-evident seal as allowed by state law.
 - b. *Exemption.* This subsection shall not apply to the carry out of fermented malt beverages in open containers from a licensed premises to a special event premises licensed to fermented malt alcohol beverages if all the following apply:
 - 1. The fermented malt beverage is carried from the licensed premises to the adjoining special event premises.
 - 2. The fermented malt beverage is carried off the licensed premises in a container that does not contain glass.
 - c. Notwithstanding the exemption, no open container may be carried from a special event premises to any licensed premises or from one licensed premises to another licensed premises.
- (f) *Outdoor areas.*
- (1) *New applications.* The premises, as described in a license application under this chapter, may include a privately owned or controlled outdoor area for use no more than three (3) consecutive days and no more than ninety (90) days in a licensing year. The inclusion of the outdoor area in the licensed premises description shall be subject to review in the same manner as any other license application and the restrictions provided in this chapter.
 - (2) *Amendment.* A licensee may apply to amend its licensed premises to include an outdoor area. Photographs of the outdoor area are required to be submitted with the application. The application for amendment shall be subject to review in the same manner as any other license application, including administrative review, and the restrictions provided in this chapter.

- (3) *Fencing.* Outdoor areas shall be delineated by temporary fencing or similar barrier capable of limiting ingress and egress to licensed areas, unless additional egress is needed for a public safety purpose.
 - (4) *Noise.* No musical instruments, radios, juke boxes, or other means of electric sound amplification may be used or operated in a licensed outdoor area after 10:00 p.m., unless a permit has been granted by the Chief of Police pursuant to Section 24-146(e) of this Code or Section 39.01 of the Brown County Code of Ordinances.
 - (5) *Unlicensed outdoor area.* An unlicensed outdoor area adjacent to and used in conjunction with the licensed premises shall not be used for the purpose of serving or consuming alcohol beverages.
 - (6) *Licensee responsibility.* Any licensed outdoor area is subject to all regulations of this chapter and Wis. Stats. Ch. 125.
 - (7) *Maintaining order.* The licensee shall maintain peace and order over any outdoor area adjacent to and used in conjunction with a licensed premises whether said outdoor area is licensed. Violation of this section may result in the Police Department exercising its authority under this section to order any outdoor premises or the entire licensed area closed in the public interest.
- (g) *Licensed patio.*
- (1) *New applications.* The premises, as described in a license application under this chapter, may include a privately owned or controlled patio. The inclusion of the patio in the licensed premises description shall be subject to review in the same manner as any other license application and the restrictions provided in this chapter.
 - (2) *Amendment.* A licensee may apply to amend its licensed premises to include an patio. Photographs of the outdoor area are required to be submitted with the application. The application for amendment shall be subject to review in the same manner as any other license application, including administrative review, and the restrictions provided in this chapter.
 - (3) *Immediately adjacent.* A licensed patio must be immediately adjacent to the indoor portion of the licensed premises. For purposes of this section, a patio is immediately adjacent if it can be accessed from the indoor portion of the licensed premises without crossing any unlicensed area.
 - (4) *Barrier.* A licensed patio must be enclosed by a permanent fence, structure, or other barrier that clearly delineates the separation from licensed to unlicensed area. The fence, structure, or other barrier must be at least three (3) feet in height and must clearly separate the licensed premises from any non-licensed area. Photographs of the barrier shall be provided with the application.
 - (5) *Ingress.* Access to a licensed patio shall be through an indoor licensed area. Ingress to a licensed patio from an unlicensed area should be limited to safety purposes only. Egress to an unlicensed area without the ability to return shall not be limited, to permit egress for safety purposes.

