

STATE OF WISCONSIN)  
  ) ss.  
MILWAUKEE COUNTY)

### SUMMONS

The Licenses Committee of the Common Council of the City of Milwaukee

TO: Any Police Officer of and for the City of Milwaukee

You are hereby commanded to summon Brett Henning, agent for BAJ Inc., licensee for the premises at 7424 N 60<sup>th</sup> Street, Milwaukee, Wisconsin ("Brett's Farmhouse"), to appear before the Licenses Committee of the Common Council of the City of Milwaukee at its meeting in Room 301-B, City Hall, 200 East Wells Street, in the City and County of Milwaukee, State of Wisconsin on Tuesday, December 5, 2017 at 9:00 a.m. to show cause why the Class B Tavern and Food Dealer licenses issued to Brett Henning, agent for BAJ Inc., for the premises at 7424 N 60<sup>th</sup> Street, Milwaukee, Wisconsin and known as "Brett's Farmhouse" should not be revoked or suspended.

TO: Brett Henning  
4322 W Woodale Avenue  
Brown Deer, WI 53223

Pursuant to sec. 125.12 of the Wisconsin Statutes, and §§ 85-3 to 85-5, 90-12, and 68-21 of the Code of Ordinances of the City of Milwaukee, you are hereby commanded to appear on December 5, 2017 at 9:00 a.m. at a hearing before the City's Licenses Committee to be held in Room 301-B, City Hall, 200 East Wells Street, Milwaukee, Wisconsin to show cause why the Class B Tavern and Food Dealer licenses should not be revoked. The hearing is being initiated because of the City of Milwaukee's receipt of a signed and sworn complaint filed by Captain Andra Williams, Commander of the Milwaukee Police Department, District Four. A copy of the above-referenced complaint is attached hereto as well as copies of §§ 85-3 to 85-5, 90-12, and 68-21 of the Milwaukee Code of Ordinances, and Chapters 125.12 of the Wisconsin Statutes.

On December 5, 2017 at 9:00 a.m. you will be given an opportunity to speak on your own behalf, and to respond to and challenge any charges or reasons given by witnesses at the aforementioned hearing in support of a revocation or suspension of your licenses. You may present your own supporting witnesses, under oath, at this hearing, and you may also confront and cross-examine opposing witnesses. If you wish to do so, and at your own expense, you may be accompanied by an attorney or interpreter of your own choosing to represent you at this hearing.

If you, Brett Henning, fail to appear in person before the Committee on December 5, 2017 at 9:00 a.m. in Room 301-B, of City Hall, as required by the summons, the Committee will proceed to consider the allegations of the complaint which shall be taken

as true. If the Committee determines that the allegations are sufficient and the circumstances warrant, the law permits your licenses be revoked or suspended.

Dated as of the 28<sup>th</sup> day of November, 2017.

*Tony Zielinski*

ALDERMAN T. ANTHONY ZIELINSKI  
CHAIRMAN, LICENSES COMMITTEE

*[Handwritten Signature]*  
JAMES R. OWCZARSKI  
CITY CLERK

Complaint; Wisconsin Statutes Section 125.12;  
Milwaukee Code of Ordinances Sections 85-3 to 85-5, 90-12, and 68-21.

Proof of Service:

STATE OF WISCONSIN )  
  ) ss.  
MILWAUKEE COUNTY )

COMES NOW \_\_\_\_\_, being first duly sworn and upon his/her oath, who deposes and says that he/she is an officer of the Milwaukee Police Department, and that he/she did at \_\_\_\_:\_\_\_\_ AM/PM on the \_\_\_\_ day of November, 2017, serve a true and correct copy of this summons, the complaint, Wisconsin Statutes Section 125.12, Milwaukee Code of Ordinances Sections 85-3 to 85-5, 90-12, and 68-21 upon \_\_\_\_\_ at \_\_\_\_\_.

Subscribed and sworn to before me  
this \_\_\_\_ day of November 2017

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission:\_\_\_\_\_

\_\_\_\_\_  
Printed Name

**In re the Class “B” Tavern license and Food Dealer-Restaurant license of:**

**BAJ, Inc.  
Brett Henning, Agent  
as the Licensee for the licensed premises  
known as Brett’s Farmhouse, located at  
7424 N 60<sup>th</sup> Street, Milwaukee, Wisconsin**

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**SWORN CHARGES BY CHIEF OF POLICE FOR REVOCATION OF LICENSES**

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Pursuant to Wisconsin Statutes Section 125.12 and Sections, 85-4, 90-12 and 68-21 of the Milwaukee Code of Ordinances (“MCO”), Chief of Police Edward Flynn, a City of Milwaukee resident and interested party, by Captain Andra Williams, Commander of Police District 4, City of Milwaukee resident and interested party, being first duly sworn and upon his oath, respectfully charges the following based upon review of official Milwaukee Police Department (“MPD”) reports drafted in the ordinary course of business, including those attached as part of these sworn charges, review of documents received by MPD District 4 and communication with police, law enforcement, community members and municipal officials:

1. BAJ Inc., by its agent Brett Henning, (hereinafter, the “Licensee”) is the holder of a Class “B” Tavern license and Food Dealer-Restaurant license for the licensed premises known as Brett’s Farmhouse and is located at the property of 7424 N 60<sup>th</sup> Street, Milwaukee, Wisconsin, (hereinafter, the “Property”). Upon information and belief the Property is owned by Hennington Investments LLC, whose primary address is 4322 W Woodale Avenue, Brown Deer, Wisconsin.
2. On September 12, 2017 the Licenses Committee recommended to the Common Council renewal for the above-stated licenses with a 10-day suspension. The suspension was withdrawn at the council hearing and the licenses were renewed.

### **UNLAWFUL LICENSE ACTIVITY**

3. Brett's Farmhouse has a history of repeated Class "B" tavern violations and nuisance activities. This repetitive history has been observed by public citizens and verified through ongoing Milwaukee Police Department ("MPD") investigations. This activity is a substantial burden to MPD as law enforcement officers are deployed to conduct their investigations.

4. On March 20, 2015, MPD arrived at the Property for a tavern check. Upon arrival MPD discovered that the sole individual tending bar was operating with an expired license. The MPD issued a citation for Class D Operator's Liquor License violation: municipal case no. 15018603.

5. On October 15, 2016, MPD arrived at the Property for a tavern check. Upon arrival MPD observed a highly intoxicated female standing on the patio yelling obscenities at patrons standing in the Property's parking lot. The female was later arrested and cited for Disorderly Conduct: municipal case no. 16059920.

6. On May 5, 2017, MPD responded to a complaint at the Property. Upon arrival MPD arrested a highly intoxicated individual attempting to hit patrons with liquor bottles. The individual was cited for Resisting/Obstructing an Officer: municipal case no. 17021786, Disorderly Conduct: case no. 17021785 and Trespassing: case no. 17021784.

### **FIREARM ACTIVITY**

7. On January 7, 2017, at approximately 12:07am, MPD responded to a shooting at the Property. Upon arrival, the officers found a victim of the shooting on the floor by the bar with a gunshot wound to the chest. The officers immediately performed CPR on the victim who was not breathing. After viewing surveillance of the incident, the officers concluded several individuals were drinking at the bar when a fight broke out at approximately 12:00am. The victim got involved in the fight with unknown subjects. During the altercation, the suspect removed a firearm from his jacket

and shot the victim in the chest. It was later determined the suspect brought the firearm into the licensed establishment. After the suspect shot the victim in the chest the suspect conversed with another male in the bar who also had a firearm in his waistband. The suspect then fled the bar into the parking lot. The victim later died in the bar from the gunshot wound.

8. On January 13, 2017, the Licensee met with District 4-Captain Williams and the community police officers to discuss the homicide and to ensure further security measures. During the meeting the Licensee stated that he does not allow guns at his tavern and that he never wants an incident like the homicide to happen again. Captain Williams stated to always contact the district if there is any type of escalation to prevent further incidents. The community police officers advised the Licensee to post no firearms signs and also employ a security wand to prevent patrons from entering the bar with a firearm.

9. On September 12, 2017, the Licensee appeared before the Licenses Committee and was questioned regarding the homicide shooting on January 7, 2017. When asked what security measures were implemented after the shooting, the Licensee stated he had not taken any further security measures. When asked what abatement measures were taken to prevent this activity in the future, the Licensee responded none. When asked if any of the security recommendations from MPD-District 4 were implemented, the Licensee stated he had not taken any further security measures because he feels it is a safe bar. During the hearing, the Licensee further stated that he does not want this situation to happen again, but did not feel more security was necessary because the bar is safe. The Licenses Committee later recommended a 10-day suspension; however, the recommendation was withdrawn at council.

10. On September 20, 2017, the Licensee submitted correspondence to the Common Council indicating a security wand and security staff will be implemented into a new security plan to prevent any further disorderly activity and use of firearms.

11. On October 1, 2017, MPD officers arrived at the Property responding to a call for shots fired. Upon arrival the officers learned that two patrons at the Property exited and fired shots into the air. The officers obtained security footage from the bar, which depicts several individuals engaging in physical and verbal altercations with several patrons in the bar parking lot. During the altercation, one individual entered his vehicle, quickly reversed from the parking stall and then abruptly stopped. The individual then exited his vehicle and removed an assault rifle from the trunk. Simultaneously, an individual originally involved in the dispute, exited the bar and withdrew a handgun from his waistband. Next, the two men fired several shots from the assault rifle and the handgun. The two individuals then entered separate vehicles and left the scene.

**BASED UPON** the continuous unlawful licensing activity regarding patrons at the Property, the lack of abatement measures taken from the Licensee and also the serious nature of both firearm activities, which has cumulatively had a substantial adverse effect upon the health, safety or convenience and prosperity of the immediate neighborhood;

**THE CHIEF OF POLICE**, by his designee, respectfully requests the immediate revocation of the Class "B" Tavern license and Food Dealer Restaurant license relative to the above-referenced Licensee and licensed premises, Brett's Farmhouse, because:

1. Pursuant to Wis. Stat. Sec. 125.12(2)(ag)(2)., the Licensee keeps or maintains a disorderly or riotous, indecent or improper house;
2. Pursuant to MCO 85-4-4-c, 90-12-1-f, and 68-21-9-g-1, Brett's Farmhouse operates in such a manner that it constitutes a public or private nuisance and that conduct includes but is not limited to disorderly conduct, resisting or obstructing officers, alcohol license violations, disturbance of the peace and unlawful discharge of firearms, and that said activity associated at Brett's Farmhouse has had a substantial adverse effect upon the health, safety or convenience and prosperity

of the immediate neighborhood;

3. Pursuant to MCO 85-4-4-c-22 and 90-12-1-i there are other reasonable causes which are in the best interests, public safety, welfare and good order of the City of Milwaukee, including the disregard for public safety: Brett's Farmhouse failed to prevent the unlawful use of firearms at the licensed establishment and therefore disregarded public safety.

Dated at Milwaukee, Wisconsin this 7 day of November, 2017.

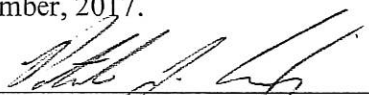
CHIEF OF POLICE EDWARD FLYNN, by



ANDRA WILLIAMS

Commander, Milwaukee Police District 4

The foregoing complaint seeking revocation of the Class "B" Tavern License and Food Dealer Restaurant license was subscribed and sworn to and before me this 7 day of November, 2017.



Notary Public, State of Wisconsin  
My commission is permanent



Drafted by:  
PATRICK J. LEIGL  
Assistant City Attorney  
State Bar No: 1095144

# MILWAUKEE POLICE DEPARTMENT LICENSING

## CRIMINAL RECORD/ORDINANCE VIOLATION/INCIDENTS SYNOPSIS

**DATE:** 08/02/2017  
**LICENSE TYPE:** BTAVN  
**NEW:**   
**RENEWAL:**

**No. 259831**  
**Application Date:** 08/02/2017

**License Location:** 7424 North 60<sup>th</sup> Street  
**Business Name:** Brett's Farmhouse

**Licensee/Applicant:** Henning, Brett A.  
(Last Name, First Name, MI)  
**Date of Birth:** 12/11/1958

**Home Address:** 4322 West Woodale Avenue  
**City:** Brown Deer **State:** WI **Zip Code:** 53223  
**Home Phone:** 414-371-9010

This report is written by Police Officer David NOVAK, assigned to the License Investigation Unit, Days.

The Milwaukee Police Department's investigation regarding this application revealed the following:

1. On 06/03/2006 Janet Henning was cited by Brown Deer police for Disorderly Conduct. Janet Henning is listed on the application as 50% shareholder.

**Charge:** Disorderly Conduct  
**Finding:** Guilty  
**Sentence:** Fine  
**Date:** 08/01/2006  
**Case:** N560721

2. On 02/14/2007 the Wisconsin Department of Transportation revoked the applicant's driver's license for 6 months for Operating While Intoxicated.
3. On 03/20/2015 Janet Henning was cited at 8424 North 60<sup>th</sup> Street in the city of Milwaukee for Responsible Person on Premises. Janet Henning is listed on the application as 50% shareholder.

