

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 Jason Jones, agent for Villard Groceries & More, LLC, licensee for the premises at 3520 W Villard Avenue, Milwaukee, Wisconsin ("Villard Ave Groceries & More"), 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, May 15, 2018 at 1:30 p.m. to show cause why the Cigarette & Tobacco license issued to Jason Jones, agent for Villard Groceries & More, LLC, for the premises at 3520 W Villard Avenue, Milwaukee, Wisconsin and known as "Villard Ave Groceries & More" should not be revoked or suspended.

TO: Jason Jones  
3520 W Villard Ave  
Milwaukee, WI 53209

Pursuant to sec. 134.65(6) to 134.65(8) of the Wisconsin Statutes, and §§ 84-43, 85-3 to 85-5 of the Code of Ordinances of the City of Milwaukee, you are hereby commanded to appear on May 15, 2018 at 1:30 p.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 Cigarette & Tobacco license 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 Heather Wurth, Commander of the Milwaukee Police Department, District Four. A copy of the above-referenced complaint is attached hereto as well as copies of §§ 84-43, 85-3 to 85-5 of the Milwaukee Code of Ordinances, and Chapters 134.65(6) to 134.65(8) of the Wisconsin Statutes.

On May 15, 2018 at 1:30 p.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 license. 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, Jason Jones, fail to appear in person before the Committee on May 15, 2018 at 1:30 p.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 8th day of May, 2018.



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ALDERMAN T. ANTHONY ZIELINSKI  
CHAIRMAN, LICENSES COMMITTEE



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RICHARD PFAFF  
DEPUTY CITY CLERK

Complaint; Wisconsin Statutes Section 134.65(6) to 134.65(8);  
Milwaukee Code of Ordinances Sections 84-43, 85-3 to 85-5.

Proof of Service:

STATE OF WISCONSIN )  
) ss.  
MILWAUKEE COUNTY )

COMES NOW CORSTAN D. COURT, 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 3:30 AM/PM on the 8 day of May, 2018, serve a true and correct copy of this summons, the complaint, Wisconsin Statutes Section 134.65(6) to 134.65(8), Milwaukee Code of Ordinances Sections 84-43, 85-3 to 85-5 upon

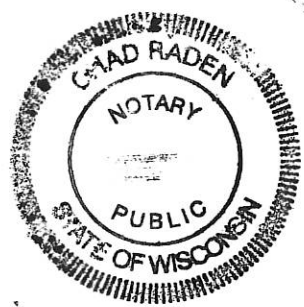
JASON JONES at 3520 N. VILLARD.

Subscribed and sworn to before me this 8 day of May 2018

[Signature]  
Notary Public, State of Wisconsin  
My Commission: 12-20-20

[Signature]  
Signature

CORSTAN D. COURT  
Printed Name



**In re the Cigarette and Tobacco License of:**

**Villard Groceries & More, LLC**

**Jason Jones, Agent**

**as the Licensee for the licensed premises**

**known as Villard Ave Groceries & More, located at  
3520 W Villard Ave, 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 134.65(6),(7) and Sections, 84-43-11, 85-4 of the Milwaukee Code of Ordinances (“MCO”), Chief of Police Alfonso Morales, a City of Milwaukee resident and interested party, by Captain Heather Wurth, 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:

**OWNERSHIP AND EMPLOYEES**

1. Villard Groceries & More, LLC, by its agent Jason Jones, is the holder of a Cigarette and Tobacco license for the licensed premises known as Villard Groceries & More and is located at the property of 3520 W Villard Avenue, Milwaukee, Wisconsin, which is a general retail, brick and mortar building.

2. Villard Ave Groceries & More was previously licensed as “Villard Ave Tobacco” by Daniel Perry. Mr. Perry has been incarcerated since October, 2014. Mr. Perry employed Jason Jones as the manager and operator of Villard Ave Tobacco. Mr. Jones frequently engaged

in unlawful sale and distribution of tobacco product and frequently violated the Milwaukee Code of Ordinance and Wisconsin Statutes.

3. On November 13, 2017, the MPD sought to revoke the Cigarette and Tobacco License of Villard Ave Tobacco from Mr. Perry. During the revocation hearing, the MPD alleged Villard Ave Tobacco had engaged in the unlawful sale and distribution of cigarette and tobacco product from August, 2016 to November, 2017. Upon a unanimous decision, the Licenses Committee recommended revocation of the Cigarette and Tobacco License held by Mr. Perry. The motion was later adopted by the Common Council on November 28, 2017. (See, Report of Revocation of Daniel Perry for Villard Ave Tobacco, marked and attached hereto, **Exhibit 1**).

4. Shortly after being revoked, Mr. Jones applied for and received a Cigarette and Tobacco License on December 7, 2017 under "Villard Groceries & More, LLC" located at 3520 W Villard Ave. The prior manager and operator of Villard Ave Tobacco, Jason Jones, obtained a new license at the same location, but under a new LLC. Mr. Jones simply changed the name of ownership and obtained a new tobacco license less than a month after being revoked.

