

**CHAPTER 90  
LIQUOR AND TAVERN REGULATIONS**

	Table	90-19.5	Presence of Underage Persons During Times When No Alcohol Beverages Are Sold
	GENERAL		
90-1	Definitions	90-20	Sale to Intoxicated Person Prohibited
90-2	State Law Applicable		
	LICENSING	90-20.5	Theft of Cable Service and Tampering Prohibited
90-3	License Required	90-21	Disorderly Premises Prohibited
90-4	Classification of Licenses	90-23	Solicitation Prohibited
90-4.5	Limitations on Other Business; Class "B" Premises	90-24	Sanitary Requirements
90-4.7	Restriction on Granting of Class "A" Fermented Malt Beverage and "Class A" Retailer's Intoxicating Liquor Licenses	90-25	Employment of Minors
90-5	Licensing	90-26	Restrictions on Unlicensed Persons Functioning as Class "D" Operators
90-5.5	License for Cider Sales Only	90-27	Licensed Premises Accessible and Lighted
90-6	Qualifications for Licenses	90-28	Misleading Advertising Prohibited in Class "B" Taverns
90-7	Restrictions on Corporations	90-28.5	Advertising in Class "A" Fermented Malt Beverage Premises
90-8	Responsible Person Upon Licensed Premises	90-29	Alcoholic Content to Show on Label
90-8.5	Use of License by Another Prohibited	90-30	Selling of Illegal Beverages Prohibited
90-10	Transfer of License or Change of Name	90-30.5	Single-Use, Plastic Straws Prohibited
90-10.5	Surrender of License Upon Ceasing Operation	90-31	Refilling Bottles or Substitution of Brands Prohibited
90-11	Renewal of License	90-32	Fraud on Tavern Keepers Prohibited
90-12	Revocation or Suspension of Licenses		
90-13	Alterations to Premises		
90-14	Restrictions as to Location of Premises		
	REGULATIONS		
90-15	Hours of Operation		
90-16	Display of License		
90-17	Tavern Charges to be Posted		
90-18	Sale to an Under-aged Person Prohibited		
90-19	Presence of Underage Persons in Places of Sale; Penalty		
			TAVERN AMUSEMENT LICENSES
		90-37	Centers for the Visual and Performing Arts
			MISCELLANEOUS REGULATIONS
		90-39	Alcoholic Beverages on School Premises Prohibited
			PENALTY
		90-40	Penalty, General

**90-1. Definitions. 1.** APPLICATION shall mean a formal written request filed with the city clerk for the issuance of a license, supported by a verified statement of facts.

## 90-1-2 Liquor and Tavern Regulations

2. BAR shall mean a counter or article of tavern furniture fully equipped with plumbing, sinks or washbasins, and workboards that is used for the sole purpose of dispensing and serving food and beverages directly to customers. A "service bar" shall mean a counter or article of tavern furniture at which intoxicating liquors or fermented malt beverages are dispensed or served only to employees of the licensed alcohol beverage establishment and no stools, chairs or other articles of furniture shall be placed at the service bar for customers to sit upon.

4. BREWER shall mean any person, firm or corporation who shall manufacture for the purpose of sale, barter, exchange or transportation fermented malt beverages as defined herein.

4.5. CIDER shall mean any alcohol beverage that is obtained from the fermentation of the juice of apples or pears and that contains not less than 0.5% alcohol by volume and not more than 7.0% alcohol by volume. "Cider" includes flavored, sparkling and carbonated cider.

5. "CLASS B" TAVERN LICENSE shall mean the document combining the "Class B" retailer's intoxicating liquor license, and the Class "B" fermented malt beverage retailer's license, to embody formal permission from the city to sell or offer for sale intoxicating liquors and fermented malt beverages.

6. CLUB shall mean an organization, whether incorporated or not, which is the owner, lessee or occupant of a building used exclusively for club purposes, and which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent or athletic purpose but not for pecuniary gain; except that where such club is located in an office or business building it may be licensed as such provided it otherwise qualifies as a club within the meaning of this subsection.

7. CORPORATION shall mean a form of business organization that may have many owners with each owner liable only for the amount of his investment in the business.

8. FERMENTED MALT BEVERAGE has the meaning given in s. 125.02(6), Wis. Stats., as amended.

9. GAMBLE shall mean to play or game, for money or other stake; hence to stake money or other thing of value on an uncertain event.

10. GAMBLING HOUSE shall mean a building, place or room for use as a place to gamble, or to keep or exhibit for the purpose of gaming, any bank, table, alley, machine, wheel or device.

11. HOTEL shall mean an establishment open to the public offering lodging and food for travelers that is owned, leased, or operated by a person holding a duly issued and valid license as an innkeeper.