**Charge:** Responsible Person on Premises  
**Finding:** Guilty  
**Sentence:** \$378.00 fine  
**Date:** 05/12/2015  
**Case:** 15018592



- =====
4. On 04/01/2016 Milwaukee police responded to Milwaukee police district #4 and spoke to Mark Duquaine. Duquaine told officers that while at Brett's Farmhouse (7424 North 60<sup>th</sup> Street) he became involved in an argument with the bartender. Duquaine states that when he left the bar, the bartender followed him, grabbing his arms and pushed him into his car. Duquaine was cited for Disorderly Conduct. The bartender, Richard Sasser, was cited for Assault and Battery.

As to Mark Duquaine:

Charge: Disorderly Conduct  
Finding: Dismissed  
Sentence:  
Date:  
Case: 16024462

As to Richard Sasser:

Charge: Assault and Battery  
Finding: Guilty  
Sentence: Fined \$376.00  
Date: 10/04/2016  
Case: 16039116

- =====
5. On 01/07/2017 at 12:09am officers responded to a shooting at Brett's Farm House, 7424 N. 60<sup>th</sup> St. The officers found the victim on the floor by the bar with a gunshot wound to the chest. The officers performed CPR on the victim who was not breathing. The officers viewed the video surveillance which showed the incident. At 10:00pm the video showed the victim and suspect entering with a third subject (Andre HOLLY). They were drinking at the bar when a fight broke out at 12:00am. The victim got involved in the fight with the unknown subjects. The suspect then goes over to the fight and fires a shot striking the victim. The suspect and HOLLY are then observed exiting the bar and surrounding a car in the lot. HOLLY is observed giving a gun to the suspect who then leaves as HOLLY reenters the tavern to wait for police. During the investigation two underage patrons were located on the premises.

Charge: Presence of Minor at Licensed Premises  
Finding: Guilty  
Sentence: Fined \$384.00  
Date: 02/28/2017  
Case: 17003731

6. On 01/13/2017 a meeting was held at District 4 regarding the homicide on 01/07/2017. The applicant stated his bar is a family place where most of the customers know each other. He was asked how he handles fights and he stated he gets between the parties before it escalates. The officers recommended he have security at the door on weekends, use a wand to make sure no weapons are brought into the tavern and post a "no firearms allowed" sign on the front door.

PA-33E Narrative

This Report of Incidents Involving Licensed Persons or Premises, original report, was submitted by P.O. Martinez MOORE PS# 015951 assigned to District 4, Late Shift.

On Saturday, January 7, 2017, at 12:09 A.M., Squad 4365, P.O. Ralph MCCLAIN and I, was dispatched to a shooting at 7424 N. 60th St., Brett's Farmhouse.

Upon our arrival, P.O. MCCLAIN and I entered the tavern through the west entrance door. Once inside, I observed a black male, later identified as Frederick P. JACKSON B/M, 04-03-86 address of 6036 W. Port Av.; Milwaukee, WI 53223, laying in a supine position, alongside the fixed bar, on the east side of the tavern. JACKSON'S head was facing towards the east wall, and he feet were facing towards the west wall. Frederick JACKSON was unresponsive and suffered a gunshot wound to the upper left side of his chest. A male subject, later identified as Andre L. HOLLY B/M, 02-05-84 address of 5316 N. 51st Blvd.; Milwaukee, WI 53218, was also observed knelt against the right side of JACKSON. P.O. MCCLAIN conducted an assessment of Frederick JACKSON and determined he was not breathing. Afterwards, P.O. MCCLAIN immediately performed CPR.

P.O. MILLER and I then conducted a Protective Sweep of the tavern and did not locate the suspect. Soon thereafter, the Milwaukee Fire Department arrived on scene and continued CPR. Contemporaneous to MFD conducting CPR, they advised me that JACKSON was pulseless and non-breathing.

After the tavern was rendered safe, I ascertained a description of the suspect/ shooter, from the tavern's cook, identified as Richard J GLEISSNER W/M, 11-29-66 address of 6915 N. 67th St.; Milwaukee, WI 53223, cell phone #550-4864. I then broadcast a description of the suspect via open sky.

Afterwards, Brett's Farmhouse owner, identified as Brett A. HENNING W/M, 12-11-58 address of 4322 W. Woodale Av.; Brown Deer, WI 53223, cell phone# 358-3400, escorted me to his camera system. The camera system is located in the basement. Aforementioned camera system records in real time, however there is no audio. Furthermore, majority of the cameras are in black and white, with the exception of the camera labeled "Seating Area." After viewing the camera system, I observed the following chain of events. The following is a synopsis of the incident.

10:04 P.M.- Suspect, described as a Black or Hispanic Male, approximately 5'7", 140 to 150 pounds, slender built, light brown complected, tattoo on the left side of his face, wearing a red baseball-style hat, blue jacket with the wording "Notorious" printed over the top of "Pelle Pelle", blue jean pants, park a possible Buick in the south parking lot. Suspect stayed stationary in the vehicle until approximately 22:18.

10:18 P.M.- Aforementioned suspect observed entering the east entrance of the tavern with the victim, Frederick JACKSON, and a material witness, Andre HOLLY. All three patrons continued to converse amongst each other and consume alcoholic beverages; mostly by the west side of the bar.

12:00 A.M.- Verbal altercation ensues between unknown suspect and two unknown black male patrons. Victim, JACKSON, leaves from his seated area of the bar and engage in a fight with the unknown male patrons. Suspect retrieved a handgun from his person then discharge the firearm striking Frederick JACKSON upon his chest. JACKSON immediately falls supine to the ground. Soon thereafter, patrons are observe hastily and frantically running from the tavern. Unknown suspect is then observed engaged in a verbal altercation with a patron that was observed on the floor. Patron appeared to be pleading with the suspect. Suspect is observed placing the handgun back into his jacket. Patron then flee from the tavern.

Afterwards, Andre HOLLY is observed entering the east entrance door. HOLLY and the suspect is observed conversing momentarily. Andre HOLLY and suspect are observed moving hastily towards the west entrance door. HOLLY brandishes a firearm from his waist. HOLLY and suspect exits through the west entrance door

and observed in the south parking lot. It is unknown the circumstances that transpired outside in the parking lot at this time. However, HOLLY and the suspect are observed surrounding a dark colored vehicle, possible Cadillac, by the entrance of the parking lot. HOLLY and the suspect re-enters the tavern. Moments later, HOLLY hands his firearm to the suspect. Suspect exits through the west entrance door, enters his vehicle, then flee from the scene.

Synopsis concluded.

This incident was depicted on the following cameras:

Camera labeled "Parking Lot"- This camera is located on the exterior of the building, affixed on the south side. The camera is approximately 15 feet from ground to affixed point. Aforementioned camera face southbound and oversee the south parking lot. This camera is depicted in black and white.

Camera labeled "Bartender"- This camera is mounted on the east wall. The camera is approximately 7 1/2 feet from floor to affixed point. It shall be noted that the ceiling is approximately 8 feet from floor to ceiling. The camera face westbound and oversee the bar and partially the patron stool area. This camera is depicted in black and white.

Camera labeled "Seating Area"- This camera is mounted on the west wall, above the window. The camera is approximately 7 1/2 feet from floor to affixed point. The camera face eastbound and oversee the lounge area. This camera is in color.

Camera labeled "Bar"- This camera is mounted on the west wall. The camera is approximately 7 1/2 feet from floor to ceiling. Aforementioned camera face eastbound and oversee the west side of the bar. This camera is in black and white.

Succeeding this investigation, Andre HOLLY was summarily arrested for Probation Violation (knowingly and intentionally admittance to consuming alcohol, violation of a stipulation of his probation). HOLLY was subsequently conveyed to Central Booking by Squad 4330, P.O. Bradley BAKER.

It shall be also noted that there were two identified underage patrons in the tavern during this incident. These patrons were identified as Nasia B. MARTIN B/F, 06-12-96 (20) address of 1605 Dover Drive; Waukesha, WI 53186, cell phone# 510-7502; and Jamiah S HOLT B/F, 03-15-96 address of 2101 W. Neil Pl; Milwaukee, WI 53209, cell phone# 262-613-8519.

Furthermore, the owner, Brett HENNING, was cooperative and forthcoming with information regarding this investigation.

Supplemental report concluded.

This report is written by P.O. Tracey Geniesse assigned to District four, Day shift. On Friday, 1/13/17 at 1:45pm, we had a meeting with the owner of Bretts Farmhouse. Present for this meeting was Captain Andra Williams, P.O. Carrie Resnick, myself and Brett Henning. The meeting took place inside Captain Williams office at District Four.

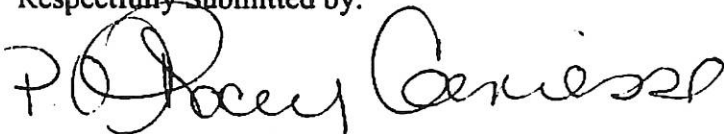
Captain Williams asked Henning, what security measures he has in place at this time. Henning stated he currently has a video surveillance system in place. Currently there are a total of eight cameras, interior and some exterior, but that is it. Henning stated his tavern is similar to "Cheers". It is a very family orientated place and most of the customers know each other. Henning stated he hates guns, and his regular customers know this, and he does not allow guns inside the tavern. Captain Williams asked "How do you handle a fight in the bar?" Henning stated "I'll get in between them before it escalates. We don't have the problems other taverns do. During the day, the average age is anywhere from 40-70 years of age. The music we play is 95.7 (Oldies). The evening age range is from 30-40 years of age. The evening music is 98.3 (R&B). On the weekends there might be a crowd of 50-60 patrons.

Henning stated, I've been here for 28 years and this was horrible. I don't want anything like this to ever happen again.

Captain Williams stated, we need to keep an open line of communication. If there is ever a moment he is feeling uncomfortable with the crowd, he can call into the District and request for a squad to respond and conduct a tavern check or a walk through.

The following were recommendations made by District Four: Have security at the door, during weekend hours. Use a security wand to make sure no weapons make it into the tavern. Post No Firearms allowed signs, on the exterior doors.

Respectfully Submitted by:

A handwritten signature in black ink that reads "P.O. Tracey Geniesse". The signature is written in a cursive, flowing style.

P.O. Tracey Geniesse 014168

PA-33E Narrative

This narrative was written by PO Mohammad NOURI, ps# 024046, District 4, Late. On Tuesday, July 5<sup>th</sup>, 2017, Squad 4340 (PO WHITERS and I) were dispatched to a fight at 7424 N 60<sup>th</sup> St (Brett's Farm house). Upon arrival, I spoke to the owner Brett A HENNING (W/M, 12/11/58), who stated there were 3 B/Fs fighting in the far end of the parking lot. HENNING stated a fight did not occur inside of the tavern. HENNING was very cooperative. The premise was within capacity.

# Incident Report

## MILWAUKEE POLICE DEPT

172740010

Supplement No  
0003

### Modus Operandi

Gang Act?	Gang Name	Crime Code(s)
No	NONE	WEAPONS VIOLATIONS

### Supplement

This Endangering Safety By Use Of Dangerous Weapon (ESBUODW), supplemental report, was submitted by P.O. Martinez MOORE PS# 015951 assigned to District 4, Day Shift.

On Friday, October 13, 2017, at 12:15 P.M., Squad 4169, P.O. Christopher SHORTS, and I, Squad 4170, conducted follow-up at location of 7424 N. 60th St, Brett's Farmhouse, regarding an ESBUODW investigation.

Upon our arrival, I was allowed access to the camera system by the owner, identified as Brett A HENNING W/M, 12-11-58 address of 7224 N. 60th St; Milwaukee, WI 53223, cell phone# 418-1455. The camera system was located in the basement of the tavern. HENNING'S camera system was identified as a LTS digital camera system. The LTS digital camera system records in exact time, however is absent of sound. Due to the recording being recorded during the hours of darkness, the camera system depicts the ESBUODW in black and white. It shall be noted that due to the black and white depiction of the video, colors are distorted/ absent.

#### Synopsis of Initial Incident

On Sunday, October 1, 2015, at approximately 1:25 A.M., two unknown black males discharged their respective firearms, into the air, in the parking lot of Brett's Farmhouse. Brett's Farmhouse is located at 7424 N. 60th St. The venue of Brett's Farmhouse is located in the City and County of Milwaukee. The suspects (2) were described as following:

Suspect #1, described as a B/M, approximately 5'11", shoulder length black dread locks, wearing a black hooded sweatshirt and blue jean pants. Suspect #1 discharged an automatic assault rifle.

Suspect #2, described as a B/M, approximately 5'8", thin built, wearing a gray tee shirt and blue jeans. Suspect #2 was armed with a black handgun.

After the aforementioned suspects discharged their respective firearms, Suspect #1 fled the scene, southbound, in a silver or gray, 4 dr, Chrysler 300. Soon thereafter, Suspect #2 fled the scene, southbound, on N. 60th St, in a Mercury Grand Marquis.