5. Mr. Jones appeared at the license revocation hearing held on November 13, 2017, and indicated he was the operator at Villard Ave Tobacco.

6. Since the new license was issued to Mr. Jones, the tobacco store has continued to sell single cigarettes and therefore has violated the Wisconsin and municipal cigarette and tobacco license regulations.

7. Pursuant to Wis. Stat. Sec. 134.66(2)(e) and MCO 106-30-3-c, the Mr. Jones has continued to sell single cigarettes and therefore has violated Ch. 134, Wis. Stats. and municipal regulations.

- a. On March 23, 2018, MPD officers conducted an investigation at Villard Groceries & More by having a confidential information (“CI”) attempt to purchase single cigarettes from the tobacco store. At approximately 6:45pm the CI entered the store and later returned with 4 Newport cigarettes. It was determined the CI purchased the 4 cigarettes from an employee at the store for \$.50 each.
- b. On March 31, 2018, MPD officers conducted an investigation at Villard Groceries & More by having a CI attempt to purchase single cigarettes from the tobacco store. At approximately 11:43am the CI entered the store and later returned with 4 Newport cigarettes. It was determined the CI purchased the 4 cigarettes from an employee at the store for \$.50 each.
- c. On April 12, 2018, MPD officers conducted an investigation at Villard Groceries & More by having a CI attempt to purchase single cigarettes from the tobacco store. At approximately 5:25pm the CI purchased 4 Newport cigarettes from the tobacco store. It was determined the CI purchased the 4 cigarettes from an employee at the store for \$.50 each.

8. Pursuant to Wis. Stat. § 134.65(6)-(7), a 1<sup>st</sup> class city may revoke, suspend, or refuse to renew any cigarette and tobacco license upon the filing of a sworn complaint alleging at least two separate instances of cigarette and tobacco violations found in Wis. Stats. Sec. 134.65.

**BASED UPON** the continuous sale of single cigarettes 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 Cigarette and Tobacco license relative to the above-referenced Licensee and licensed premises, Villard Groceries & More, because:

1. Pursuant to Wis. Stat. Sec. 134.66(2)(e) and MCO 106-30-3-c, the Licensee has continued to sell single cigarettes and therefore has violated Ch. 134, Wis. Stats. and municipal regulations;

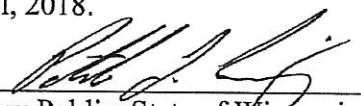
Dated at Milwaukee, Wisconsin this 26<sup>th</sup> day of April, 2018.

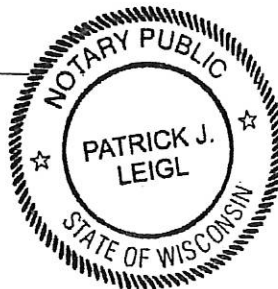
CHIEF OF POLICE ALFONSO MORALES, by

  
HEATHER WURTH

Commander, Milwaukee Police District 4

The foregoing complaint seeking revocation of the Cigarette and Tobacco License was subscribed and sworn to and before me this 26<sup>th</sup> day of April, 2018.

  
Notary Public, State of Wisconsin  
My commission is permanent



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

Milwaukee, WI 53202  
Telephone: (414) 286-2601  
Fax: (414) 286-8550  
1032-2016-2003: 248754

PA-33E Narrative

This report is written by Police Officer Donald KRENZIEN, assigned to District 4, Early Power Shift.

On Thursday, March 23, 2018, at approximately 6:45pm, P.O. SCHILCHER and I (Squad 4239) met with a Confidential Informant (CI) about purchasing individual cigarettes from the Villard Tobacco located at 3520 W Villard Avenue in the City and County of Milwaukee.

P.O. SCHILCHER searched the CI and did not locate money or cigarettes on the CI's person.

P.O. SCHILCHER provided the CI with recording equipment to record the cigarette transaction and I provided the CI with two dollars to purchase the cigarettes.

At approximately 7:00pm, The CI went into the Villard Avenue Tobacco store and purchased 4, individual Newport cigarettes for two dollars. Upon completion of the buy, the CI returned to our vehicle and handed over the 4 individual Newport cigarettes to me.

P.O. SCHILCHER conducted a search of the CI and did not locate any further money or cigarettes.

During a debrief of the CI, the CI stated that the subject who sold the CI the individual cigarettes was a black male with a short haircut wearing a black jacket.

I placed the four cigarettes on Milwaukee Police inventory #18010762.

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PA-33E Narrative

This report is written by Police Officer Donald KRENZIEN, assigned to District 4, Early Power Shift.

On Saturday, March 31, 2018, at approximately 11:43am, P.O. Sean PATRICK, P.O. SCHILCHER and I (Squad 4239) met with a Confidential Informant (CI) about purchasing individual cigarettes from the Villard Tobacco located at 3520 W Villard Avenue in the City and County of Milwaukee.