12. HOUSE OF PROSTITUTION shall mean a brothel; a building, place or room maintained for purposes of prostitution as defined in s. 944.30, Wis. Stats.

13. IMMEDIATE FAMILY. In this chapter the term "immediate family" of the Class "B" or "Class B" licensee shall include only the spouse, son, daughter, father, mother, mother-in-law, father-in-law, son-in-law or daughter-in-law of the Class "B" or "Class B" licensee having the same abode and domicile.

14. INCOME shall mean the dollar amount of gross receipts from sales on a licensed premises in any calendar month during the license year.

15. INTOXICATING LIQUOR has the meaning given in s. 125.02(8), Wis. Stats., as amended.

16. LEGAL DRINKING AGE means 21 years of age.

17. LICENSE shall mean the document embodying formal permission from the city to carry on a certain activity, the conduct of which would otherwise be illegal.

19. OBJECTION shall mean any information that could form the basis of a license denial, non-renewal, suspension or revocation. An objection may result from probative information provided by any resident or from the written reports summarizing the arrest and convictions of an applicant filed by the chief of police pursuant to this chapter.

20. OFFICER shall mean a person who is elected or appointed to serve in a position of trust, authority or command within an organization, business or social club.

**21.** OPERATOR shall mean any person who shall draw or remove any alcohol beverage as defined in ch. 125, Wis. Stats., for sale or consumption from any barrel, keg, cask, bottle or other container in which alcohol beverages shall be stored or kept on premises requiring a license under this chapter, for sale or service to a consumer for consumption in or upon the premises where sold; or one who shall sell or serve intoxicating liquor to customers upon premises operated under a "Class A" retailer's intoxicating liquor license, "Class B" tavern license or retail "Class C" wine license; or who shall sell bottled intoxicating liquors or bottled and canned fermented malt beverages on a premises requiring a "Class A" retailer's intoxicating liquor license or a Class "A" fermented malt beverage retailer's license.

**22.** PAINTING STUDIO means an establishment that is primarily engaged in the business of providing to customers instruction in the art of painting and that offers customers to purchase food and beverages for consumption while they paint.

**23.** PREMISES means the area described in a license.

**24.** REGULATION shall mean any requirement controlling business conduct which has been prescribed by city ordinance.

**25.** RESIDENCE shall mean a place where one actually lives or has his home as distinguished from a place of temporary sojourn or transient visit; or the principal place of business and location of corporate headquarters.

**26.** RESTAURANT shall mean and include any building, room or place where meals or lunches are prepared or served to the general public; except that the term "restaurant" shall not apply to churches, religious, fraternal, youth or patriotic organizations, service clubs or civic organizations which occasionally prepare or serve or sell meals or lunches to the general public nor shall it include any private individuals selling foods from movable or temporary stands at public farm sales.

**27.** RETAILER shall mean any person who sells, or offers for sale, any intoxicating liquor or fermented malt beverages for personal consumption.

**28.** SELL, SOLD, SALE OR SELLING shall mean any transfer of alcohol beverages with consideration or any transfer without

consideration if knowingly made for the purposes of evading the law relating to the sale of alcohol beverages or any shift, device, scheme or transaction for obtaining alcohol beverages, including the solicitation of orders for, or the sale for future delivery of, alcohol beverages.

**29.** SODA WATER BEVERAGE shall mean and include all such beverages commonly known as soft drinks, as soda water, carbonated or uncarbonated or sweetened and flavored, and mineral and spring waters, carbonated or uncarbonated; and shall not include strong, spirituous, vinous, malt, ardent or intoxicating liquor.

**30.** UNDERAGE PERSON means a person who has not attained the legal drinking age.

**31.** WHOLESALER shall mean any person who sells, or offers for sale, any intoxicating liquor or fermented malt beverage to any retailer or other licensee for the purpose of resale.

**32.** WINE shall mean products obtained from the normal alcohol fermentation of the juice or must of sound, ripe grapes, other fruits or other agricultural products, imitation wine, compounds sold as wine, vermouth, cider, perry, mead and sake, if such products contain ½ of 1% or more of alcohol by volume.

**90-2. State Law Applicable.** In addition to the requirements imposed by ch. 125, Wis. Stats., incorporated by reference herein, the following regulations shall apply to all licenses granted or issued under this chapter.

**90-3. License Required. 1. BASIC REQUIREMENT.** It shall be unlawful for any person to sell, barter or offer for sale or barter in the city any intoxicating liquors or fermented malt beverages without having obtained a license as provided for in this chapter, or to be in violation of the terms of such license.