In proximity to the shots fired (moments thereafter), Squad 4466, P.O. Jesse MATTSON, observed a Mercury Grand Marquis, traveling southbound on N. 60th St., disregard an official red light, at the intersection of N. 60th St and W. Good Hope Rd. Afterwards, P.O. MATTSON attempted a traffic stop of the Mercury Grand Marquis, in the alley of 6000 W Spokane St. Contemporaneously to the traffic stop, P.O. MATTSON observed a silver Chrysler 300, 4 door, unknown registration plate, approach W. Spokane St, at a high rate of speed, then locked it's brakes to stop on N. 60th Street. The operator of the Chrysler 300 then positioned his vehicle behind P.O. MATTSON'S squad car. While P.O. MATTSON attempted to reposition his squad car, both the Mercury Grand Marquis, and the Chrysler 300 fled from the traffic stop. Preceding the vehicles fleeing, P.O. MATTSON was able to obtain the plate number of [REDACTED] to the Mercury Grand Marquis, by illuminating it with his flashlight. Aforesaid plate number was registered to a 1998 Mercury Grand Marquis LX, 4dr, light green, vin# [REDACTED]. The Mercury Grand Marquis is registered to a [REDACTED] dot address of [REDACTED] Milwaukee, WI 53222. [REDACTED] physical characteristics, in accordance with DOT and Bureau of Identification, is 5'11", 210, medium brown complected, black dread locks protruding past his shoulders, and a 2-inch goatee. Due to [REDACTED] physical characteristics, facial features, dread locks protruding past his shoulders, and the registered owner of aforementioned Mercury Grand Marquis, my investigation revealed that [REDACTED]. The synopsis to this aforementioned initial investigation is concluded.

#### LTS digital video depiction of incident

Camera #5- video#20171001010113- documented commencement time of 1:01:10 A.M.- (Camera #5 overlooks the west side of the parking lot. Camera 5 is mounted on the southwest side of the building, approximately 15 feet from the ground, and face southbound)

observed Suspect #1, described as a B/M, 5'4" to 5'6", 130 to 140, slender built, wearing a hooded sweatshirt with the hood up (further video evidence depicts Suspect #1 with braids or dread locks protruding past his shoulders),

Report Officer  
015951/MOORE, MARTINEZ

Printed At  
10/19/2017 08:31

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# Incident Report

## MILWAUKEE POLICE DEPT

172740010

Supplement No  
0003

### Supplement

grayish tee shirt underneath hooded sweatshirt, and black or dark jean pants. Suspect #1 was accompanied by [REDACTED]. [REDACTED] was observed wearing a baggie long sleeve shirt, with the sleeves pulled up towards his elbows, and baggie pants. As previously stated, colors are distorted due to the video being black and white, due to the cover of darkness. [REDACTED] and Suspect #1 are observed walking southbound, through the parking lot, towards [REDACTED] vehicle. [REDACTED] vehicle was parked diagonally, facing southwest. [REDACTED] vehicle (Mercury Grand Marquis) can be observed with after market rims described as 24" bright chrome rims, deep dish, with low profile tires. Suspect #1 and [REDACTED] are observed hugging then conversing.

Camera #5- video#20171001010307- documented commencement time of 1:03:58 A.M.;

observed a B/F, possibly mid 20's, 5'2 to 5'4", 160 to 180, stocky built, wearing a waist length jacket, light colored jeans, with a purse draped over her right shoulder. For report purposes, this person will be identified as Female #1. Female #1 is observed walking towards [REDACTED] and Suspect #1. All three subjects are observed conversing alongside the driver's side of [REDACTED] car. [REDACTED] is observed flailing his arms on several occasions during the conversation.

Camera #5- video#20171001010533- documented commencement time of 1:05:37 A.M.;

observed a B/F, possibly mid 20's, 5'4" to 5'7", 160 to 180, stocky built, shoulder length hair, black waist length jacket, white shirt protruding from underneath black jacket, yoga-style pants, tan calf length boots. For report purposes, this person will be identified as Female #2. Female #2 is observed approaching aforementioned subjects and began to converse with them.

Camera #5- video#20171001010618- documented commencement time of 1:06:42 A.M.;

All four subjects are observed in a group hug. Afterwards, [REDACTED] walks up the ramp, towards the patio. Suspect #1 walks towards a Chrysler 300, opens the driver's side door, then places an unknown object in his right pocket. Suspect #1 and Female #2 then walked up the ramp towards the patio.

Camera #5- video#20171001010844- documented commencement time 1:09:15 A.M.;

Suspect #1 observed walking down the ramp. Suspect #1 is followed by a B/F, 5'0" to 5'2", possibly mid to late 20's, 250 to 300, heavy built, braids to middle of her back, multi-colored shirt with designs, blue jean pants. For report purposes this person will be identified as Female #3. Female #3 is observed walking towards the rear of Suspect #1's Chrysler 300. The Chrysler 300 is observed diagonally parked, facing northwest, on the north side of the parking lot, approximately 10 feet south of the west entrance door to the tavern. At approximately 1:09:40 A.M., Suspect #1 is observed pushing Female #3 by the trunk of the Chrysler 300. Afterwards, an argument appears to ensue between Female #3 and Suspect #1. [REDACTED] is observed conversing with both subjects. Suspect #1 is then observed entering the driver's seat of the Chrysler 300, moments later the vehicle's lights began to flicker on and off. Female #3 walks from the passenger's door of the Chrysler 300, to the rear of the vehicle, then suddenly slam the trunk close.

Moments later, [REDACTED] Suspect #1, and all three females appeared to be agitated, based on the flailing of arms and exaggerated movement. Suspect #1 is observed pushing, and grabbing the hair of Female #3. [REDACTED] is observed arguing with Female #1, and momentarily they began to push each other. Suspect #1 is observed forcibly, and continuously pushing Female #3. Female #1 and Female #2 are observed attempting to defuse the heightened physical altercation between Suspect #1 and Female #3. During this altercation, [REDACTED] entered his vehicle (Mercury Grand Marquis), then observed leaving the parking lot, southbound on N. 60th St. Soon thereafter, Suspect #1 is observed striking Female #3 with a closed hand atop her head, then pulled Female #3 braids. This incident is observed by the trunk of Suspect #1 Chrysler 300. Suspect #1 is observed continuously and forcibly pulling Female #3 hair. Female #1 and Female #2 are attempting to separate the two.

After Suspect #1 and Female #3 were separated, Suspect #1 began tussling with Female #1, by the driver's side of his Chrysler 300. Suspect #1 is observed violently pushing female #1 against a parked conversion van with chrome rims and horizontal stripes (white in color). Moments later, [REDACTED] returned in his vehicle, parked it on the eastside of the parking lot, then walked towards the aforementioned subjects, and continued to engage in an argument.

# Incident Report

## MILWAUKEE POLICE DEPT

172740010

Supplement No  
0003

### Supplement

Suspect #1 is observed grabbing Female #3 (heavy built female with braids) hair, forcibly escorting her to the passenger's side of his Chrysler 300, then pushed her head into the passenger's side window. Female #3 then enters the vehicle through the passenger's side front door. [REDACTED] began to converse with Suspect #1 at the trunk of his vehicle. Female #1 and Female #2 began conversing in the rear of the conversion van (shall be noted the conversion van had horizontal stripes).

At approximately 1:20:50, Suspect #1 enters his Chrysler 300 then began conducting a backing maneuver. [REDACTED] is observed walking up the ramp. Suspect #1 stops the vehicle, a couple feet west of a sewer drainage cover. Suspect #1 and Female #3 then egress from the vehicle then walk towards the trunk of the car. Suspect #1 then forces Female #3 back into the passenger's side front seat. Suspect #1 is then observed striking Female #3 repeatedly.

While Suspect #1 was assaulting Female #3, a citizen, described as a B/M, possibly mid 20's, 5'10 to 6'0", 150 to 170, slender built, wearing a sleeveless tee shirt, and blue jean pants, enters the parking lot, then parked his vehicle (mid size dark, 4dr, unknown make or model), diagonally, in the middle of the parking lot. Aforementioned male citizen appeared to engage in a verbal altercation with Suspect #1. The verbal altercation between the male citizen, and Suspect #1, appeared to stem from his observation of Suspect #1 battering Female #3.

Afterwards, [REDACTED] is observed walking down the ramp then engaged in a temporary verbal altercation with the aforementioned unknown male citizen. During the verbal altercation, [REDACTED] is observed with a black handgun in his right hand. The handgun was initially facing towards the ground. After [REDACTED] argued with the unknown male citizen, [REDACTED] was observed pushing Female #2, who was standing close by. Afterwards, [REDACTED] raised the handgun in an approximate 90 degree angle, then discharged it multiple times. Contemporaneous to [REDACTED] discharging his firearm, Suspect #1 retrieved an assault rifle from the trunk of his Chrysler 300 then also discharged the automatic assault rifle in an approximate 45 to 90 degree angle.

Suspect #1 then placed the assault rifle back in the trunk of his Chrysler 300. Suspect #1 and Female #3, enters the Chrysler 300, then exit the lot, southbound on N. 60th St. [REDACTED] is observed entering his car, then drove towards the patio before coming to an abrupt stop. [REDACTED] then opened his trunk then appeared to place an unknown object in the trunk of his car, possibly the handgun. Afterwards, [REDACTED] motions his arms towards the sky then entered into the driver's seat of his vehicle. Female #1 and Female #2 appeared to have entered the white conversion van (with chrome rims) then began conducting a backing maneuver. [REDACTED] then maneuvered his vehicle around the conversation van. [REDACTED] is then observed traveling southbound on N. 60th St., the conversation van followed closely behind.

Video depiction of this incident is concluded.

End of Report.



permitted to present the applicant's own witnesses, subject to cross-examination.

e. Committee members may ask questions of witnesses.

f. The applicant shall be permitted a brief summary statement.

**4. RECOMMENDATION.** The recommendation of the committee regarding the applicant shall be based on evidence presented at the hearing. Probative evidence concerning whether or not the license should be granted may be presented on the following subjects:

a. Whether or not the applicant meets the municipal requirements.

b. The appropriateness of the location and premises where the licensed premises is to be located and whether use of the premises for the purposes or activities permitted by the license would tend to facilitate a public or private nuisance or create undesirable neighborhood problems such as disorderly patrons, unreasonably loud noise, litter, and excessive traffic and parking congestion. Probative evidence relating to these matters may be taken from the plan of operation submitted with the license application.

c. The fitness of the location of the premises to be maintained as the principal place of business, including but not limited to whether there is an overconcentration of businesses of the type for which the license is sought, whether the proposal is consistent with any pertinent neighborhood business or development plans, or proximity to areas where children are typically present.

d. The applicant's record in operating similarly licensed premises.

e. Whether or not the applicant has been charged with or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the activity to be permitted by the license being applied for.

f. Any other factors which reasonably relate to the public health, safety and welfare.

**5. FACTORS NOT CONSIDERED FOR RECOMMENDATION.** The recommendations of the committee regarding the applicant shall not be based on evidence presented at the hearing related to the type or content of any music, or the actual or likely financial or non-financial effects on actual or potential competitors.

**6. Committee Decision.** The committee may make a recommendation immediately following the hearing or at a later

date. Written notice of the committee's decision will be provided if the decision is made at a later date or if the applicant was not present or represented. The committee shall forward its recommendation in writing to the common council for vote at the next meeting at which such matter will be considered.

**7. DOCUMENT.** If the common council grants the application for a license, the city clerk, or other city official or department authorized by the code to issue licenses, shall issue an appropriate document to the applicant confirming that fact. The document shall also contain any restrictions or conditions which the common council may place on approval.

**85-3. Notice and Service. 1. NOTICE OF POSSIBLE NON-RENEWAL, SUSPENSION OR REVOCATION.** a. Unless otherwise provided, the city clerk, or other city official or department authorized by the code to receive applications for licenses or permits, shall provide written notice of the possibility of non-renewal, or of suspension or revocation of a license or permit to the applicant addressed to the person or agent at the address most recently provided by the applicant.

b. Written notice of possible non-renewal, suspension or revocation shall include:

b-1. The date, time and place of a hearing to be held by the committee.

b-2. A statement of the common council's intent to revoke, suspend or not renew the license or permit if objections, charges or allegations are found to be true.

b-3. A statement of the specific reasons for revocation, suspension or non-renewal.

b-4. A statement that an opportunity will be provided to respond to and challenge the reasons for revocation, suspension or non-renewal, and to present witnesses under oath and to confront and cross-examine witnesses under oath.

b-5. A statement that the applicant may be represented by an attorney of the applicant's choice at the expense of the applicant.

b-6. A statement that, if the applicant requires the assistance of an interpreter, the applicant may employ an interpreter at the expense of the applicant.

b-7. A statement that, upon conclusion of a hearing before the committee, the committee will prepare a written report and recommendation to the common council, and shall provide a copy of the report and recommendation to the applicant.

## 85-4 License and Permit Procedures

**2. SERVICE OF DOCUMENTS.** Service of notices of meetings and service of other documents including committee reports and recommendations shall be made upon any party entitled to such notice and service by placing the same in the United States first class mail, postage prepaid.