P.O. SCHILCHER searched the CI and did not locate money or cigarettes on the CI's person.

I provided the CI with two dollars to purchase the cigarettes.

At approximately 11:55am, The CI went into the Villard Avenue Tobacco store and purchased 4, individual Newport cigarettes for two dollars. Upon completion of the buy, the CI returned to our vehicle and handed over the 4 individual Newport cigarettes to me.

P.O. SCHILCHER conducted a search of the CI and did not locate any further money or cigarettes.

During a debrief of the CI, the CI stated that the subject who sold the CI the individual cigarettes was a black female in her early 50's with long black hair, a mole on the right side of her face and she was wearing a blue scarf.

P.O. SCHILCHER placed the four cigarettes on Milwaukee Police inventory #18011999.

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PA-33E Narrative

This report is written by Police Officer Donald KRENZIEN, assigned to District 4, Early Power Shift.

On Thursday, April 12th, 2018, at approximately 5:25pm, P.O. SCHILCHER and I (Squad 4239) met with a Confidential Informant (CI) about purchasing individual cigarettes from the Villard Tobacco located at 3520 W Villard Avenue in the City and County of Milwaukee.

P.O. SCHILCHER searched the CI and did not locate money or cigarettes on the CI's person.

I provided the CI with two dollars to purchase the cigarettes.

At approximately 5:29pm, The CI went into the Villard Avenue Tobacco store and purchased 4, individual Newport cigarettes for two dollars. Upon completion of the buy, the CI returned to our vehicle and handed over the 4 individual Newport cigarettes to me.

P.O. SCHILCHER conducted a search of the CI and did not locate any further money or cigarettes.

During a debrief of the CI, the CI stated that the subject who sold the CI the individual cigarettes was a black male, approximately 30 years old, an average build, quarter inch haircut, no facial hair and a black Columbia jacket. The CI stated the cashier reached down and grabbed the 4 loose cigarettes below him and hand it The CI.

P.O. SCHILCHER placed the four cigarettes on Milwaukee Police inventory #18013687.

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Office of the City Clerk

Jim Owczarski  
City Clerk  
jowcza@milwaukee.gov

Richard G. Pfaff  
Deputy City Clerk  
rpfaff@milwaukee.gov

November 15, 2017

Daniel Perry  
V&D, LLC  
3150 N 35<sup>th</sup> Street  
Milwaukee, WI 53216

Dear Mr. Perry:

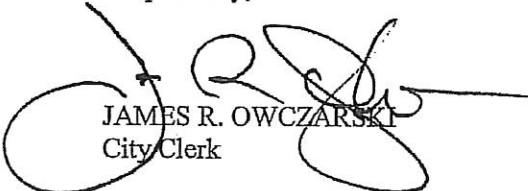
You are hereby notified that the Milwaukee Common Council will hold a hearing on Tuesday, November 28, 2017, commencing at 9:00 a.m., or as soon thereafter as this matter may be heard, in the Common Council chambers on the third floor of City Hall, 200 East Wells Street, Milwaukee, Wisconsin to consider whether or not to revoke or suspend between 10 and 90 days the Cigarette and Tobacco license(s) for the premises located at 3520 W Villard Ave. ("Villard Ave Tobacco").

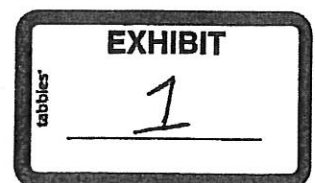
Attached you will find a copy of the Report of the Licenses Committee, which includes its Findings of Fact, Conclusions of Law, and Recommendation, recommending revocation of the Cigarette and Tobacco license(s) based upon the Committee's finding that the allegations in the attached complaint are true. This recommendation is the result of a public hearing before the Committee held on Monday, November 13, 2017.

Please be advised that the Common Council will determine whether or not to revoke or suspend between 10 and 90 days your Cigarette and Tobacco license(s) based upon the Findings of Fact contained within the Licenses Committee report.

You may file a written response to the report of the Licenses Committee. The written response must be filed with the City Clerk by 4:45 p.m. on Monday, November 20, 2017 in Room 205 of City Hall. If you wish to file your objections via e-mail, they must be sent to both [jowcza@milwaukee.gov](mailto:jowcza@milwaukee.gov) and [yashica.byrd@milwaukee.gov](mailto:yashica.byrd@milwaukee.gov). You will be sent an e-mail notification that your objections were received within 24 hours. If you do not receive this notification, please contact City Clerk Jim Owczarski at (414)-286-2998. If you file written objections, you or a legal representative may then also appear at the Common Council to make oral arguments supporting the written objections. You will be given approximately five minutes to present the oral argument.