**2. PROHIBITED PRACTICES, ILLEGAL ALCOHOL BEVERAGE DISTRIBUTION, UNLICENSED PREMISES.** It shall be unlawful for any person to sell, barter or offer to sell or barter in the city any intoxicating liquors or fermented malt beverages in or on a premises where the issuance of a license is prohibited by this chapter or Wisconsin statute.

## 90-3-3 Liquor and Tavern Regulations

**3. SEPARATE LICENSE REQUIRED.** A separate license shall be required for each stand, place, room or enclosure where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale, except that only one license shall be required when either of the following is true:

a. A suite of rooms or enclosures are in direct connection or communication or contiguous to each other and operated by the licensee as one premises.

b. A secured area located in the same building or structure as the licensed premises, or in a building or structure adjacent to the licensed premises, is used by the licensed premises only for storage of alcohol beverages.

**3.5. RESIDENTIAL PREMISES.** No license shall be issued to any person for the purpose of possessing, selling or offering for sale any intoxicating liquors or fermented malt beverages in any dwelling house, flat or residential apartment.

**4. DRIVE-IN AND DRIVE-THROUGH WINDOW SALES PROHIBITED.** No fermented malt beverages or intoxicating liquor shall be sold to any person who has not entered that portion of the premises licensed under s. 90-4-1, 2, 3, 5 and 6 in which fermented malt beverages or intoxicating liquor is kept for sale.

**5. WINE SAMPLING ON "CLASS A" PREMISES.** a. Free Taste Samples Permitted. No license or permit is required under this chapter for the provision of wine taste samples of not more than 3 fluid ounces each, free of charge, by a "Class A" retail intoxicating liquor licensee to customers and visitors for consumption on the premises.

b. Number of Samples Limited. No "Class A" retail intoxicating liquor licensee may provide more than 2 taste samples per day to any one person.

c. Hours for Free Samples. This subsection applies only between the hours of 11 a.m. and 7 p.m.

d. Underage Persons. No "Class A" retail intoxicating liquor licensee may provide taste samples under this subsection to any underage person.

e. Wine to Come from Wholesaler. No "Class A" retail intoxicating liquor licensee may provide as taste samples under this subsection wine that the licensee did not purchase from a wholesaler.

**6. FERMENTED MALT BEVERAGE SAMPLING ON CLASS "A" PREMISES.** a. Free Taste Samples Permitted. No license or permit is required under this chapter for the provision of fermented malt beverage taste samples of not more than 3 fluid ounces each, free of charge, by a Class "A" fermented malt beverage retailer licensee to customers and visitors for consumption on the premises.

b. Number of Samples Limited. No Class "A" fermented malt beverage retailer licensee may provide more than 2 taste samples per day to any one person.

c. Hours for Free Samples. This subsection applies only between the hours of 11 a.m. and 7 p.m.

d. Underage Persons. No Class "A" fermented malt beverage retailer licensee may provide taste samples under this subsection to any underage person.

**6.5. INTOXICATING LIQUOR SAMPLING ON "CLASS A" PREMISES.** a. Free Taste Samples Permitted. No license or permit is required under this chapter for the provision of intoxicating liquor taste samples, not including wine, that are not in original packages or containers and are of not more than 0.5 fluid ounces each, free of charge, by a "Class A" retailer's intoxicating liquor licensee to customers and visitors for consumption on the premises.

b. Number of Samples Limited. No "Class A" intoxicating liquor retailer may provide more than one intoxicating liquor taste sample per day to any one person.

c. Hours for Free Samples. This subsection applies only between the hours of 11 a.m. and 7 p.m.

d. Underage Persons. No "Class A" intoxicating liquor retailer may provide taste samples under this subsection to any underage person.

e. Intoxicating Liquor to Come from Wholesaler. No "Class A" retail intoxicating liquor licensee may provide as taste samples under this subsection intoxicating liquor that the licensee did not purchase from a wholesaler.

**7. EVADING LAW BY GIVING AWAY ALCOHOL BEVERAGES.** No person may give away any alcohol beverages, except as provided is subs. 5 and 6, or use any other means to evade this chapter or any state law relating to the sale of alcohol beverages.

8. PENALTY. Any person convicted of violating this section shall be fined not less than \$2,500 nor more than \$5,000 for each violation, plus costs of prosecution, and in default thereof, be imprisoned for a period not to exceed 90 days, or until forfeiture costs are paid.

**90-4. Classification of Licenses.** Licenses to sell or offer for sale intoxicating liquor or fermented malt beverages shall be divided into the following classes.

1. "CLASS A" RETAILER'S INTOXICATING LIQUOR LICENSE. A "Class A" retail intoxicating liquor licensee shall sell or offer for sale intoxicating liquor in original packages or containers only which is to be consumed off the licensed premises.