**3. OBJECTIONS. a. How Made.** Notice of an objection to the renewal of a license or in support of suspension of a license or permit by an interested party shall not be included in the notice of hearing if the objection has not been received by the city clerk within 45 days of the expiration of the license. Failure to timely submit an objection shall not be a bar to testimony or other evidence that relates to any matter actually identified in the notice of hearing as a basis for nonrenewal or suspension. An objection shall include information that could form the basis of a license nonrenewal or suspension and may be transmitted in writing or by electronic means. Any city official, or the official's delegate, shall forward an objection from an interested party, or from a resident as provided in s. 90-1-19, to the city clerk. The information provided by an official or the official's delegate to the city clerk shall include the name of the objector, contact information for the objector, and information known to the objector that may form a basis for nonrenewal or suspension. The submission by a city official or the official's delegate of a written summary of the objection to the city clerk shall be treated in the same manner as other objections. The city clerk is authorized to establish forms for the purpose of assisting persons wishing to submit an objection.

**b. Exception.** If application for renewal is filed with the city clerk after the deadline for renewal application established by the city clerk and prior to the expiration of the license, an objection may be submitted in fewer than 45 days prior to the expiration of the license and may be considered at a regularly scheduled meeting of the licensing committee provided sufficient and timely notice is given.

**85-4. Hearing Procedure; Non-Renewal, Suspension or Revocation. 1. AUTHORITY OF COMMITTEE.** The committee shall conduct hearings with respect to the non-renewal, suspension or revocation of a license or permit pursuant to this section. The chair of the committee shall be the presiding officer.

**1.5. MULTIPLE LICENSE TYPES.** When the committee conducts a hearing relating to the possible denial, non-renewal, suspension

or revocation of a business type license and the licensee holds one or more other types of licenses or permits issued by the city clerk for the same premises, the committee shall also consider possible non-renewal, suspension or revocation of the other licenses or permits at the same hearing. Notice of possible denial, non-renewal, suspension or revocation of the non-alcohol beverage licenses or permits shall be provided in accordance with s. 85-3.

**2. COMMITTEE HEARING PROCEDURE. a.** The chair shall advise the applicant of the right to proceed to a due process hearing represented by counsel with all testimony, both direct and cross examination, under oath or that the applicant may simply make a statement to the committee.

**b.** The chair shall direct that oaths be administered and subpoenas issued upon request of any party.

**c.** The chair shall ensure that an orderly hearing is conducted in accordance with the requirements of this section. The chair shall open the hearing with a statement that a notice was sent to the applicant, and, if the applicant appears, shall further inquire whether the notice was received. Unless expressly provided elsewhere in this code, the chair shall advise the licensee and parties seeking nonrenewal, suspension or revocation of the license that each side will be limited to 30 minutes for testimony and oral argument. This time may be extended by the chair, subject to approval by the committee, if additional time is necessary for a full and fair presentation of the facts and arguments. When permitted by the chair, questioning by committee members and relevant responses shall not count against the time limitation. In the event that the applicant does not admit receipt of the notice and also denies knowledge of the contents of the notice, the chair shall ascertain whether the applicant wishes to immediately proceed to a full hearing or whether the applicant wishes the matter to be held to the call of the chair or to a time certain. The decision to proceed or to hold the matter shall be made by the committee.

**d.** The chair shall rule on objections to the admissibility of evidence. Any ruling of the chair shall be final unless appealed to the committee, and the committee shall reverse such ruling only upon the vote of a majority of its members.

**3. RECORD.** An electronic or stenographic record shall be made of all licensing proceedings before the licensing committee and the common council. An

**License and Permit Procedures 85-4-4**

electronic record shall audibly, accurately and completely reflect the testimony and statements made by participants in the proceedings. Recordings shall be maintained in a manner prescribed by the city clerk. An electronic record shall be made available for stenographic transcription or for transcription by other means at the expense of the person or party seeking the transcription of all or any portion of the record.

**4. GROUNDS FOR NON-RENEWAL, SUSPENSION OR REVOCATION.** The recommendations of the committee regarding the applicant shall be based on evidence presented at the hearing. Unless otherwise specified in the code, probative evidence concerning non-renewal, suspension or revocation may include evidence of:

- a. Failure of the applicant to meet municipal qualifications.
- b. Pending charges against or the conviction of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the circumstances of the particular licensed or permitted activity, by the applicant or by any employe or other agent of the applicant.
- c. If the activities of the applicant involve a licensed premises, whether the premises tends to facilitate a public or private nuisance or has been the source of congregations of persons which have resulted in any of the following:

- c-1. Disturbance of the peace.
- c-2. Illegal drug activity.
- c-3. Public drunkenness.
- c-4. Drinking in public.
- c-5. Harassment of passers-by.
- c-6. Gambling.
- c-7. Prostitution.
- c-8. Sale of stolen goods.
- c-9. Public urination.
- c-10. Theft.
- c-11. Assaults.
- c-12. Battery.
- c-13. Acts of vandalism including graffiti.
- c-14. Excessive littering.
- c-15. Loitering.
- c-16. Illegal parking.
- c-17. Loud noise at times when the licensed premise is open for business.
- c-18. Traffic violations.

- c-19. Curfew violations.
- c-20. Lewd conduct.
- c-21. Display of materials harmful to minors, pursuant to s. 106-9.6.
- c-22. Any other factor which reasonably relates to the public health, safety and welfare.
- c-23. Failure to comply with the approved plan of operation.

**5. HEARING OFFICER.** Where it is impractical for the committee to hold an evidentiary hearing, the committee may employ a hearing officer for the purposes of taking testimony and rendering recommended findings of fact and conclusions of law to the committee. When such hearing officer is employed, he or she shall prepare written findings of fact and conclusions of law which shall be simultaneously transmitted to the committee as well as to the applicant, the applicant's agent, manager, operator or any other employe of the applicant, and to the person bringing the complainant or objector. The chair of the committee shall schedule a hearing on the receipt of the report of the hearing officer in not more than 30 days from receipt of the report. Notice of the committee hearing on the report shall be given to all parties. The committee may take and reserve additional evidence at the time of said hearing. The committee may accept or reject the report of the hearing officer or make any changes to the report which are warranted by the circumstances, the evidence presented and any arguments of the parties who appeared before the hearing officer and the committee. The committee shall transmit its recommendation to the common council for action as provided in sub. 6.

**6. COMMITTEE REPORT.** The committee may make a report and recommendations immediately following the hearing or at a later date. The committee may recommend that the license or permit be renewed, not renewed, suspended or revoked. In addition, if the committee determines that circumstances warrant, the committee may recommend that the license or permit be renewed conditioned upon a suspension of the license or permit for a defined period of time. When the committee elects to recommend that a license or permit be renewed with a period of suspension, the license or permit may be suspended for a period of not less than 10 days and no more than 90 days.

## 85-5 License and Permit Procedures

**85-5. Council Action. 1. REPORT TO BE PROVIDED.** Within 10 working days after it reaches a decision, the committee shall prepare and serve a report and recommendation upon the applicant and upon the complainant or objector, if any. The report and recommendations shall include specific findings of fact and conclusions of law made by the committee. A copy of the report shall be distributed to each member of the common council.

**2. FILING WRITTEN STATEMENTS OR RESPONSES.** Following a recommendation by the committee that the license or permit not be renewed, or that the license or permit be revoked or suspended, the applicant may submit a written statement including objections, exceptions and arguments of law and fact. When the proceedings have been commenced upon the complaint or objection of an interested party who has appeared and offered evidence, the complainant or objector may also submit a written statement in response. Written statements shall be filed with the city clerk before the close of business on a day that is at least 3 working days prior to the date set for hearing by the common council.

**3. COPIES TO BE PROVIDED TO COMMON COUNCIL MEMBERS.** A copy of any statement in response to the report and recommendations of the committee that is timely filed shall be provided to each member of the common council at least 24 hours before any vote on the question is scheduled before the common council.

**4. PROCEDURE AT MEETING OF THE COMMON COUNCIL.** a. At a meeting of the common council following the receipt of the report and recommendations of the committee, the common council shall consider the report and recommendations. The city clerk shall notify the applicant, and the complainant or objector, if any, by United States first class mail, postage prepaid, 5 working days prior to the hearing before the common council, and shall also notify the city attorney, that the council will convene to act upon the report and recommendations.

b. Each member of the common council shall be asked to affirm that he or she has read the report and recommendations of the committee. When a written statement has been timely filed by the applicant, or by a complainant or objector, each member of the common council shall be asked to affirm that he or she has read the statement. If members of the

council have not read the recommendation and report of the committee and any statement in response that has been timely filed, the chair shall allocate time for the members to do so.

c. Oral argument on behalf of the applicant, and oral argument by the complainant or objector, if any, shall be permitted only to those parties having timely filed a written statement. Oral argument shall be limited to 5 minutes. The city attorney shall also be permitted to make an oral presentation of not more than 5 minutes.

d. Applicants shall appear only in person or by counsel. Corporate applicants shall appear only by designated agents or counsel. Partnerships shall be represented only by a partner or counsel. Limited liability companies shall be represented only by designated agents or counsel. Complainants and objectors shall appear only in person or counsel. Any person making an appearance before the council who requires the services of an interpreter shall obtain one at his or her own expense.

e. The common council shall determine by a majority roll call vote of those in attendance and voting whether to adopt the recommendation of the committee. The city clerk shall provide written notice of the decision to the applicant, and to the complainant or objector, if any, including a written statement or summary of the reasons for the decision.

f. Unless otherwise expressly provided, the revocation of a license or permit shall be effective upon service of the notice of decision upon the applicant or upon any person having charge or control of a licensed premises. Suspension of a license or permit in proceedings for revocation shall be effective upon service of the notice of decision upon the applicant or upon any person having charge or control of a licensed premises. Suspension of a license or permit in proceedings for renewal shall be effective on the date the common council takes action to suspend the license or permit, or on the date of the expiration of the license or permit, whichever is later. A license or permit may be suspended for not less than 10 days and no longer than 90 days.

g. If a retail alcohol beverage license for a premises is suspended and the licensee also holds a public entertainment premises license for the premises, the public entertainment premises license shall be suspended for the same time period as the alcohol beverage license.

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c-1-c. The appropriateness of tavern location and premises. Evidence of the appropriateness of the location may be included in the report provided by the chief of police or chief's designee under par. b-2-a.

c-1-d. Neighborhood problems due to management or location.

c-1-e. If the licensee is a corporation or licensed limited partnership, the conviction of the corporate agent, officers, directors, members or any shareholder holding 20% or more of the corporation's total or voting stock, or proxies for that amount of stock, of any of the offenses enumerated in s. 125.12(2)(ag), Wis. Stats., as amended.

c-1-f. Failure of the licensee to operate the premise in accordance with the floor plan and plan of operation submitted pursuant to s. 90-5-1-c.

c-1-g. Any other factor or factors which reasonably relate to the public health, safety and welfare.

c-2. The committee may make a recommendation immediately following the hearing or at a later date. The committee may recommend that the license be renewed or not renewed. In addition, if the committee determines that circumstances warrant it, the committee may recommend that the license be renewed conditioned upon a suspension of the license for a defined period of time. When the committee elects to recommend that a license be renewed with a period of suspension, the license may be suspended for not less than 10 days and no longer than 90 days. Such suspension shall commence on the effective date of the license renewal. Following the hearing, the committee shall submit a report to the common council, including findings of fact, conclusions of law and a recommendation as to what action, if any, the council should take. The committee shall provide the complainant and applicant with a copy of the report. The applicant and complainant, if any, may file a written statement in response to the report including objections, exceptions and arguments of law and fact. A written statement must be filed with the city clerk before the close of business on a day that is at least 3 working days prior to the date set for hearing by the common council.

d. Council Action. d-1. The applicant shall be given 5 working days' notice of the date set for hearing by the full common council.

d-2. At the meeting of the common council, the chair shall allow oral argument by an applicant or complainant who has timely submitted a written statement in response to the recommendations of the licensing committee. The city attorney shall also be permitted a statement. Oral arguments shall not exceed 5 minutes on behalf of any party. Applicants shall appear only in person or by counsel. Corporate applicants shall appear only by the agent or by counsel. Partnerships shall be represented only by a partner or by counsel. Limited liability companies shall be represented only by the agent or by counsel. Complainants shall appear only in person or by counsel. Any person making an appearance before the council pursuant to this subsection and who requires the services of an interpreter shall obtain one at his or her own expense.

d-3. Prior to voting on the committee's recommendation, all members of the council who are present shall signify that they have read the recommendation and report of the licensing committee and any written statements in response that have been filed thereto. If they have not, the chair shall allocate time for the members to do so. If they have read the report and recommendation, then a roll call vote shall be taken as to whether or not the recommendation of the committee shall be accepted. The applicant shall be provided with written notice of the results of the vote taken by the common council.

3. REQUEST TO SURRENDER A LICENSE. See s. 85-17 for provisions relating to the surrender of licenses and the return of surrendered licenses.

**90-12. Revocation or Suspension of Licenses.** 1. CAUSES. Any license issued under this chapter may be suspended or revoked for cause by the common council after notice to the licensee and a hearing. Such licenses shall be suspended or revoked for the following causes:

a. The making of any material false statement in any application for a license.

b. The conviction of the licensee, his agent, manager, operator or any other employe for keeping a gambling house or a house of prostitution or any felony related to the licensed operation.