Respectfully,

  
JAMES R. OWCZARSKI  
City Clerk



**CHAIR**

- Licenses Committee

**MEMBER**

- Community and Economic Development Committee
- Steering and Rules Committee



**TONY ZIELINSKI**  
ALDERMAN, 14TH DISTRICT

Date: November 16, 2017

To: All Members of the Milwaukee Common Council

From: The Licenses Committee

Re: Report of the Revocation of Daniel Perry Agent for V & D, LLC Cigarette and Tobacco license for the premises located at 3520 West Villard Avenue in the City and County of Milwaukee, Wisconsin ("Villard Ave Tobacco").

**FINDINGS OF FACT**

1. Daniel Perry (hereinafter the "Licensee") is the holder of Cigarette and Tobacco licenses for the premises located at 3520 West Villard Avenue in the City and County of Milwaukee, Wisconsin ("Villard Ave Tobacco"). Said license expires at midnight, April 15, 2018.
2. Pursuant to Chapter 84 and 85 of the Milwaukee Code of Ordinances, Assistant City Attorney Patrick J. Leigl filed a revocation complaint, attached and incorporated by reference, against the Licensee on October 16, 2017.
3. On October 18, 2017, the City Clerk's Office provided notice to the Licensee pursuant to Chapter 84 and 85 of the Milwaukee Code of Ordinances of the date of the hearing. Neither the Licensee, nor an attorney acting on behalf of the licensee appeared on the original hearing date of October 24, 2017. The matter was held until November 13, 2017 at approximately 2:30 p.m. in Room 301B of the third floor of City Hall.
4. Based upon the sworn testimony heard and the evidence received at the hearing, the Committee finds the following:
  - A. On October 24, 2017, ACA Patrick Leigl appeared for the City of Milwaukee, along with Samuel Coleman, 1<sup>st</sup> District Staff Assistant. Neither the Licensee nor an attorney acting on his behalf was present.



- B. ACA Leigl explained that the City had reason to believe the Licensee was serving a prison sentence, and therefore the Licensee was served both at his last listed address, and in person in the prison system.
- C. The committee held the matter for a cycle to give the Licensee an opportunity to retain an attorney.
- D. On November 13, 2017, ACA Patrick Leigl appeared for the City of Milwaukee, along with Assistant Samuel Coleman. Neither the Licensee, nor an attorney acting on his behalf was present. The Licensee's mother was present and stated that she had "power of attorney" over the Licensee's affairs.
- E. The City Attorney's Office advised that the applicant must be present either in person, or represented by counsel, a third party claiming to have power of attorney was not able to act upon behalf of the agent.
- F. ACA Leigl provided proof of service, and the committee moved to make the proof of service part of the record.
- G. ACA Leigl stated that in addition to the violations alleged in the attached revocation complaint, there had been additional violations at the location between the initial hearing date of October 24, 2017, and November 13, 2017, in relation to the tobacco laws and regulations. He asked that the committee accept the allegations in the complaint as true, and revoke the licenses.
- H. Samuel Coleman, 1st District Staff Assistant, stated that Pres. Hamilton is disappointed that the premises continued to be in violation.
- I. Ald. Johnson made a motion to accept the facts in the revocation complaint as true, and to revoke the license based on those allegations.
- J. That motion prevailed with a vote of 4 Ayes, 0 No, 1 Excused.
- K. The City Attorney's Office advised that there were two matters before the Committee. First, whether the committee would accept the allegations in the complaint as true; and second, what actions the committee would recommend based on the complaint. Therefore, the committee needed to take up each matter in a separate motion.
- L. Ald. Johnson moved to reconsider of the matter. That motion prevailed on a vote of 4 Ayes, 0 No, 1 Excused.
- M. Ald. Johnson moved to accept the allegations in the revocation complaint as true. That motion prevailed with a vote of 4 Ayes, 0 No, 1 Excused.

- N. Ald. Johnson then moved for revocation of the license based on the allegations found in the complaint. That motion also prevailed with a vote of 4 Ayes, 0 No, 1 Excused.

#### CONCLUSIONS OF LAW

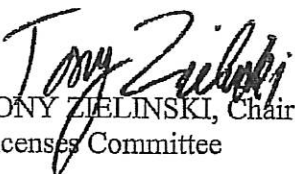
1. The Committee has jurisdiction to hold hearings and provided Findings of Fact and Conclusions of Law and a Recommendation to the full Common Council pursuant to Chapter 84 and 85 of the Milwaukee Code of Ordinances.
2. Based upon the above facts found and the findings in the revocation complaint, the Committee concludes that the Licensee, Daniel Perry who holds Cigarette and Tobacco licenses for the premise located at 3520 West Villard Avenue in the City and County of Milwaukee, Wisconsin ("Villard Ave Tobacco") has not met the criteria of 84 and 85 of the Milwaukee Code of Ordinances to continue to hold the above described Cigarette and Tobacco licenses. The Committee finds the allegations in the revocation complaint to be true. The Committee based its recommendation on the facts in the sworn complaint.
3. In order to protect the health, safety and welfare of the citizens of the City of Milwaukee, it is the recommendation of the Licenses Committee that the full Common Council of the City of Milwaukee should exercise its judgment to revoke the Cigarette and Tobacco licenses for the premises located at 3520 West Villard Avenue in the City and County of Milwaukee, Wisconsin ("Villard Ave Tobacco"). The Committee based its recommendation on the facts found in the sworn complaint.