2. "CLASS B" TAVERN LICENSE. a. On-premises Sale. A "Class B" tavern licensee shall sell or offer for sale intoxicating liquors to be consumed by the glass only on the licensed premises.

b. Off-premises Sale. b-1. The licensee shall also be entitled to sell intoxicating liquor in original packages or containers, in quantities of not more than 4 liters at any one time, to be consumed off the licensed premises, except that wine may be sold in the original package or otherwise in any quantity to be consumed off the licensed premises.

b-2. Any person who shall purchase any bottle or container of intoxicating liquor from any Class "B" tavern premises shall be prohibited from consuming its contents, either in part or in whole, on such premises. The provisions of this section shall not apply to hotels, restaurants, clubs and fraternal organizations which are the holders of a Class "B" license.

b-3. See s. 90-15-3-b of the code for the closing hour requirement restricting off-premise sales.

c. License Restrictions. In order to preserve the distinction between businesses conducted under "Class A" retail intoxicating liquor license, and those conducted under the "Class B" tavern license, the following regulations shall govern the conduct of businesses operated in the city of Milwaukee under the "Class B" tavern license:

c-1. The licensee shall not cause the delivery of intoxicating liquors or fermented malt beverages from the licensed premises by truck or any other means.

c-2. No patron shall be suffered or permitted by any person licensed under this chapter to remove intoxicants or fermented malt beverages in open containers, whether in bottles, cans, or glasses, from the Class "B" licensed tavern, except in the case where the licensed tavern premises is contiguous to another licensed tavern premises, both licensed tavern premises are contiguous to a recognized festival being held and at least one of the licensed tavern premises has been granted a temporary change of plan permit.

c-3. Notwithstanding the restrictions upon permitting patrons to remove intoxicants in open containers in subd. 2, a restaurant operating under a Class "B" tavern license is authorized to sell wine in an opened original bottle, in a quantity not to exceed one bottle, for consumption both on and off the premises where sold at retail if all of the following apply:

c-3-a. The licensee provides a dated receipt that identifies the purchase of food and the purchase of the bottle of wine.

c-3-b. Prior to removing a partially consumed bottle of wine from the premises, the licensee shall securely reinsert the cork into the bottle to the point where the top of the cork is even with the top of the bottle.

c-3-c. The cork is reinserted after 6 a.m. and before 12 midnight on any day of licensed operation.

c-4. See sub. 4 for the circumstances when a Class "B" manager's license is required for a Class "B" tavern.

d. Prerequisite. The provisions of this subsection are subject to s. 125.51(3)(f), Wis. Stats.

3. CLASS "B" RETAILER'S SERVICE BAR LICENSE. A Class "B" retailer's service bar licensee shall have the same rights and privileges granted to any other Class "B" licensee except that all intoxicating liquors or fermented malt beverages served for consumption on the premises so licensed shall be served only to patrons seated at tables. No stools, chairs or other articles of furniture shall be placed at the service bar for patrons to sit upon.

## 90-4-4 Liquor and Tavern Regulations

**4. CLASS "B" MANAGER'S LICENSE.** a. When Required. A manager shall be required for each establishment holding a Class "B" or "Class C" retailer's license if the individual proprietor, or partnership, or agent for the corporation or limited liability company is not the manager of the business. The manager shall be appointed in writing by the licensee and shall obtain a Class "B" manager's license from the city clerk.

b. **Manager's Responsibilities.** Pursuant to s. 125.32(1), Wis. Stats., the Class "B" manager shall have responsibility or authority for:

b-1. Personnel management of all employees, without regard to whether the person is authorized to sign employment contracts.

b-2. The terms of contracts for the purchase or sale of goods or services without regard to whether the person is authorized to sign contracts for goods or services; or

b-3. The daily operation of the licensed premises.

c. **Licensee's Responsibility.** The appointment of a manager shall not relieve the licensee of his responsibility for the licensed premises under this chapter; the licensee shall be subject to suspension or revocation proceedings as provided for in s. 90-12.

e. **Application; Issuance.** The application and issuance of such a license shall be made in accordance with s. 90-5. A manager's license shall be issued for a period not to exceed one year and shall expire on June 30. The license shall not be transferable.

f. **Termination of Manager's Manager Status or Employment.** If the licensee terminates the appointment of the manager as manager of the establishment, or if the manager leaves employment with the licensee, the licensee shall notify the city clerk of such action in writing within 10 days of the termination or separation. The manager shall surrender the manager's license and return the license to the city clerk not later than 10 days following the day on which the manager appointment was terminated or separation from employment occurred.