## Liquor and Tavern Regulations 90-12-3

c. A showing that such licensee has violated any state law or city ordinance prohibiting the sale of intoxicating liquors or fermented malt beverages to underage persons, or to any person intoxicated or bordering on the state of intoxication.

d. The violation of the provisions in ss. 90-7 through 90-10 and 90-13 through 90-31.

e. The violation of any of the excise laws of this state.

f. The licensed premises is operated in such a manner that it constitutes a public or private nuisance or that conduct on the licensed premises, including but not limited to loud and raucous noise, has had a substantial adverse effect upon the health, safety or convenience and prosperity of the immediate neighborhood; or

g. If the licensee is a corporation or licensed limited partnership, the conviction of the corporate agent, officers, directors, members or any shareholder holding 20% or more of the corporation's total or voting stock, or proxies for that amount of stock, of any of the offenses enumerated in s. 125.12(2)(ag), Wis. Stats., as amended.

h. Failure of the licensee to operate the premise in accordance with the floor plan and plan of operation submitted pursuant to s. 90-5-1-c.

i. For any other reasonable cause which shall be in the best interests and good order of the city.

**3. STATE LAW APPLICABLE.** Except as hereinafter provided, the provisions of ss. 125.12(2)(ag) to (c), Wis. Stats., shall be applicable to proceedings for the suspension and revocation of all licenses granted under this chapter.

**4. COMMENCEMENT OF PROCEEDINGS.** Suspension or revocation proceedings may be instituted by the licensing committee of the common council upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police or upon a sworn written complaint filed with the city clerk by any city resident.

**5. PROCEDURES FOR REVOCATION OR SUSPENSION.** a. Complaint; Summons; Report.

a-1. Whenever either sworn written charges or a sworn written complaint are filed with the city clerk setting forth specific charges against a licensee involving conduct which would violate statutes or ordinances that are grounds for revocation or suspension of a license, the city clerk shall issue a summons, as authorized by Wisconsin statutes, demanding that the licensee appear before the licensing committee, not less than 3 days nor more than 10 days from the date of issuance, to show cause why the license should not be revoked or suspended.

a-2. A police officer shall serve the summons upon a licensee in accordance with Wisconsin statutes, and shall also serve a copy of the complaint with a copy of this subsection upon the licensee.

a-3. The chief of police shall prepare a report with information relating to the allegations contained in the written charges or complaint. The report shall first state whether the chief of police has information relating to the allegations contained in the written charges or complaint. The report may be offered and made part of the permanent record of the hearing without motion. Information contained in the report shall be admissible and may be considered by the committee as a public record to the extent that the information in the report sets forth the activities of department personnel, or provides information about matters observed by police personnel under a duty imposed by law, or contains factual findings resulting from an investigation made under authority of law, unless the sources of information or other circumstances indicate lack of trustworthiness. A copy of the report shall be provided to the licensee at least 3 days prior to the time scheduled for appearance upon the summons and complaint.

b. Committee Hearing. b-1. Upon receipt of evidence that the summons has been served, the licensing committee shall convene at the date and time designated in the summons for the purpose of taking evidence and making findings of fact and conclusions of law and a recommendation to the full common council in connection with the proposed revocation or suspension.

b-2. If the licensee appears before the committee at the time designated in the summons and denies the charges contained in

#### 90-12-4-c Liquor and Tavern Regulations

the complaint, an evidentiary hearing in connection with the revocation or suspension shall be conducted by the committee at that time. If the licensee does not appear, or appears but does not deny the charges contained in the complaint, the complaint shall be taken as true and the committee shall hear the arguments of the city attorney and the licensee in connection with the revocation or suspension.

b-3. The procedure at evidentiary hearing shall be as follows:

b-3-a. The chief of police or complainant shall first present evidence in support of the complaint. The chief of police or complainant may offer the report prepared under par. a-3.

b-3-b. After the chief of police or complainant rests, the licensee may present evidence in opposition to the written charges or complaint.

b-3-c. The chief of police or complainant and the licensee may subpoena and present witnesses. All witnesses shall testify under oath and shall be subject to cross-examination.

b-3-d. The chief of police or complainant and the licensee shall each be limited to 30 minutes for testimony and oral presentation unless the chair, subject to approval of the committee, extends the time to assure a full and fair presentation.

b-3-e. Questions by committee members and responses to members' questions shall not be counted against the time limitations.

b-3-f. At the close of the testimony, the chief of police or complainant and the licensee shall be given a reasonable time to make arguments upon the evidence produced at the hearing.

b-4. The chair of the licensing committee shall be the presiding officer. The chair shall direct that oaths be administered and subpoenas issued upon request of either side. The chair shall ensure that an orderly hearing is conducted in accordance with the requirements of this subsection. The chair shall rule on objections to the admissibility of evidence. Any ruling of the chair shall be final unless appealed to the committee, and the committee shall reverse such ruling only upon the vote of a majority of its members present and voting.

b-5. At all stages of the proceedings before the committee or before the common council, the licensee shall be entitled to appear both in person and by an attorney.

b-6. A record shall be made of all licensing proceedings before the committee and before the common council as provided in s. 85-4-3.

c. Committee Report. c-1. Within 10 working days after it reaches a decision, the committee shall prepare and serve a report and recommendation on the licensee and transmit a copy thereof to the city attorney. The report and recommendations shall include specific findings of fact and conclusions of law made by the committee. The report shall be distributed to each member of the common council.

c-2. The committee shall provide the licensee, and the complainant, if any, with a copy of the report. The licensee and complainant may file a written statement or response including objections, exceptions and arguments of law and fact to the report to the common council. A written statement or response must be filed with the city clerk before the close of business on a day that is at least 3 working days prior to the date set for hearing by the common council.

c-3. Any written statement or response to the report and recommendations of the committee shall be filed by the close of business on the day that is 3 working days prior to the date on which the matter is to be heard by the common council. Copies of written statements shall be provided to each member of the common council at least 24 hours before any vote on the question is scheduled before the common council.

d. Council Action. d-1. At a meeting of the common council following the receipt of the report and recommendations of the committee, the common council shall consider the report and recommendations. Not less than 5 working days prior to the hearing before the common council, the city clerk shall notify the licensee and complainant by United States first class mail, postage prepaid, sent to the last known address of the licensee and complainant, and shall also notify the city attorney, of the time and place that the common council will convene. Each member of the common council shall be asked to affirm that he or she has read the report and recommendations of the committee. When written statements or responses are timely filed to a committee report and recommendations that the license be suspended or revoked, each member of the common council shall be asked to affirm that he or she has read the statements or responses. If

## Liquor and Tavern Regulations 90-13

members of the council have not read the recommendations and report of the committee and any statements or responses that have been filed, the chair shall allocate time for the members to do so. Oral argument in support of the report and recommendations presented by the city attorney, oral argument on behalf of the licensee in opposition to the report and recommendations and oral argument by the complainant objecting to the report and recommendations shall be permitted where written statements or responses have been timely filed. Argument shall be limited to 5 minutes and the arguments shall be limited to the subject matter of the report and recommendations and the written exceptions. Licensees shall appear only in person or by counsel. Corporate licensees shall appear only by the agent or by counsel. Partnerships shall be represented only by a partner or by counsel. Limited liability companies shall be represented only by the agent or by counsel. Complainants shall appear only in person or by counsel. Any person making an appearance before the council pursuant to this subsection and who requires the services of an interpreter shall obtain one at his or her own expense.

d-2. The common council shall determine by a majority vote of those in attendance and voting whether to adopt the recommendation of the committee. Such vote shall be a roll call vote. If the common council finds the complaint to be true, or if there is no objection to a report recommending suspension or revocation with the committee's report and recommendation and in accordance with Wisconsin statutes, the city clerk shall give notice of each suspension or revocation to the person whose license is suspended or revoked. If the common council finds the complaint to be untrue, the proceedings shall be dismissed without cost to the accused.

7. REQUEST TO SURRENDER A LICENSE. See s. 85-17 for provisions relating to the surrender of licenses and the return of surrendered licenses.

**90-13. Alterations to Premises.** Except as provided in s. 200-26-6-b, any alteration, change or addition resulting in expansion of a licensed premises shall be approved by the licensing committee prior to issuance of a permit pursuant to s. 200-24 by the department of neighborhood

services. An applicant whose license application has been denied by the committee may appeal the decision to the common council.

### **90-14. Restrictions as to Location of Premises.**

1. 300 FEET RESTRICTION. No "Class A" or "Class B" license for the sale of intoxicating liquor may be issued for premises the main entrance of which is less than 300 feet from the main entrance of any church, school, day care center or hospital, except that this prohibition may be waived by a majority vote of the common council. The distance shall be measured by the shortest route along the highway from the main entrance of the school, church, day care center or hospital to the main entrance of the premises covered by the license.

2. EXCEPTIONS. The prohibition in sub. 1 does not apply to any of the following:

a. Premises covered by a "Class A" or "Class B" license on June 30, 1947.

b. Premises covered by a "Class A" or "Class B" license prior to the occupation of real property within 300 feet thereof by a school, day care center, hospital or church building.

c. A restaurant located within 300 feet of a church, day care center or school. This paragraph applies only to restaurants in which the sale of alcohol beverages accounts for less than 50% of its gross receipts.

**90-15. Hours of Operation.** 1. "CLASS A" RETAILER'S INTOXICATING LIQUOR LICENSE. No premises for which a "Class A" retailer's intoxicating liquor license has been issued shall be permitted to remain open for the sale of intoxicating liquor between the hours of 9:00 p.m. and 8:00 a.m.

2. CLASS "A" FERMENTED MALT BEVERAGE RETAILER'S LICENSE. No holder of such a license shall sell fermented malt beverages between the hours of 9:00 p.m. and 8:00 a.m., except a brewery that operates a bonafide 3<sup>rd</sup> shift for at least 9 months of a previous year may sell fermented malt beverages to its employes in a designated employe shopping area on brewery premises between the hours of 8:00 a.m. to 11:00 p.m.

3. CLASS "B" FERMENTED MALT BEVERAGE AND "CLASS B" TAVERN LICENSES. a. Closing Hours - Prohibited Hours. a-1. No person holding such licenses shall permit a patron to enter or remain on the



## Food License Regulations 68-21

### SUBCHAPTER 2 FOOD DEALER LICENSE

#### 68-21. Food Dealer License. 1. REQUIRED.

- a. No person, partnership, association or corporation may establish a food operation, manufacture, offer for sale, store, distribute or sell food within the city without first having obtained a food dealer license or license with conditions allowing temporary or seasonal operation of a food establishment. The license shall be required of any person selling or distributing food, with the exception that a license shall not be required of a person holding a food peddler license or temporary or seasonal food license issued by the commissioner.
- b. Only a person, association or corporation in compliance with the applicable requirements of this section shall be eligible to receive and retain a food dealer license.
- c. A food dealer license may not be transferred from one person or entity to another or from one premise to another except an individual may transfer a license to an immediate family member, as defined in s. 254.64(4)(1)2, Wis. Stats., if the individual is transferring operation of the restaurant. See s. 85-19 for additional provisions relating to the transfer of licenses.
- d. The commissioner or an authorized agent may grant a license with conditions for the temporary operation of a food establishment prior to the completion of orders and the issuance of a regular food dealer license, provided that the business is in substantial compliance with this section and the operation of the food establishment will not jeopardize the life, health and safety of the public and property, and the department of neighborhood services has approved an occupancy permit. The issuance of a license with conditions shall be revoked after 30 days, and the operation shall cease unless all conditions are met and a regular license issued. The regular license application shall be granted or denied before the license with conditions expires. The issuance of a license with conditions shall not apply to renewals.
- e. No person may sell food door-to-door, except for occasional sales by representatives of a religious, fraternal, youth, civic or patriotic organization, service club or church. In this paragraph, "occasional sales" means that food is offered for sale for not more than 3 days in any 12-month period.

2. LICENSE NOT REQUIRED. A food dealer license shall not be required for the following:

- a. A person selling only bottled or canned non-alcohol drinks that do not require refrigeration and no other food items.
- b. A stand, not connected with any temporary event as defined in s. 68-1-58, located on private property in a residential area operated by a child under the age of 14 who sells homemade beverages or food items not requiring heating or refrigeration.
- c. A community food program, provided all of the following conditions are met:
  - c-1 All food is provided free of cost to persons in need or organizations serving persons in need.
  - c-2. The community food program registers bi-annually with the department and pays the registration and inspection fees specified in s. 81-55.5.
  - c-3. Upon initial registration with the department, a community food program submits plans in compliance with s. 68-11 for review and approval, and undergoes pre-inspection prior to operating.
  - c-4. A community food program undergoes an annual inspection. Inspections or investigations where significant noncompliance is found shall be subject to additional fees as specified in s. 60-70.
- d. Any public or private primary and secondary school meal program, provided all of the following conditions are met:
  - d-1. Food service is limited to students who attend the school or to children as part of a free summer meal program.
  - d-2. All food preparation and service is performed by staff directly employed by the school.
  - d-3. The school registers annually with the department at least 10 days prior to operating or prior to the first day of the school year and pays the registration and inspection fees specified in s. 81-55.5.
  - d-4. Prior to initial operation, a school meal program submits plans in compliance with s. 68-11 for review and approval, and undergoes pre-inspection.
  - d-5. A school meal program undergoes 2 inspections administered by the department per school year. Inspections or investigations where significant noncompliance is found shall be subject to additional fees as specified in s. 60-70.
- e. A food manufacturer that derives 25% or more of its gross sales from wholesale trade, has obtained a food processing plant license from the state, and does not serve meals to the public.