#### RECOMMENDATION

Based upon the Findings of Fact and Conclusions of Law stated above, the Committee, by a vote of **four (4) ayes, zero (0), and one (1) excused** recommends that the Cigarette and Tobacco licenses held by Daniel Perry for the premises located at 3520 West Villard Avenue in the City and County of Milwaukee, Wisconsin ("Villard Ave Tobacco") be revoked based its recommendation the facts found in the sworn complaint.

The revocation is in effect beginning November 28, 2017.

Dated and signed at Milwaukee, Wisconsin this 16<sup>th</sup> day of November, 2017.

  
TONY ZIELINSKI, Chair  
Licenses Committee

b. Posting of Ordinance. The owner or operator of every parking lot shall post or cause to be posted a copy of this section, or a summary thereof, in a conspicuous place within said parking lot.

c. Penalty. Any person violating par. a shall be punished by a fine of not less than \$50 nor more than \$500 and in default of payment thereof shall be imprisoned in the county jail or house of correction for a period not to exceed 60 days.

d. Exception. The provisions of pars. a and c shall not apply if the operators of the parking lot have not met the provisions of sub. 13-b.

Note: For any license in effect on the date of the effective date of this ordinance [March 16, 2018], the licensee shall, at least 90 days prior to the expiration of the license, meet in person with a police department community liaison officer, or other designee of the chief of police, to review the plan of operation, and to conduct a crime prevention through environmental design (CPTED) survey. This provision shall expire 2 years after passage of the ordinance [March 16, 2020].

**84-43. Cigarette and Tobacco License.**

1. DEFINITIONS. In this section:

a. "Cigarette" means any roll of tobacco wrapped in paper or any substance other than tobacco.

b. "Tobacco products" means cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but "tobacco products" does not include cigarettes.

2. LICENSE REQUIRED. It shall be unlawful for any person, firm or corporation in any manner, or upon any pretense, or by any device, directly or indirectly, to sell, exchange, barter, dispose of or give away, any cigarettes or tobacco products without first obtaining a license therefor.

3. APPLICATION. License application forms shall be obtained from the city clerk and require the information specified in s. 85-12.

4. PLAN OF OPERATION. An application for a cigarette and tobacco license shall be accompanied by a completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall include:

a. The planned hours of operation for the premises.

b. The number of customers expected on a daily basis at the premises.

c. The legal occupancy limit of the premises.

d. The number of off-street parking spaces available at the premises.

e. Plans the applicant has to provide security for the premises.

f. Plans the applicant has to ensure the orderly appearance and operation of the premises with respect to litter and noise.

g. Any other licenses held by the applicant or attached to the premises.

h. A description of any provisions made for clean-up of the premises.

i. A site plan showing:

i-1. The locations of all entrances and exits. This shall include a description of how customers will enter and leave the premises.

i-2. The locations and dimensions of any off-street parking and loading areas for customers.

j. Such other reasonable and pertinent information the common council or the licensing committee may from time to time require.

5. CHANGES TO BE REPORTED. See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

6. LICENSE FEE. See ch. 81 for the required license fee.

7. AGE QUALIFICATION. No license shall be issued to any person or any agent of a corporation or limited liability corporation who is not 18 years of age or older.

8. ISSUANCE. See s. 85-12.5 for provisions relating to the issuance of a license.

9. TRANSFER OF LICENSE OR CHANGE OF NAME. No cigarette and tobacco license may be transferred from one licensee to another or from one premises to another. The city clerk may, however, change the name of a licensee as provided in s. 85-19 upon receiving information that the name of the licensee has been lawfully changed by marriage, order of a court or administrative determination by the Wisconsin department of financial institutions.

10. RECORDS TO BE KEPT. Every retailer licensed under this section shall keep complete and accurate records of all purchases and receipts of cigarettes and tobacco products. The records shall be preserved on the licensed premises for 2 years in a manner to ensure permanency and accessibility for inspection and

## 84-45 Miscellaneous Licenses

shall be subject to inspection at all reasonable hours by authorized state and local law enforcement officials.