(h) *Online ordering and curbside pickup of alcohol beverages.*

- (1) *Premises.* No establishment shall allow the online purchase of alcohol beverages and curbside delivery of such purchases (hereinafter, “click and collect”) without first submitting a request to the Clerk to amend its liquor license premises description to include that portion of the establishment’s parking lot that will allow purchasers to park their vehicles for purposes of picking up their online orders. This request must be approved by the Common Council.
- (2) *Operation Plan.* Along with its amendment request, the licensee shall file a detailed operation plan that clearly details how its “click and collect” operation will function. The plan shall include the licensee’s protocol for ensuring that underage persons and intoxicated persons do not pick up alcohol via “click and collect.” If the licensee fails to provide a detailed operation plan with its amendment request, the Clerk shall not forward the request to the Protection and Policy Committee for consideration.
- (3) *Sale.* No establishment holding a license under this chapter shall allow the online purchase and pick-up of alcohol beverages unless the sale is consummated on the licensed premises.
 - a. Payment for the purchase must be completed on-premises and may not be completed until the purchaser is at the licensed premises and has presented a valid photo identification that has been verified by a licensed operator employed by the establishment.
 - b. The licensed operator must verify that the person picking up the “click and collect” order is the same person who placed the order and is present in the vehicle into which the order is loaded.
 - c. The sale and delivery of “click and collect” purchases shall be made only by a licensed operator.
 - d. No alcohol sales are permitted if the purchaser fails to present valid photo identification.
 - e. The “click and collect” system must allow the purchase of alcohol to be denied without affecting the remainder of the purchase.
 - f. The establishment must capture and retain an image of the vehicle into which each “click and collect” order is loaded for thirty (30) days.
 - g. For each “click and collect” transaction, the establishment must record and retain the following information for thirty (30) days:
 1. The name of the purchaser.
 2. The type of identification card presented and the number and expiration date of that identification card.
 3. The purchaser’s date of birth.
 4. The license plate of the vehicle into which the order is loaded.

- h. If the “click and collect” purchaser is in the vehicle into which the order is loaded but is not the driver, the licensed operator must verify that the driver is 21 years of age or older through valid photo identification stating the driver’s date of birth.
 - i. The licensed operator shall report to his or her manager any purchaser who shows signs of alcohol consumption, and, in conjunction with the manager, shall assess sobriety for purposes of approving or denying the sale.
 - j. The pick-up area for “click and collect” purchases shall be clearly defined with visible markings, signs, and/or barriers.
- (4) *Hours.* No licensee holding a Class “B” (beer) or “Class B” (liquor) license shall permit the pick-up of “click and collect” orders between the hours of 12:00 midnight and 6:00 a.m. No licensee holding a Class “A” (beer) license or “Class A” (liquor) license shall permit the pick-up of fermented malt beverages between the hours of 12:00 midnight and 8:00 a.m., nor the pick-up of intoxicating liquor between the hours of 9:00 p.m. and 8:00 a.m.
- (5) No events or activities requiring a license under this chapter other than the delivery of “click and collect” orders are permitted on the expanded premises.
- (6) *Penalty.* Any licensee or person who violates any provision of this subsection shall be subject to a forfeiture of not less than \$250.00 nor more than \$1,000.00, plus court costs and fees.
- (i) *Area for liquor sales on “Class A” (liquor) licensed premises.*
- (1) In the interest of limiting juvenile access to alcohol beverages at retail establishments, and in the interest of promoting effective, unhampered, and efficient enforcement of such provisions as they relate to juveniles, no “Class A” (liquor) license shall be granted for any premises where the principal business conducted thereon is other than the sale of alcohol beverages, unless the establishment has:
 - a. A separate area with the ability to lock that portion of the premises during non-sale hours;
 - b. 24-hour surveillance camera(s) with recordings that are available to law enforcement upon request; and
 - c. Signage informing minors that they must be 21 years of age to purchase alcohol.
 - (2) If a question arises as to what principal business is being conducted on a premises, the burden of proof shall be on the applicant or licensee.
 - (3) A violation of this provision can act as grounds for revocation or nonrenewal of a liquor license under this chapter.
- (j) *Restrictions on use of picnic license; licensed operator required.* No person holding a picnic license, as defined in Section 4-1, shall permit the sale of fermented malt beverages unless a person holding an operator’s license issued under this chapter is directly supervising and in control of the area(s) in which the sale of fermented malt beverages occurs. Where two (2) or more areas of sale are used, at least one (1) licensed operator must be present and supervising each area of sale.