**5. CLASS "A" FERMENTED MALT BEVERAGE RETAILER LICENSE (PACKAGE STORE).** A Class "A" fermented malt beverage retailer licensee shall sell at retail fermented malt beverages only for consumption away from the licensed premises and in the original packages, containers, or bottles in quantities of

no more than 4 1/2 gallons. The limitation of quantities of no more than 4 1/2 gallons does not apply to a Class "A" fermented malt beverage retail licensee if the licensee also holds a "Class A" retailer's intoxicating liquor license for the same premises. The licensee shall not be authorized to sell nonintoxicating liquors containing less than 1/2 of 1% of alcohol by volume. No holder of said license shall sell fermented malt beverages between 9:00 p.m. and 8:00 a.m.

**6. CLASS "B" FERMENTED MALT BEVERAGE RETAILER LICENSE.** A Class "B" fermented malt beverage retailer license shall authorize the licensee to sell fermented malt beverages to be consumed by the glass only on the premises, and in the original unopened package or containers to be consumed off the licensed premises; however, no person may sell between 9:00 p.m. and 8:00 a.m. on any Class "B" licensed premises fermented malt beverages in an original unopened package, container or bottle for consumption away from the premises.

**7. CLASS "B" SPECIAL LICENSE. (A SHORT-TERM LICENSE FOR CLUBS.)** a. **Authority.** A Class "B" special license shall authorize the licensee to sell at retail fermented malt beverages, wine and soda water beverages at a particular picnic or similar gathering, or at a meeting of a veterans' post or during a fair conducted by fair associations or agricultural societies.

b. **Eligibility Requirement.** The Class "B" special license shall only be issued to bona fide clubs, organized labor unions, county, or local fair associations, or agricultural societies, churches, lodges or societies that have been in existence for not less than 6 months prior to the date of application, or to posts established by veterans' organizations.

c. **Applicant's Responsibility.** Application for such a license shall be made by an officer or officers who shall appoint an agent who shall be personally responsible for compliance with all of the terms and provisions of this section.

d. **Application.** Application for a Class "B" special license shall be filed on or before the filing deadline established by the city clerk. Applicants may at the time of application specify on the application alternative dates for which the license is sought.

e. The city clerk shall accept an application from an applicant who files the application after the filing deadline established by the city clerk, provided the applicant affirms the applicant's understanding that, if a written objection is received as provided in par. f, it may not be possible to conduct a hearing before the date for which the license is sought due to the late filing of the application.

f. Objections.

f-1. The city clerk shall issue the license unless a written objection regarding the licensee or the location has been filed with the city clerk. The objection may be filed by any interested person. If a written objection is filed, the application shall be forwarded to the licensing committee for its recommendation to the common council.

f-2. The written objection must address one or more of the following factors:

f-2-a. The appropriateness of the location and site for which the license is sought and whether the event for which the license is sought will create undesirable neighborhood problems.

f-2-b. The hours during which the event would be operated on the site and the likely effect of the event on the surrounding area.

f-2-c. Whether previous licenses granted to the same applicant or to other applicants for the same site have resulted in neighborhood problems including, but not limited to, complaints of loud music, noise, litter, disorderly assemblages, loitering or public urination.

f-2-d. Whether the applicant has been charged or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the activity for which the license is sought.

f-2-e. Any other factors which reasonably relate to the public health, safety and welfare.

g. Issuance. If no written objection has been filed and upon payment of the license fee specified in s. 81-28, the city clerk shall issue the Class "B" special license for a period of time set by the local common council member.

h. Hearing Procedure. h-1. In the event there is a written objection filed regarding an application for a Class "B" special license the application shall be forwarded to the licensing committee. A hearing of an appeal shall be conducted as set forth in s. 90-5-8-b. The committee may make a decision immediately

following the hearing or on a later date. In making its decision, committee members may consider the factors set forth in par. e-2. 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. In these instances, the decision of the licensing committee shall be final and the applicant shall have no right of appeal to the common council.

h-2. An applicant may appeal the decision of the licensing committee to the common council. In the case of an appeal, the committee shall forward its decision in writing to the common council for vote at the next meeting at which such matter will be considered. In making its decision, common council members may consider the factors set forth in par. e-2.

i. Chief of Police Notified. The city clerk shall within 24 hours after the issuance of any such license inform the chief of police of the date, place and event for which such a license has been issued. The Milwaukee police department shall check such event and report any violations of law to the common council.

j. City Clerk's Annual Report. The city clerk shall submit to the common council every year a report of all Class "B" special licenses issued by the city clerk.

k. Number of Licenses. No more than 2 Class "B" special licenses shall be issued under this subsection to any club, organized labor union, county or local fair association, agricultural association, church, lodge, society or veterans' post in any 12-month period.