**11. SUSPENSION, NONRENEWAL AND REVOCATION.** The city adopts s.134.65 (6), (7) and (8), Wis. Stats.

**12. PENALTIES.** a. Any person violating this section shall be fined not less than \$25 nor more than \$100 for the first offense or, in lieu of nonpayment or default of such fine, costs and disbursements, may be imprisoned as provided by law; and for a second or subsequent offense not less than \$25 nor more than \$200 or, in lieu of nonpayment or default of such fine, costs and disbursements, may be imprisoned as provided by law.

b. If upon conviction of a 2nd or subsequent violation, the person violating this section is found personally guilty of a failure to exercise due care to prevent the violation, the person shall be fined not less than \$25 nor more than \$300 or, in lieu of nonpayment or default of such fine, costs and disbursements, may be imprisoned as provided by law. Conviction under this paragraph shall result in immediate termination of the license of the person convicted of being personally guilty of failure to exercise due care and the person shall not be entitled to another license under this section for a period of 5 years after conviction, nor shall the person in that period act as the servant or agent of a person licensed under this section in the performance of acts authorized by the license.

**84-45. Filling Stations. 1. PURPOSE.** In order to protect the health, safety and general welfare of the community and environment and prevent potential harm and nuisance that could result from the location and operation of filling stations, the common council enacts the following regulations.

**2. DEFINITION.** In this section, "filling station" (gas station) means a place, building, pump or device maintained and used on private premises for the purpose of dispensing to the public gasoline or other fuels for use in motor vehicles of any kind.

**3. LICENSE REQUIRED.** a. No person, firm or corporation shall operate a filling station unless the person, firm or corporation possesses a valid license issued pursuant to this section. See s. 81-51.6 for the required fee.

b. An additional weighing and measuring license fee specified in ch. 81 shall be paid for each pump or device used to establish charges for gasoline or other fuels.

**3.5. SECURITY CAMERA REQUIRED.** All filling stations open to customers on a 24-hour basis shall:

a. Install, maintain in proper working order and operate during all hours the store is open to customers a security camera which can produce reproducible digital color images.

b. The camera shall be placed to provide a clear and identifiable full frame of the filmed individual's face, either entering, exiting or at the cash register. Hanging displays shall not obstruct views of the individual's face.

c. If a time-lapse digital video camera is operated, recorded images shall not be recorded at a slower speed than 24 hours.

d. Recorded digital image files shall be kept for a minimum of 72 hours.

**4. APPLICATION.** License application forms shall be obtained from the city clerk and require the information specified in s. 85-12.

**5. PLAN OF OPERATION.** An application for a filling station license shall be accompanied by a completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall include:

a. The planned hours of operation for the premises.

b. The number of customers expected on a daily basis at the premises.

c. The legal occupancy limit of the premises.

d. The number of off-street parking spaces available at the premises.

e. Plans the applicant has to provide security for the premises.

f. Plans the applicant has to ensure the orderly appearance and operation of the premises with respect to litter and noise.

g. Any other licenses held by the applicant or attached to the premises.

h. A description of any provisions made for clean-up of the premises.

i. A site plan showing:

i-1. The locations of all entrances and exits. This shall include a description of how customers will enter and leave the premises.

i-2. The locations and dimensions of any off-street parking and loading areas for customers.

j. Such other reasonable and pertinent information the common council or the licensing committee may from time to time require.

**6. CHANGES TO BE REPORTED.** See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.



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

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.

tridges may not be sold to persons under the age of 21. Do not inhale the contents of this cartridge. Misuse of nitrous oxide can be dangerous to your health.”

(b) Except as provided in sub. (5), no person may deliver a cartridge of nitrous oxide to another unless the packaging in which the cartridge is enclosed is marked with a label or other device that indicates the name and business address of the person delivering the cartridge of nitrous oxide.

(5) Subsections (3) and (4) do not apply to a retail food establishment, as defined in s. 97.30 (1) (c).

History: 1997 a. 336; 2007 a. 164.

**134.65 Cigarette and tobacco products retailer license.** (1) No person shall in any manner, or upon any pretense, or by any device, directly or indirectly sell, expose for sale, possess with intent to sell, exchange, barter, dispose of or give away any cigarettes or tobacco products to any person not holding a license as herein provided or a permit under ss. 139.30 to 139.41 or 139.79 without first obtaining a license from the clerk of the city, village or town wherein such privilege is sought to be exercised.

(1m) A city, village, or town clerk may not issue a license under sub. (1) unless the applicant specifies in the license application whether the applicant will sell, exchange, barter, dispose of, or give away the cigarette or tobacco products over the counter or in a vending machine, or both.

(2) (a) Except as provided in par. (b), upon filing of a proper written application a license shall be issued on July 1 of each year or when applied for and continue in force until the following June 30 unless sooner revoked. The city, village or town may charge a fee for the license of not less than \$5 nor more than \$100 per year which shall be paid to the city, village or town treasurer before the license is issued.

(b) In any municipality electing to come under this paragraph, upon filing of a proper written application a license shall be issued and continue in force for one year from the date of issuance unless sooner revoked. The city, village or town may charge a fee for the license of not less than \$5 nor more than \$100 per year which shall be paid to the city, village or town treasurer before the license is issued.