### 68-21-3 Food License Regulations

f. A food distributor that derives 25% or more of its gross sales from wholesale trade, has obtained a food warehouse license from the state, and does not serve meals to the public.

**3. APPLICATION.** Applications for a food dealer license shall be made in writing to the office of the city clerk on forms provided by the city clerk and shall contain the following information:

a. The name, address and date of birth of the applicant.

b. The trade name and address of the food service establishment.

c. Whether the applicant is a person, corporation or partnership.

c-1. If the applicant is a corporation, the application shall contain the registered agent's name, address and date of birth, and verification that the corporation has been registered with the secretary of state as provided in ch. 180, Wis. Stats.

c-2. If the applicant is a partnership, the application shall include the names and addresses of the partners.

d. Such other reasonable or pertinent information the city clerk, commissioner or chief of police may require.

**3.5. FINGERPRINTING.** All applicants for food dealer licenses shall be exempt from the fingerprinting requirement provided in s. 85-21-1.

**4. PROCEDURE FOR ISSUING NEW OR RENEWAL LICENSE.** a. The commissioner shall issue a license to each applicant for a new or renewal license who meets all the requirements of this section and has paid to the city treasurer the fee specified in s. 81-55 unless there is an objection by the commissioner, the department of neighborhood services, the common council member in whose district the food establishment is located, or any person affected by the operation or proposed operation of the applicant.

b. If either the common council member or the commissioner objects to an application, no license shall be issued unless the applicant requests in writing an appeal before the licensing committee. An appeal shall be requested no more than 10 working days after the date on which the applicant was notified of the recommendation of the commissioner and the common council member. Appeals shall be forwarded to the licensing committee for its recommendation as to whether a license should be granted or renewed. The procedure for considering an appeal shall be as provided in sub 8.

c. If there is an objection to the renewal of a license, the procedure for considering the renewal license application shall be as specified in sub. 7.

d. The late renewal fee for a license issued under this chapter may not be waived unless definite proof exists that the delay is the fault of the health department or the city clerk.

**5. POSTING.** Each licensee shall post his or her license in a conspicuous place on the food establishment premises.

**6. CHANGES TO BE REPORTED.**

a. Changes in the food facility or operational plan submitted as part of a supplemental application shall be submitted in accordance with s. 68-11.

b. The owner of any premises for which a license has been granted shall promptly notify the city clerk in writing of his or her intention to cease operations.

c. An individual applicant or licensee who resides outside Wisconsin or who leaves the state for more than 30 days shall provide the commissioner or the commissioner's authorized agent with the name, address and telephone number of a responsible person or agent within the state of Wisconsin upon whom any process, notice or demand required or permitted under this section to be served upon the licensee may be served, and the commissioner shall notify the city clerk. Violation of this subsection may result in suspension or revocation of the license.

d. See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

**7. SUSPENSION FOR NONRENEWAL.** The city clerk shall notify the appropriate city officials, and the commissioner shall order the immediate enforcement of this section in cases involving failure to renew a food dealer's license. The licensee shall be prohibited from manufacturing, offering for sale, distributing or selling food until a valid license has been applied for and obtained under this section.

**8. PROCEDURE FOR DENIAL OR NONRENEWAL OF LICENSE.** If there is an objection to an application for a new or renewal license, the application shall be subject to common council review and approval in accordance with the provisions of ss. 85-2.7 to 85-5.

**9. CAUSES FOR COUNCIL DENIAL, REVOCATION OR SUSPENSION OF LICENSE.** An application for a new or renewal food dealer license may be denied, or any license issued

## Food License Regulations 68-21-9-a

under this section may be suspended or revoked, by the common council for any of the following causes:

- a. Failure of the applicant or licensee to meet the statutory and municipal license qualifications, except for failure to meet sanitary or other health-related qualifications or other circumstances specified in s. 68-69 as grounds for license revocation or suspension by the commissioner of health.
- b. A false or materially incorrect statement made by the applicant in his or her application.
- c. Violation of any provision of this section by the applicant, licensee or any employee of the food establishment.
- d. The conviction of the applicant or licensee, his or her agent, manager, operator or any other employee for sale or possession with intent to sell any controlled substance or for any felony related to the licensed operation which, in the judgment of the common council, is pertinent to the license being applied for or renewed.
- e. A showing that the applicant or licensee has violated any state law or city ordinance prohibiting the sale of tobacco products to underage persons.
- f. The violation of any of the excise laws of the state.
- g. A showing that the licensed premises has been the source of congregations of persons which have resulted in one or more of the following:
  - g-1. Disturbance of the peace.
  - g-2. Illegal drug activity.
  - g-3. Public drunkenness.
  - g-4. Drinking in public.
  - g-5. Harassment of passers-by.
  - g-6. Gambling.
  - g-7. Prostitution.
  - g-8. Sale of stolen goods.
  - g-9. Public urination.
  - g-10. Theft.
  - g-11. Assaults.
  - g-12. Battery.
  - g-13. Acts of vandalism, including graffiti.
  - g-14. Excessive littering.
  - g-15. Loitering.
  - g-16. Illegal parking.
  - g-17. Loud noise at times when the licensed operation is open for business.
  - g-18. Traffic violations.
  - g-19. Curfew violations.
  - g-20. Lewd conduct.
  - g-21. Display of materials harmful to minors, pursuant to s. 106-9.6.

h. A showing that the premises proposed for licensing will be a convenience store as defined in s. 68-1-12, whether or not exempt as provided in s. 68-55-2, and that the proposed operation of the premises will tend to contribute to neighborhood incidents and conditions identified in par. g as the result of an over-concentration of food dealers licensed under s. 68-21 to offer for sale, sell or distribute food in the neighborhood. Evidence that a neighborhood is adequately served by existing retail food establishments may be considered in reaching a determination about whether granting a new license will result in over-concentration.

i. The city clerk shall promptly inform the commissioner, the police department and commissioner of neighborhood services upon receipt of an application for a new food dealer license. The city clerk shall also promptly advise the common council member in whose district a new food dealer licensee proposes to operate licensed premises. The city clerk shall establish a written procedure for informing persons and parties neighboring the premises of a proposed new food dealer licensee intending to operate a convenience store within the definition of s. 68-1-12, whether or not the convenience store may be exempt under s. 68-55-2, and the persons and parties neighboring the premises of a licensed convenience store proposed for renewal if written objections to renewal have been received by the city clerk as provided in s. 85-3-3, and not considered in previous licensing proceedings.

j. Any person has the right to object to a new or renewal food dealer license based upon any matter specified in par. g and, upon receipt of a written objection, the city clerk shall request that the licensing committee schedule a hearing upon the application. The procedures of ch. 85 shall apply to the conduct of the hearing and to common council consideration of the recommendations of the licensing committee, except that the applicant shall not have the right to be heard orally before the common council.

k. A proceeding for revocation of a food dealer license may be commenced upon a sworn complaint to the city clerk by any interested party alleging that the operation of the licensed premises contributes to any of the conditions specified in par. g. If the common council finds that the licensed food dealer has contributed to any of the conditions or circumstances described in par. g, it may revoke the food dealer license or suspend the food dealer license for a period of not less than 10 days nor more than 90 days.

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L. Nothing in this section shall affect the authority or responsibility of the commissioner of health to suspend or revoke a food dealer license whenever the commissioner finds unsanitary or other conditions in the operation of a food service establishment as provided in s. 68-69.

**10. DISQUALIFICATION FOR LICENSE.** Whenever any application is withdrawn, denied, or license not renewed, revoked or surrendered, the procedures for disqualification for license and change of circumstances provided in ss. 85-13 and 85-15 shall apply.

**11. PROCEEDINGS TO SUSPEND OR REVOKE LICENSE.** a. Reasons Relating to Unsanitary Conditions. Proceedings to suspend or revoke a food dealer's license for reasons relating to unsanitary or other health-related conditions or for serious or repeated violations of any of the requirements of this chapter shall be conducted in accordance with the provisions of s. 68-69.

b. Reasons Unrelated to Unsanitary Conditions. Proceedings to suspend or revoke a food dealer's license for reasons other than the grounds for suspension or revocation provided in s. 68-69 may be initiated by the licensing committee upon its own motion, upon sworn written charges made and filed with the city clerk by the chief of police or upon a sworn written complaint filed with the city clerk by any city resident.

**12. PROCEDURE FOR REVOCATION OR SUSPENSION.** a. Notice and Service. Whenever either sworn written charges or a sworn written complaint are filed with the city clerk setting forth specific charges against a licensee relating to any of the causes for revocation or suspension of a license set forth in sub. 9, the procedures for notice and service of notice provided in s. 85-3 shall apply.

b. Committee Hearing. The licensing committee shall convene and hear the matter upon the complaint for revocation or suspension filed and noticed under par. a in the manner provided in s. 85-4-1 and 2 and shall prepare and submit a report as required by ss. 85-4-5 and 85-5-1. Grounds for revocation and suspension shall be those provided in sub. 9.

c. Council Action. Written statements in response to the findings and recommendations of the licensing committee shall be filed with the city clerk in the manner provided in s. 85-5-2, and copies shall be provided to common council members in the manner provided in s. 85-5-3. The procedures provided in s. 85-5-4 shall

govern the conduct of the meeting of the common council.

**68-23. Shared Kitchens. 1. REVIEW AND APPROVAL.** a. Anytime one or more food establishments proposes to operate out of the same commercial kitchen, the primary license holder shall notify the department of his or her intent to share kitchen space.

b. If not previously approved by the department, the addition of other users sharing commercial kitchen space shall be considered a significant operational change requiring plan review and approval as specified in s. 68-11.

c. The commissioner may place an operational restriction on a food establishment based on either size of the kitchen or the compliance history of the establishment prohibiting use as a shared kitchen.

d. Unless operated by the same licensee, each shared kitchen user shall obtain his or her own food dealer license.

**2. OPERATOR DUTIES.** The primary license holder shall be referred to as a shared kitchen operator and shall:

a. Ensure the physical facilities and all equipment provided by the operator in the shared kitchen are in compliance with all local, state and federal regulations, including compliance with all health and sanitation requirements.

b. Ensure that any person engaged in food preparation or storage within his or her facility is properly licensed. Allowing an unlicensed operator to prepare food for sale shall be considered a violation and grounds for progressive enforcement including revocation of the food dealer license.

c. Maintain records on site regarding the use of the shared kitchen for a period of 24 months from the date of entry and shall make the records immediately available upon request by the department at the time of inspection or investigation. Failure to maintain records or to provide required records to the department shall be grounds for the department to rescind approval to permit shared use of the kitchen. Each of the following records shall be maintained and made available by the shared kitchen operator:

c-1. A list of all shared kitchen users and current contact information.

c-2. For each such shared kitchen user, a copy of the following documents:

c-2-a. Menu approved by the department for use by a shared kitchen user.

1. “Motor vehicle” means a motor vehicle owned, rented or consigned to a school.

2. “School” means a public school, a parochial or private school, or a tribal school, as defined in s. 115.001 (15m), which provides an educational program for one or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school, or high school.

3. “School administrator” means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.

4. “School premises” means premises owned, rented or under the control of a school.

(b) Except as provided by par. (c) no person may possess or consume alcohol beverages:

1. On school premises;
2. In a motor vehicle, if a pupil attending the school is in the motor vehicle; or
3. While participating in a school-sponsored activity.

(c) Alcohol beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities if specifically permitted in writing by the school administrator consistent with applicable laws, ordinances and school board policies.

(d) A person who violates this subsection is subject to a forfeiture of not more than \$200, except that ss. 125.07 (4) (c) and (d) and 938.344 provide the penalties applicable to underage persons.

(3) PLACE-TO-PLACE DELIVERIES. No person may peddle any alcohol beverage from house to house where the sale and delivery are made concurrently.

(6) MUNICIPAL STORES. No municipality may engage in the sale of alcohol beverages, except as authorized under s. 125.26 (6). This subsection does not apply to municipal stores in operation on November 6, 1969.

(7) MUNICIPALITY PROVIDING IDENTIFICATION SCANNERS. No municipality may provide, to any retail licensee under this chapter, any device capable of scanning an official identification card, as defined in s. 125.085 (1) (a) and (b).

History: 1981 c. 79, 158; 1983 a. 74; 1985 a. 218; 1995 a. 77; 2009 a. 302, 395; 2013 a. 106, 215.

This section does not prohibit the consumption of alcohol beverages by bed and breakfast proprietors, their friends, or their personal guests in areas that are off-limits to the public or to renters. 80 Atty. Gen. 218.