**7.9. PERMANENT EXTENSION OF PREMISES.** a. Authority. The granting of a permanent extension of licensed premises shall constitute an amendment of the primary license and plan of operation and shall authorize the licensee to sell or serve intoxicating liquors or fermented malt beverages, as permitted by the specific license held, in the area described in the application for permanent extension, as expressly approved by the common council.

b. Eligibility. Any person holding a valid Class "A" fermented malt beverage, "Class A" retailer's intoxicating liquor, "Class B" tavern, Class "B" fermented malt beverage, or "Class C" wine license may apply for permanent extension of the licensed premises. The area which the licensee wishes to include in a permanent extension of the licensed premises shall be owned by or under the control of the licensee.

## 90-4-9 Liquor and Tavern Regulations

c. Applicant's Responsibility. Application for the permanent extension of licensed premises shall be made by an individual licensee, partner or the authorized agent in the case of a corporation or limited liability company, who shall be personally responsible for compliance with all of the terms and provisions of this chapter.

d. Application. Application for the permanent extension of licensed premises shall be made in writing to the city clerk on forms provided by the city clerk. The application shall contain the name of the licensee, the address of the existing licensed premises, including the aldermanic district in which it is situated, a specific description of the area for which the permanent extension is sought, and such other reasonable and pertinent information as the common council, licensing committee, or city clerk may require. The city clerk shall forward all applications to the licensing committee.

e. Committee Action. The licensing committee shall hold a hearing on whether or not to grant each application for a permanent extension of licensed premises. If any interested person objects to the granting of a particular application, the licensee shall receive at least 3 days' notice of the hearing date and the nature of the objection to the application. The applicant shall have an opportunity to appear at the hearing and be represented by counsel and to cross-examine witnesses opposed to the granting of the application for permanent extension of the licensed premises, and to present evidence in favor of the granting of the application. At the conclusion of the hearing, the committee shall make a recommendation to the common council on whether to grant the application. In making its recommendation, the committee may consider, among other factors, the appropriateness of the location for which a permanent extension of licensed premises is sought, whether the location will create an adverse impact on other property in the neighborhood, and any other factors which reasonably relate to the public health, safety and welfare. The common council shall act on the committee's recommendation without further hearing.

f. Issuance. If the common council grants the application for a permanent extension of licensed premises, and upon receipt of information that the department of neighborhood services has approved occupancy of the extended premises, the city clerk shall issue an

appropriate confirming document to the applicant specifying the area of extension. The city clerk shall accept an amended plan of operation, subject to any conditions established by the common council, and shall amend the license accordingly. Operations on extended premises are not permitted prior to posting of the amended license.

**9. "CLASS C" WINE RETAILER LICENSE.** a. Authority. A "Class C" wine retailer license shall authorize the licensee to sell or offer for sale wine by the glass or in an opened original container for consumption on the premises where sold.

b. Notwithstanding the limitation on consumption of wine on the licensed premises in par. a, a restaurant operating under a "Class C" wine retailer license may sell wine in an opened original bottle, in a quantity not to exceed one bottle, for consumption both on and off the premises where sold at retail if all of the following apply:

b-1. The licensee provides a dated receipt that identifies the purchase of food and the purchase of the bottle of wine.

b-2. Prior to removing a partially consumed bottle of wine from the premises, the licensee shall securely reinsert the cork into the bottle to the point where the top of the cork is even with the top of the bottle.

b-3. The cork is reinserted after 6 a.m. and before 12 midnight on any day of licensed operation.

c. Eligibility. A "Class C" license may be issued to a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts and which does not have a barroom or for a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts and which has a barroom in which wine is the only intoxicating liquor sold. In this paragraph, "barroom" shall mean a room that is primarily used for the sale or consumption of alcohol beverages.

d. Prohibition. A "Class C" license may not be issued to a foreign corporation, a foreign limited liability company or a person acting as agent for or in the employ of another.

**10. CLASS "D" OPERATOR'S LICENSE.** a. Authority. A Class "D" operator's license shall authorize the operator to draw or remove from any barrel, keg, cask, bottle, or any other container, fermented malt beverages and to serve them in any place operated under a Class "B" fermented malt beverage retailer's

license; to sell or serve intoxicating liquors in any place operated under a "Class B" tavern license; or to sell or serve wine in any place operated under a "Class C" wine retailer's license; or to sell intoxicating liquor or fermented malt beverages in any place operated under a "Class A" retailer's intoxicating liquor license or a Class "A" fermented malt beverage retailer's license.

b. **Applicable to Family Members.** Any member of the immediate family and household of the licensee 21 years or older shall be considered as holding a Class "D" Operator's License so long as he or she is working only on the family premises. An underage member of the immediate family and household of the licensee may perform the duties of a Class "D" operator if he or she is at least 18 years of age, is working only on the family premises, and is under the immediate supervision of any of the following persons who must be on the premises at the time of service: the licensee, an agent, a Class "B" manager, a person holding an operator's license, or a member of the immediate family and household who is at least 21 years of age.

c. **Prohibition.** No person other than the licensee, certain members of the licensee's family and household, a Class "B" manager, or a licensed operator, or a person under the immediate supervision of the licensee, certain members of the licensee's family and household, an agent or a person holding an operator's license who is on the premises at the time of service, shall function as a Class "D" operator. See s. 90-26 for serving restrictions.