(3) Each such license shall name the licensee and specifically describe the premises where such business is to be conducted. Such licenses shall not be transferable from one person to another nor from one premises to another.

(4) Every licensed retailer shall keep complete and accurate records of all purchases and receipts of cigarettes and tobacco products. Such records shall be preserved on the licensed premises for 2 years in such a manner as to insure permanency and accessibility for inspection and shall be subject to inspection at all reasonable hours by authorized state and local law enforcement officials.

(5) Any person violating this section shall be fined not more than \$100 nor less than \$25 for the first offense and not more than \$200 nor less than \$25 for the 2nd or subsequent offense. If upon such 2nd or subsequent violation, the person so violating this section was personally guilty of a failure to exercise due care to prevent violation thereof, the person shall be fined not more than \$300 nor less than \$25 or imprisoned not exceeding 60 days or both. Conviction shall immediately terminate the license of the person convicted of being personally guilty of such failure to exercise due care and the person shall not be entitled to another license hereunder for a period of 5 years thereafter, nor shall the person in that period act as the servant or agent of a person licensed hereunder for the performance of the acts authorized by such license.

(6) Any 1st class city may revoke, suspend, or refuse to renew any license issued under this section, as provided in sub. (7).

(7) (a) Any duly authorized employee of a 1st class city issuing licenses under this section may file a sworn written complaint, supported by reports from a law enforcement agency, with the

clerk of the city alleging at least 2 separate instances of one or more of the following about a person holding a license issued under this section by the city:

1. The person has violated s. 134.66 (2) (a), (am), (cm), or (e), or a municipal ordinance adopted under s. 134.66 (5).

2. The person's premises are disorderly, riotous, indecent, or improper.

3. The person has knowingly permitted criminal behavior, including prostitution and loitering, to occur on the licensed premises.

4. The person has been convicted of any of the following:

a. Manufacturing, distributing, or delivering a controlled substance or controlled substance analog under s. 961.41 (1).

b. Possessing with intent to manufacture, distribute, or deliver, a controlled substance or controlled substance analog under s. 961.41 (1m).

c. Possessing with intent to manufacture, distribute, or deliver, or 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.

d. 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.

5. The person knowingly allows another person who is on the licensed premises to do any of the actions described in subd. 4.

(b) Upon the filing of the complaint, the city governing body shall issue a summons, signed by the clerk and directed to any peace officer in the city. The summons shall command the person complained of to appear before the city governing body 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, suspended, or not renewed. The summons and a copy of the complaint shall be served on the person complained of at least 3 days before the date on which the person is commanded to appear. Service shall be in the manner provided in ch. 801 for service in civil actions in circuit court.

(c) 1. If the person does not appear as required by the summons, the allegations of the complaint shall be taken as true, and if the city governing body finds the allegations to be sufficient grounds for revocation or nonrenewal, the license shall be revoked or not renewed. The city clerk shall give notice of the revocation or nonrenewal to the person whose license is revoked or not renewed.

2. If the person appears as required by the summons and answers the complaint, both the complainant and the person complained of may produce witnesses, cross-examine witnesses, and be represented by counsel. The person complained of shall be provided a written transcript of the hearing at his or her expense. If upon the hearing the city governing body finds the allegations of the complaint to be true, and if the city governing body finds the allegations to be sufficient grounds for suspension, revocation, or nonrenewal, the license shall be suspended for not less than 10 days nor more than 90 days, revoked, or not renewed.

3. The city clerk shall give notice of each suspension, revocation, or nonrenewal to the person whose license is suspended, revoked, or not renewed.

4. If the city governing body finds the allegations of the complaint to be untrue, the complaint shall be dismissed without cost to the person complained of.

(d) When a license is revoked under this subsection, the revocation shall be recorded by the city clerk and no other license may be issued under this section to the person whose license was revoked within the 12 months after the date of revocation. No part of the fee paid for any license that is revoked under this subsection may be refunded.

(e) The action of any city governing body in suspending, revoking, or not renewing any license under this subsection, or the failure of any city governing body to suspend, revoke, or not renew any license under this subsection for good cause, may be reviewed by the circuit court for the county in which the license was issued, upon the request of any applicant or licensee. 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 city 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 city 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 findings and order of the court shall be filed within 10 days after the hearing and a copy of the findings and order shall be transmitted to each of the parties. The order shall be final unless appeal is taken to the court of appeals.

(8) The uniform licensing of cigarette and tobacco products retailers is a matter of statewide concern. A city, village, or town may adopt an ordinance regulating the issuance, suspension, revocation, or renewal of a license under this section only if the ordinance strictly conforms to this section. If a city, village, or town has in effect on May 1, 2016, an ordinance that does not strictly conform to this section, the ordinance does not apply and may not be enforced.

History: 1983 a. 27; 1987 a. 67; 1993 a. 482; 1997 a. 214; 2001 a. 75; 2015 a. 275.