**125.10 Municipal regulation.** (1) **AUTHORIZATION.** Any municipality may enact regulations incorporating any part of this chapter and may prescribe additional regulations for the sale of alcohol beverages, not in conflict with this chapter. The municipality may prescribe forfeitures or license suspension or revocation for violations of any such regulations. Regulations providing forfeitures or license suspension or revocation must be adopted by ordinance. Any municipality may, by ordinance, regulate contests, competitions, or other events for the exhibition, demonstration, judging, tasting, or sampling of homemade wine or fermented malt beverages.

(2) **REGULATION OF UNDERAGE PERSONS.** A municipality or a county may enact an ordinance regulating conduct regulated by s. 125.07 (1) or (4) (a), (b) or (bm), 125.085 (3) (b) or 125.09 (2) only if it strictly conforms to the statutory subsection. A county ordinance enacted under this subsection does not apply within any municipality that has enacted or enacts an ordinance under this subsection.

(3) **ZONING.** Except as provided in s. 125.68, this chapter does not affect the power of municipalities to enact or enforce zoning regulations.

(4) **REGULATION OF CLOSED RETAIL PREMISES.** A municipality may not prohibit the permittee, licensee, employees, salespersons, employees of wholesalers issued a permit under s. 125.28 (1) or 125.54 (1); employees of permittees under s. 125.295 with respect

to the permittee’s own retail premises; or service personnel from being present on premises operated under a Class “A”, “Class A” or “Class C” license or under a Class “B” or “Class B” license or permit during hours when the premises are not open for business if those persons are performing job-related activities.

(5) **FERMENTED MALT BEVERAGES ON COMMERCIAL QUADRICYCLES.** (a) A municipality may, by ordinance, prohibit the consumption of fermented malt beverages by passengers on a commercial quadricycle within the municipality.

(b) Notwithstanding sub. (1), an ordinance enacted before January 1, 2014, regulating the possession or consumption of open containers of alcohol beverages in public places may not prohibit the possession or consumption of alcohol beverages by passengers on a commercial quadricycle. An ordinance that is inconsistent with this paragraph may not be enforced.

History: 1981 c. 79, 202; 1983 a. 74 ss. 19, 32; 1985 a. 28 ss. 5, 9; 1987 a. 168; 1989 a. 31, 253; 1991 a. 39; 1993 a. 208; 2007 a. 20; 2011 a. 32, 200; 2013 a. 106; 2015 a. 372.

Chapter 125 contemplates and expressly directs that regulation is to supersede competition in the retail sale of alcohol beverages. The regulatory scheme indicates a legislative intent to make state antitrust law not applicable by authorizing contrary or inconsistent conduct by granting municipalities broad statutory authority to prescribe or orchestrate anticompetitive regulation in the sale and consumption of alcohol if that regulation serves an important public interest. Private parties are eligible for antitrust immunity when they act in concert, in an anticompetitive manner, in direct response to pressure bordering on compulsion from a municipality. *Eichenseer v. Madison-Dane County Tavern League, Inc.* 2008 WI 38, 308 Wis. 2d 684, 748 N.W.2d 154, 05–1063.

A town must renew a license, if the proper application is made and the fees are paid, unless it revokes, suspends, or non-renews the license, following the procedures outlined in s. 125.12. This section does not give towns the authority to unilaterally modify the described premises in an individual license upon renewal of that license. A town must either pass a regulation or an ordinance under this section or it must find grounds for revocation or nonrenewal under s. 125.12. *Wisconsin Dolls, LLC v. Town of Dell Prairie*, 2012 WI 76, 342 Wis. 2d 350, 815 N.W.2d 690, 10–2900.

**125.105 Impersonating an officer.** (1) No person may impersonate an inspector, agent or other employee of the department or of the department of justice.

(2) (a) Whoever violates sub. (1) with the intent to mislead another may be fined not more than \$10,000 or imprisoned for not more than 9 months or both.

(b) Whoever violates sub. (1) to commit, or abet the commission of, a crime is guilty of a Class H felony.

History: 1989 a. 253; 1997 a. 283; 2001 a. 109.

**125.11 Penalties.** (1) **GENERAL PENALTY.** Any person who violates any provision of this chapter for which a specific penalty is not provided, shall be fined not more than \$1,000 or imprisoned for not more than 90 days or both. Any license or permit issued to the person under this chapter may be revoked by the court.

(2) **FELONY.** If a person is convicted of a felony under this chapter, in addition to the penalties provided for the felony, the court shall revoke any license or permit issued to the person under this chapter.

History: 1981 c. 79; 1985 a. 120, 302; 1989 a. 253.

**125.115 Responsibility for commission of a crime.** (1) A person may be convicted of the commission of a crime under this chapter only if the criteria specified in s. 939.05 exist.

(2) This section does not apply to civil forfeiture actions for violation of any provision of this chapter or any local ordinance in conformity with any provision of this chapter.

History: 1985 a. 47.

**125.12 Revocations, suspensions, refusals to issue or renew.** (1) **REVOCATION, SUSPENSION, NONISSUANCE OR NONRENEWAL OF LICENSE.** (a) Except as provided in this subsection, any municipality or the department may revoke, suspend or refuse to renew any license or permit under this chapter, as provided in this section.

(b) 1. In this paragraph, “violation” means a violation of s. 125.07 (1) (a), or a local ordinance that strictly conforms to s. 125.07 (1) (a).

2. No violation may be considered under this section or s. 125.04 (5) (a) 1. unless the licensee or permittee has committed

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another violation within one year preceding the violation. If a licensee or permittee has committed 2 or more violations within one year, all violations committed within one year of a previous violation may be considered under this section or s. 125.04 (5) (a) 1.

(c) Neither a municipality nor the department may consider an arrest or conviction for a violation punishable under s. 101.123 (8) (d), 945.03 (2m), 945.04 (2m), or 945.05 (1m) in any action to revoke, suspend, or refuse to renew a Class “B” or “Class B” license or permit.

(2) **REVOCAION OR SUSPENSION OF LICENSES BY LOCAL AUTHORITIES.** (ag) *Complaint.* Any resident of a municipality issuing licenses under this chapter may file a sworn written complaint with the clerk of the municipality alleging one or more of the following about a person holding a license issued under this chapter by the municipality:

1. The person has violated this chapter or municipal regulations adopted under s. 125.10.

2. The person keeps or maintains a disorderly or riotous, indecent or improper house.

3. The person has sold or given away alcohol beverages to known habitual drunkards.

4. The person does not possess the qualifications required under this chapter to hold the license.

5. The person has been convicted of manufacturing, distributing or delivering a controlled substance or controlled substance analog under s. 961.41 (1); of possessing, with intent to manufacture, distribute or deliver, a controlled substance or controlled substance analog under s. 961.41 (1m); or of possessing, with intent to manufacture, distribute or deliver, or of manufacturing, distributing or delivering a controlled substance or controlled substance analog under a substantially similar federal law or a substantially similar law of another state.

5m. The person has been convicted of possessing any of the materials listed in s. 961.65 with intent to manufacture methamphetamine under that subsection or under a federal law or a law of another state that is substantially similar to s. 961.65.

6. The person knowingly allows another person, who is on the premises for which the license under this chapter is issued, to possess, with the intent to manufacture, distribute or deliver, or to manufacture, distribute or deliver a controlled substance or controlled substance analog.

6m. The person knowingly allows another person, who is on the premises for which the license under this chapter is issued, to possess any of the materials listed in s. 961.65 with the intent to manufacture methamphetamine.

7. The person received the benefit from an act prohibited under s. 125.33 (11).

(ar) *Summons.* Upon the filing of the complaint, the municipal governing body or a duly authorized committee of a city council shall issue a summons, signed by the clerk and directed to any peace officer in the municipality. The summons shall command the licensee complained of to appear before the municipal governing body or the committee on a day and place named in the summons, not less than 3 days and not more than 10 days from the date of issuance, and show cause why his or her license should not be revoked or suspended. The summons and a copy of the complaint shall be served on the licensee at least 3 days before the time at which the licensee is commanded to appear. Service shall be in the manner provided under ch. 801 for service in civil actions in circuit court.

(b) *Procedure on hearing.* 1. If the licensee does not appear as required by the summons, the allegations of the complaint shall be taken as true and if the municipal governing body or the committee finds the allegations sufficient, the license shall be revoked. The clerk shall give notice of the revocation to the person whose license is revoked.

2. If the licensee appears as required by the summons and denies the complaint, both the complainant and the licensee may produce witnesses, cross-examine witnesses and be represented by counsel. The licensee shall be provided a written transcript of the hearing at his or her expense. If the hearing is held before the municipal governing body and the complaint is found to be true, the license shall either be suspended for not less than 10 days nor more than 90 days or revoked, except that, if a complaint under par. (ag) 4. is found to be true with respect to a license issued under s. 125.51 (4) (v), the license shall be revoked.

3. If the hearing is held before a committee of a city council, the committee shall submit a report to the city council, including findings of fact, conclusions of law and a recommendation as to what action, if any, the city council should take with respect to the license. The committee shall provide the complainant and the licensee with a copy of the report. Either the complainant or the licensee may file an objection to the report and shall have the opportunity to present arguments supporting the objection to the city council. The city council shall determine whether the arguments shall be presented orally or in writing or both. If the city council, after considering the committee’s report and any arguments presented by the complainant or the licensee, finds the complaint to be true, or if there is no objection to a report recommending suspension or revocation, the license shall be suspended or revoked as provided under subd. 2.

4. The municipal clerk shall give notice of each suspension or revocation to the person whose license is suspended or revoked.

5. If the municipal governing body finds the complaint untrue, the proceeding shall be dismissed without cost to the accused. If the municipal governing body finds the complaint to be malicious and without probable cause, the costs shall be paid by the complainant. The municipal governing body or the committee may require the complainant to provide security for such costs before issuing the summons under par. (ar).

(c) *Effect of revocation.* When a license is revoked under this subsection, the revocation shall be recorded by the clerk and no other license issued under this chapter may be granted within 12 months of the date of revocation to the person whose license was revoked. No part of the fee paid for any license so revoked may be refunded.

(d) *Judicial review.* The action of any municipal governing body in granting or failing to grant, suspending or revoking any license, or the failure of any municipal governing body to revoke or suspend any license for good cause, may be reviewed by the circuit court for the county in which the application for the license was issued, upon application by any applicant, licensee or resident of the municipality. The procedure on review shall be the same as in civil actions instituted in the circuit court. The person desiring review shall file pleadings, which shall be served on the municipal governing body in the manner provided in ch. 801 for service in civil actions and a copy of the pleadings shall be served on the applicant or licensee. The municipal governing body, applicant or licensee shall have 20 days to file an answer to the complaint. Following filing of the answer, the matter shall be deemed at issue and hearing may be had within 5 days, upon due notice served upon the opposing party. The hearing shall be before the court without a jury. Subpoenas for witnesses may be issued and their attendance compelled. The decision of the court shall be filed within 10 days after the hearing and a copy of the decision shall be transmitted to each of the parties. The decision shall be binding unless it is appealed to the court of appeals.

(3) **REFUSALS BY LOCAL AUTHORITIES TO RENEW LICENSES.** A municipality issuing licenses under this chapter may refuse to renew a license for the causes provided in sub. (2) (ag). Prior to the time for the renewal of the license, the municipal governing body or a duly authorized committee of a city council shall notify the licensee in writing of the municipality’s intention not to renew the license and provide the licensee with an opportunity for a hear-

ing. The notice shall state the reasons for the intended action. The hearing shall be conducted as provided in sub. (2) (b) and judicial review shall be as provided in sub. (2) (d). If the hearing is held before a committee of a city council, the committee shall make a report and recommendation as provided under sub. (2) (b) 3. and the city council shall follow the procedure specified under that subdivision in making its determination.

**(3m) REFUSALS BY LOCAL AUTHORITIES TO ISSUE LICENSES.** If a municipal governing body or duly authorized committee of a city council decides not to issue a new license under this chapter, it shall notify the applicant for the new license of the decision not to issue the license. The notice shall be in writing and state the reasons for the decision.

**(4) SUSPENSION OR REVOCATION OF LICENSES ON COMPLAINT OF THE DEPARTMENT.** (ag) *Complaint.* A duly authorized employee of the department may file a complaint with the clerk of circuit court for the jurisdiction in which the premises of a person holding a license issued under this chapter is situated, alleging one or more of the following about a licensee:

1. That the licensee has violated this chapter.
2. That the licensee keeps or maintains a disorderly or riotous, indecent or improper house.
3. That the licensee has sold alcohol beverages to known habitual drunkards.
4. That the licensee has failed to maintain the premises in accordance with the standards of sanitation prescribed by the department of health services.
5. That the licensee has permitted known criminals or prostitutes to loiter on the licensed premises.
6. That the licensee does not possess the qualifications required under this chapter to hold the license.

7. That the licensee has been convicted of manufacturing, distributing or delivering a controlled substance or controlled substance analog under s. 961.41 (1); of possessing, with intent to manufacture, distribute or deliver, a controlled substance or controlled substance analog under s. 961.41 (1m); or of possessing, with intent to manufacture, distribute or deliver, or of manufacturing, distributing or delivering a controlled substance or controlled substance analog under a substantially similar federal law or a substantially similar law of another state.