**11. CLASS "D" PROVISIONAL OPERATOR'S LICENSE.** a. **Authority; Duration.** A provisional Class "D" operator's license shall authorize the operator to perform those activities permitted a person holding a Class "D" operator's license under sub. 10. Except as provided in par. d, a provisional license shall expire 60 days after its issuance or when a Class "D" operator's license is issued to the holder, whichever is sooner. A provisional license may not be renewed.

b. **Application.** Application for a license shall be made to the city clerk pursuant to s. 90-5-1. An applicant for a provisional Class "D" operator's license may only apply for the provisional license upon application for the Class "D" operator's license. All matters submitted in writing to the city clerk shall be true

and subject to s. 90-5-2. Applicants shall be fingerprinted pursuant to s. 85-21-1. In addition, all applications shall be referred to the chief of police for investigation who shall report findings to the city clerk.

c. **Issuance of License.** Except as provided in par. d, the city clerk may only issue a provisional Class "D" operator's license to an applicant meeting the following criteria:

c-1. The applicant upon applying for a provisional Class "D" operator's license has also applied for a Class "D" operator's license.

c-2. The applicant complies with s. 90-6-1-b and c.

c-3. The police chief, pursuant to the chief's investigation under par. b, does not find that the applicant has been charged with or convicted of any felony, misdemeanor or other offense the circumstances of which substantially relate to the circumstances of the licensed activity.

c-4. The applicant has not been denied a Class "B" manager's or Class "D" operator's license, or has not had his or her Class "B" or Class "D" license not renewed within the preceding 12 months.

c-5. The applicant has not had his or her Class "B" manager's or Class "D" operator's license revoked within the preceding 12 months.

c-6. The applicant furnishes evidence that the applicant complies with the requirements of s. 90-6-4.

d. **License issued by Another Municipality.** The city clerk shall issue a provisional Class "D" operator's license to an applicant who, at the time of application for a Class "D" operator's license and payment of the fee as provided in s. 81-31.3, files with the city clerk a certified copy of a valid Class "D" operator's license issued by another municipality.

d-1. **Expiration.** A provisional license issued under this paragraph expires as provided under par. a or upon expiration of the operator's license issued by another municipality and filed under this paragraph, whichever is sooner.

d-2. **Revocation.** The city clerk may revoke the provisional license issued under this paragraph if the city clerk determines that the operator's license issued by another municipality and filed under this paragraph is not valid or upon denial of the holder's application for a Class "D" operator's license.

## 90-4.5 Liquor and Tavern Regulations

**12. CLASS "D" SPECIAL TEMPORARY OPERATOR'S LICENSE.** a. Authority. A Class "D" special temporary operator's license shall authorize the operator, who shall be 18 years of age or older, to draw or remove from any barrel, keg, cask, bottle or any other container fermented malt beverages and to serve said beverages; and to sell or serve intoxicating liquors, only for those religious, scientific, educational, benevolent or other corporations, or associations of individuals not organized or conducted for pecuniary profit.

b. This license may be issued only to operators employed by or donating their services to, nonprofit corporations.

c. No person may hold more than one license of this kind per year.

d. Application; Issuance. Application for the Class "D" special temporary operator's license shall be made to the city clerk in writing on forms furnished by the city clerk. Such application shall state the name and permanent address of the applicant, the date of birth, the organization and the premises at which the applicant will be working, and the date or dates of the specific event, not to exceed 14 consecutive days, sponsored by the organization. The city clerk shall issue the Class "D" special temporary operator's license upon payment of the license fee required in ch. 81 without referring any of the applications to the common council for action. The license shall state the name of the individual, and the period and the premises for which it is issued.

**90-4.5. Limitations On Other Business; Class "B" Premises.** No Class "B" fermented malt beverage retailer license may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" fermented malt beverage retailer license is issued is connected to premises where other business is conducted by a secondary doorway which serves as a safety exit and is not the primary entrance to the Class "B" fermented malt beverage retailer premises. No other business may be conducted on premises operating under a Class "B" fermented malt beverage retailer license. These restrictions do not apply to any of the following:

1. A hotel.
2. A restaurant, whether or not it is a part or located in any mercantile establishment.

3. A combination grocery store and tavern.

4. A combination novelty store and tavern.

5. A bowling alley or recreation premises.

6. A club, society or lodge that has been in existence for 6 months or more prior to the date of filing application for Class "B" fermented malt beverage retailer license.