- (k) *Violation of stipulation or agreement.* No licensee may violate a provision of a stipulation or other agreement entered with the City or signed in consideration of a license issued by the City under this chapter or Wis. Stats. Ch. 125. Any licensee who violates this provision may be subject to suspension, revocation, or nonrenewal of their license under Section 4-8 or other penalty under Section 4-11.
- (l) *Allowing entry.* No licensee or person in charge may refuse entry to a police officer, peace officer, or agent of the Department of Revenue to the licensed premises at any reasonable time to determine compliance with this chapter and Wis. Stats. Ch. 125. The term “reasonable time” includes, without limitation, all times when the premises is open.
- (m) *Premises capacity.* Every Class “B” (beer) and “Class B” (liquor) licensed establishment shall display a sign stating the maximum number of persons permitted on the premises by this Code, the Wisconsin Administrative Code, and/or the International Building Code. The sign shall be placed in a conspicuous place at the main entrance to each premises. The sign shall have the following wording: "Limit (number) persons." The lettering shall be white on a dark background. The letters shall not be less than one and one-half (1½) inches in height and the number shall not be less than three (3) inches in height. No licensee or person in charge of a premises shall allow more persons on the premises than the maximum number posted thereon.

Sec. 4-10. Operator’s license.

- (a) *Applications.*
 - (1) Application for an operator’s license shall be made to the Clerk on a form supplied by the Clerk’s Office. All applications shall be accurately completed in their entirety or shall be rendered void by the Clerk.
 - (2) The license fee as provided in the City Fee Schedule shall be submitted with the application.
 - (3) Upon receipt of an application, the Clerk shall forward the application to the Police Department for verification of the veracity of the application as well as research into the qualifications of the applicant in accordance with the requirements of Wis. Stats. § 125.04.
 - (4) An operator license may be granted by the Common Council without further review in the event the Police Department approves of the application.
 - (5) The license shall be issued for a period of two (2) consecutive licensing years. At all times while engaged in activities requiring a license issued pursuant to this section, the licensee shall keep the following items available for production upon request of any City or State inspecting officer:
 - a. Their operator’s license; and
 - b. A valid form of identification issued by a governmental agency containing a photograph of the licensee.
- (b) *Provisional license.* The Clerk shall be authorized to issue a provisional operator’s license upon receipt of a regular operator’s license application. The requirements and provisions of Wis. Stats. § 125.17 relating to provisional operators’ licenses are hereby adopted and made

part of this Code as if set forth fully herein. Future amendments are also adopted prospectively, incorporated herein, and intended to become a part of this Code.

(c) *Denial of operator's license.*

- (1) If the Police Department determines that any portion of the application is false or that the applicant does not possess the qualifications under Wis. Stats. § 125.04, the license may be denied by the Police Department.
- (2) The Police Department shall notify any applicant so denied.
- (3) Any applicant whose application has been denied by the Police Department may appeal such determination to the Protection and Policy Committee. Upon appeal, the Protection and Policy Committee shall determine if the applicant possesses the qualifications of Wis. Stats. § 125.04. After making such determination, the Protection and Policy Committee shall forward its recommendation to the Common Council.

(d) *Issuance of license.* The Clerk shall not issue an operator's license until all requirements of this section have been satisfied.

Sec. 4-11. Penalties.

- (a) *Forfeiture.* Any person violating a provision of this chapter where no penalty is specified, and except as described in subsection (d), shall be subject to a forfeiture of not less than \$1.00 nor more than \$500.00 for each offense.
- (b) *Specific violations.* Any person violating Wis. Stats. §§ 125.07(1) and (4), 125.085, or 125.09(2), as adopted in Section 4-2, shall be subject to the penalties provided therein.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. Effective date. This ordinance shall take effect on and after its passage and publication.

Dated at Green Bay, Wisconsin, this _____ day of _____, 2023.

APPROVED:

Mayor

ATTEST:

Clerk
[Date]