7m. That the licensee has been convicted of possessing any of the materials listed in s. 961.65 with intent to manufacture methamphetamine under that section or under a federal law or a law of another state that is substantially similar to s. 961.65.

8. That the licensee knowingly allows another person, who is on the premises for which the license under this chapter is issued, to possess, with the intent to manufacture, distribute or deliver, or to manufacture, distribute or deliver a controlled substance or controlled substance analog.

8m. That the licensee knowingly allows another person, who is on the premises for which the license under this chapter is issued, to possess any of the materials listed in s. 961.65 with the intent to manufacture methamphetamine.

(ar) *Summons.* Upon the filing of the complaint, the clerk of the court shall issue a summons commanding the licensee to appear before the court not less than 20 days from its date of issuance and show cause why his or her license should not be revoked or suspended. The summons and a copy of the complaint shall be served at least 20 days before the date on which the person is commanded to appear. Service shall be in the manner provided in ch. 801 for civil actions in circuit court.

(b) *Procedure on hearing.* If the licensee does not appear as required by the summons, the allegations of the complaint shall be taken as true and if the court finds the allegations sufficient, it shall order the license either suspended for not more than 90 days or revoked, except that, for allegations under par. (ag) 6. with respect to a license issued under s. 125.51 (4) (v), it shall order the license revoked. The clerk of the court shall give notice of the suspension

or revocation to the person whose license is suspended or revoked. If the licensee appears and answers the complaint, the court shall fix a date for the hearing not more than 30 days after the return date of the summons. The hearing shall be had before the court without a jury. If upon the hearing the court finds the allegations of the complaint to be true, it shall order the license either suspended for not more than 90 days or revoked, except that, if upon the hearing the court finds allegations under par. (ag) 6. to be true with respect to a license issued under s. 125.51 (4) (v), the court shall order that license revoked. If the court finds the allegations of the complaint to be untrue, the complaint shall be dismissed.

(c) *Effect of revocation or suspension.* When a license is revoked or suspended under this subsection, the clerk of court shall notify the authority which issued the license. If the license is revoked, no other license may be issued under this chapter to the person whose license was revoked or to any person related to him or her as owner, lessor, bailor or lender, within the 12 months after the date of revocation and no other license may be granted for the premises covered by the revoked license within 60 days of the date of revocation. The findings and order of the court shall be filed within 10 days after the hearing and the order shall be final unless appeal is taken to the court of appeals. If an appeal is taken from a revocation, any period during which the order is stayed shall be added to the 12 months and 60 days, respectively. No part of the fee paid for any license which is revoked may be refunded. Whenever any court has revoked or suspended any license under this subsection, no further proceedings shall be commenced under this subsection except upon grounds arising after the original revocation or suspension.

**(5) REVOCATIONS OR SUSPENSIONS OF, OR REFUSALS TO RENEW, PERMITS BY THE DEPARTMENT.** The department may, after notice and an opportunity for hearing, revoke, suspend or refuse to renew any retail permit issued by it for the causes provided in sub. (4) and any other permit issued by it under this chapter for any violation of this chapter or ch. 139, except that, for a violation of sub. (4) (ag) 6. with respect to a license issued under s. 125.51 (4) (v) or a violation of s. 125.535 or 139.035, the department shall revoke the license or permit. A revocation, suspension or refusal to renew is a contested case under ch. 227.

**(6) REVOCATION OR SUSPENSION OF INTOXICATING LIQUOR WHOLESALERS' PERMITS FOR CERTAIN VIOLATIONS.** (a) Any person may file a sworn written complaint with the department alleging that an intoxicating liquor wholesaler has violated s. 125.54 (7) (a). The complaint shall identify the specific legal basis for the complaint and sufficient facts for the department to determine whether there is cause to find that a violation has occurred. The department shall provide a copy of the complaint to any wholesaler against whom allegations are made, along with notice of the time period under par. (b) to show cause why the wholesaler's permit should not be revoked or suspended or to request a hearing.

(b) Within 30 days of receiving a copy of the complaint under par. (a), any wholesaler against whom allegations are made may file a sworn written response or a written request for an evidentiary hearing before the department under s. 227.44.

(c) Subject to pars. (d) 1. and (dm), if no request for an evidentiary hearing is made under par. (b), within 60 days of receiving any response under par. (b) or, if no response is made, within 60 days of the date on which a response or request for hearing is due under par. (b), the department shall make a written decision as to whether a violation has occurred and either dismiss the complaint or take action under par. (e). Any decision under this paragraph shall include findings of fact and conclusions of law and shall state all reasons for the decision. The department shall provide a copy of the decision to the complainant and to any wholesaler against whom allegations are made.

(cm) Subject to pars. (d) 2. and (dm), if a request for an evidentiary hearing is made under par. (b), the hearing shall be conducted in the manner specified for a contested case under ss. 227.44 to 227.50, except that the hearing shall be conducted within 45 days

of receiving the request for hearing under par. (b) and the department shall make its written decision, including whether a violation has occurred and whether the complaint is dismissed or action is taken under par. (e), within 15 days after the hearing. In addition to service of the decision as provided under s. 227.48, the department shall provide a copy of the decision to the complainant.

(d) 1. If no request for an evidentiary hearing is made under par. (b), within 60 days of receiving any response under par. (b) or, if no response is made, within 60 days of the date on which a response or request for hearing is due under par. (b), the department may extend the time period for making a decision under par. (c) by an additional 60 days if the department provides notice within the time period specified in par. (c) that an additional 60 days is necessary for investigation.

2. If a request for an evidentiary hearing is made under par. (b), within 45 days of receiving the request for hearing under par. (b), the department may extend the time period for conducting the hearing by an additional 45 days if the department provides notice within 45 days of receiving the request for hearing under par. (b) that an additional 45 days is necessary for investigation.

(dm) Within 45 days of receiving any response or request for hearing under par. (b) or, if no response or request for hearing is made, within 45 days of the date on which a response or request for hearing is due under par. (b), the department may elect to file a complaint in circuit court under sub. (4) that includes all allegations of the complaint under par. (a) for which the department determines there is cause to find that a violation of s. 125.54 (7) (a) has occurred. If the department files a complaint in circuit court as provided under this paragraph, the department shall not conduct a hearing under par. (cm) or make a written decision under par. (c), but shall proceed with the matter as provided under sub. (4).

(e) If the department finds the allegations under par. (a) true and sufficient, the department shall either suspend for not less than 10 days nor more than 90 days or revoke the wholesaler's permit, and give notice of the suspension or revocation to the wholesaler.

(f) A revocation or suspension proceeding under this subsection is a contested case under ch. 227, except that ss. 227.44 to 227.50 apply to a proceeding under this subsection only if a request for an evidentiary hearing is made under par. (b).

**History:** 1981 c. 79; 1983 a. 516; 1987 a. 93; 1993 a. 98; 1995 a. 27 s. 9126 (19); 1995 a. 417, 448; 1997 a. 27, 35, 166, 187; 1999 a. 9; 2005 a. 14, 25, 442; 2007 a. 20 s. 9121 (6) (a); 2007 a. 85; 2009 a. 12.

Due process and equal protection rights of licensees are discussed. *Tavern League of Wisconsin v. City of Madison*, 131 Wis. 2d 477, 389 N.W.2d 54 (Ct. App. 1986).

A license never should have been issued when a notice of application had not been published as required under s. 125.04 (3) (g), and a license issued without publication is void under s. 125.04 (2). Selling liquor under a void license constitutes a violation of s. 125.66 (1). Under s. 125.12, a renewal license, if refused, is guaranteed a right to be heard by the municipality, and the municipality must show cause for refusal, but a new licensee, if refused, has no such guarantee. When an original license is void, the applicant is a new licensee. *Williams v. City of Lake Geneva*, 2002 WI App 95, 253 Wis. 2d 618, 643 N.W.2d 864, 01–1733.

Notices sent by the city did not violate the requirement in sub. (3) that the "council shall notify the licensee in writing of the municipality's intention not to renew the license" because they stated that "there is a possibility that your application may be denied." As the matter cannot be affirmatively decided before the hearing, it is of course only a possibility that the applicant's license will not be renewed at the time the notice is sent. *Questions, Inc. v. City of Milwaukee*, 2011 WI App 126, 336 Wis. 2d 654, 807 N.W.2d 131, 10–0707.

A town must renew a license, if the proper application is made and the fees are paid, unless it revokes, suspends, or non-renews the license, following the procedures outlined in this section. Section 125.10 (1) does not give towns the authority to unilaterally modify the described premises in an individual license upon renewal of that license. A town must either pass a regulation or an ordinance under s. 125.10 or it must find grounds for revocation or nonrenewal under this section. *Wisconsin Dolls, LLC v. Town of Dell Prairie*, 2012 WI 76, 342 Wis. 2d 350, 815 N.W.2d 690, 10–2900.

Acting upon a citizen complaint to revoke a liquor license that was not sworn, as required under sub. (2) (ag), constituted a fundamental error that deprived the licensing committee of jurisdiction over the matter. *Park 6 LLC v. City of Racine*, 2012 WI App 123, 344 Wis. 2d 661, 824 N.W.2d 903, 11–2282.

*Certiorari* is the correct standard of review for a court to apply when, pursuant to sub. (2) (d), it reviews a municipal decision not to renew an alcohol license. *Nowell v. City of Wausau*, 2013 WI 88, 351 Wis. 2d 1, 838 N.W.2d 852, 11–1045.

Sub. (2) (a) 2.'s prohibition of operating a disorderly house was not unconstitutionally vague as applied in this case. The statute's legislative purpose concerns the health and safety of the public and its enforcement is aimed at public health. There was no doubt that the conduct cited in this case was disorderly, riotous, indecent, or improper. Such behavior falls squarely within the ambit of the statute, particularly

given the public health and safety concerns involved. *Scott Hegwood v. City of Eau Claire*, 679 F.3d 600 (2012).

**125.13 Report of suspension, revocation or imposition of penalty.** Whenever a municipal governing body or court revokes or suspends a license or permit or imposes a penalty on a licensee or permittee for the violation of this chapter, the clerk of the municipality or court revoking or suspending the license or imposing the penalty shall, within 10 days after the revocation, suspension or imposition of penalty, mail a report to the department at Madison, Wisconsin, giving the name of the licensee, the address of the licensed premises and a full description of the penalty imposed.

**History:** 1981 c. 79.

**125.14 Enforcement provisions.** (1) **ARREST.** Subject to s. 175.38, any peace officer may arrest without warrant any person committing in his or her presence a violation of this chapter or ch. 139 and may, without a search warrant, seize any personal property used in connection with the violation.

(2) **CONFISCATION; DISPOSAL.** (a) *Contraband.* All alcohol beverages owned, possessed, kept, stored, manufactured, sold, distributed or transported in violation of this chapter or ch. 139 and all personal property used in connection therewith is unlawful property and may be seized by any peace officer. Any peace officer confiscating personal property under this section may proceed under this section.

(c) *Identification.* Any person seizing alcohol beverages or personal property and electing to dispose of it under this subsection shall exercise reasonable diligence to ascertain the name and address of the owner of the alcohol beverages or property and of all persons holding a security interest in the property seized. The person shall report his or her findings in writing to the department.

(d) *Order.* Upon conviction of any person for owning, possessing, keeping, storing, manufacturing, selling, distributing or transporting alcohol beverages in violation of this chapter or ch. 139, the court shall order part or all of the alcohol beverages or personal property seized to be destroyed if it is unfit for sale. Alcohol beverages and other personal property fit for sale shall be turned over to the department for disposition. Upon receipt of the confiscated property, the department shall exercise reasonable diligence to ascertain the names and addresses of all owners of the property and of all persons holding a security interest in the property. If a motor vehicle is confiscated, the department shall obtain the written advice of the department of transportation as to the ownership of the motor vehicle and shall make a reasonable search for perfected security interests in the vehicle.

(e) *Disposal.* The department shall dispose of the alcohol beverages turned over to it by the court by either giving it to law enforcement agencies free of charge for use in criminal investigations, selling it to the highest bidder if the bidder is a person holding a license or permit issued under this chapter, or destroying it, at the discretion of the department. If the department elects to sell the alcohol beverages, it shall publish a class 2 notice under ch. 985 asking for sealed bids from qualified bidders. Any items or groups of items in the inventory subject to a security interest, the existence of which was established in the proceedings for conviction as being bona fide and as having been created without the secured party having notice that the items were being used or were to be used in connection with the violation, shall be sold separately. The net proceeds from the sale, less all costs of seizure, storage, and sale, shall be turned over to the secretary of administration and credited to the common school fund.

(f) *Sale.* Any personal property, other than alcohol beverages, seized under par. (a) and fit for sale, shall be turned over by the department to the department of administration for disposal at public auction to the highest bidder, at a time and place stated in a notice of sale which describes the property to be sold. The sale shall be held in a conveniently accessible place in the county where the property was confiscated. A copy of the notice shall be published as a class 2 notice under ch. 985. The last insertion shall