**134.66 Restrictions on sale or gift of cigarettes or nicotine or tobacco products. (1) DEFINITIONS.** In this section:

(a) "Cigarette" has the meaning given in s. 139.30 (1m).

(am) "Direct marketer" has the meaning given in s. 139.30 (2n).

(b) "Distributor" means any of the following:

1. A person specified under s. 139.30 (3).
2. A person specified under s. 139.75 (4).

(c) "Identification card" means any of the following:

1. A license containing a photograph issued under ch. 343.
2. An identification card issued under s. 343.50.
3. An identification card issued under s. 125.08, 1987 stats.

(d) "Jobber" has the meaning given in s. 139.30 (6).

(e) "Manufacturer" means any of the following:

1. A person specified under s. 139.30 (7).
2. A person specified under s. 139.75 (5).

(f) "Nicotine product" means a product that contains nicotine and is not any of the following:

1. A tobacco product.
2. A cigarette.
3. A product that has been approved by the U.S. food and drug administration for sale as a smoking cessation product or for another medical purpose and is being marketed and sold solely for such an approved purpose.

(g) "Retailer" means any person licensed under s. 134.65 (1).

(h) "School" has the meaning given in s. 118.257 (1) (d).

(hm) "Stamp" has the meaning given in s. 139.30 (13).

(i) "Subjobber" has the meaning given in s. 139.75 (11).

(j) "Tobacco products" has the meaning given in s. 139.75 (12).

(k) "Vending machine" has the meaning given in s. 139.30 (14).

(L) "Vending machine operator" has the meaning given in s. 139.30 (15).

(2) RESTRICTIONS. (a) No retailer, direct marketer, manufacturer, distributor, jobber or subjobber, no agent, employee or inde-

pendent contractor of a retailer, direct marketer, manufacturer, distributor, jobber or subjobber and no agent or employee of an independent contractor may sell or provide for nominal or no consideration cigarettes, nicotine products, or tobacco products to any person under the age of 18, except as provided in s. 254.92 (2) (a). A vending machine operator is not liable under this paragraph for the purchase of cigarettes, nicotine products, or tobacco products from his or her vending machine by a person under the age of 18 if the vending machine operator was unaware of the purchase.

(am) No retailer, direct marketer, manufacturer, distributor, jobber, subjobber, no agent, employee or independent contractor of a retailer, direct marketer, manufacturer, distributor, jobber or subjobber and no agent or employee of an independent contractor may provide for nominal or no consideration cigarettes, nicotine products, or tobacco products to any person except in a place where no person younger than 18 years of age is present or permitted to enter unless the person who is younger than 18 years of age is accompanied by his or her parent or guardian or by his or her spouse who has attained the age of 18 years.

(b) 1. A retailer shall post a sign in areas within his or her premises where cigarettes or tobacco products are sold to consumers stating that the sale of any cigarette or tobacco product to a person under the age of 18 is unlawful under this section and s. 254.92.

2. A vending machine operator shall attach a notice in a conspicuous place on the front of his or her vending machines stating that the purchase of any cigarette or tobacco product by a person under the age of 18 is unlawful under s. 254.92 and that the purchaser is subject to a forfeiture of not to exceed \$50.

(cm) 1m. A retailer or vending machine operator may not sell cigarettes or tobacco products from a vending machine unless the vending machine is located in a place where the retailer or vending machine operator ensures that no person younger than 18 years of age is present or permitted to enter unless he or she is accompanied by his or her parent or guardian or by his or her spouse who has attained the age of 18 years.

2. Notwithstanding subd. 1m., no retailer may place a vending machine within 500 feet of a school.

(e) No retailer or direct marketer may sell cigarettes in a form other than as a package or container on which a stamp is affixed under s. 139.32 (1).

(2m) TRAINING. (a) Except as provided in par. (b), at the time that a retailer hires or contracts with an agent, employee, or independent contractor whose duties will include the sale of cigarettes or tobacco products, the retailer shall provide the agent, employee, or independent contractor with training on compliance with sub. (2) (a) and (am), including training on the penalties under sub. (4) (a) 2. for a violation of sub. (2) (a) or (am). The department of health services shall make available to any retailer on request a training program developed or approved by that department that provides the training required under this paragraph. A retailer may comply with this paragraph by providing the training program developed or approved by the department of health services or by providing a comparable training program approved by that department. At the completion of the training, the retailer and the agent, employee, or independent contractor shall sign a form provided by the department of health services verifying that the agent, employee, or independent contractor has received the training, which the retailer shall retain in the personnel file of the agent, employee, or independent contractor.

(b) Paragraph (a) does not apply to an agent, employee, or independent contractor who has received the training described in par. (a) as part of a responsible beverage server training course or a comparable training course, as described in s. 125.04 (5) (a) 5., that was successfully completed by the agent, employee, or independent contractor. The department of health services shall make the training program developed or approved by that department under par. (a) available to the technical college system board, and that board shall include that training program or a comparable