7. A painting studio.

**90-4.7 Restriction on Granting of Class "A" Fermented Malt Beverage and "Class A" Retailer's Intoxicating Liquor Licenses.** No "Class A" retailer's intoxicating liquor license or Class "A" fermented malt beverage retailer license may be granted to an applicant applying for a premises currently licensed as a filling station.

**90-5. Licensing. 1. APPLICATION: FORM AND CONTENTS.** a. To Be Filed. Application for all licenses issued pursuant to this chapter, except for the short-term Class "B" special fermented malt beverage license, shall be made to the city clerk in writing on forms furnished by the city clerk.

b. Content. Such application shall state:

b-1. The kind of a license applied for.

b-2. The name and permanent address of the applicant.

b-3. The name and address of the premises for which the license is to be granted, including the aldermanic district in which it is situated.

b-5. If the applicant is a corporation, the name of the corporation shall be set forth exactly as it is set forth in its articles of incorporation, together with the names and addresses of each of its officers, directors and designated manager(s), if any; the application shall be verified by any officer of the corporation.

b-6. If the applicant is a partnership, the application shall set forth the name and resident address of each of the partners, including limited partners, and the application shall be verified by each partner. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the corporate partners.

## Liquor and Tavern Regulations 90-5-1-c

b-7. If the applicant is a club, association or other organization which is neither a corporation or partnership, the application shall set forth the exact name of the entity together with the names and residence addresses of all officers and be verified by an officer of the club, association, or organization.

b-8. The date of birth.

b-9. Such other reasonable and pertinent information the common council or the proper licensing committee of the common council may from time to time require.

c. Additional Requirements. In any application for an alcohol beverage retail establishment license, excepting the short-term Class "B" special fermented malt beverage license, the applicant shall file a detailed floor plan on a 8-1/2 inch x 11 inch sized sheet of paper for each floor of the premises and a completed plan of operation on forms provided therefor by the city clerk.

c-1. Floor Plan. In this paragraph, "floor plan" means a blueprint or detailed sketch of the alcohol beverage retail establishment and shall include:

c-1-a. Area in square feet and dimensions of the premises.

c-1-b. Locations of all entrances and exits to the premises. This shall include a description of how patrons will enter the premises, the proposed location of the waiting line, estimated waiting time, and the location where security searches or identification verification will occur at the entrance to the premises.

c-1-c. Locations of all seating areas, bars and, if applicable, food preparation areas for applications for Class "B" and "Class C" alcohol beverage retail establishment licenses.

c-1-d. Locations and dimensions of any alcohol beverage storage and display areas.

c-1-e. Locations and dimensions of any outdoor areas available at the premises for the sale or service of alcohol beverages.

c-1-f. Locations and dimensions of any off-street parking and loading areas for patrons, employees and entertainers available at the premises.

c-1-g. North point and date.

c-1-h. Any other reasonable and pertinent information the common council may from time to time require.

c-2. Plan of Operation. The plan of operation shall require:

c-2-a. The current or planned hours of operation for the premises.

c-2-b. The number of patrons expected on a daily basis at the premises.

c-2-c. The legal occupancy capacity of the premises, if known by the applicant.

c-2-d. The number of off-street parking spaces available at the premises.

c-2-e. What plans the applicant has to insure the orderly appearance and operation of the premises with respect to litter and noise. This shall include a description of designated or likely outdoor smoking areas, the number and placement of exterior and interior trash receptacles, crowd control barriers and sanitation facilities, as well as a description of how applicable noise standards will be met for the subject premises.

c-2-f. What other types of business enterprises, if any, are planned or currently conducted at the premises.

c-2-g. What other types of licenses and permits, if any, are planned or currently issued for the premises.

c-2-h. Whether or not, pursuant to s. 90-14, the premises is less than 300 feet from any church, school or hospital.

c-2-i. What, if any, age distinctions are planned or currently conducted at the premises.

c-2-j. A description of any proposed security provisions for off-street parking and loading areas.

c-2-k. The number of security personnel expected to be on the premises, their responsibilities, the equipment they will use in carrying out their duties and their licensing, certification or training credentials.

c-2-l. A description of any provisions made for clean-up of the premises, including identification of the solid waste contractor to be used by the applicant.

c-2-m. Any other reasonable and pertinent information the common council may from time to time require.

c-3. Right to Occupy. An applicant for an alcohol beverage retail establishment license shall provide any information that may be requested by the city clerk relating to the terms and conditions of occupancy of the premises for which the license is sought.

c-3-a. Documents establishing a right to occupy include deeds, leases, accepted offers to purchase and similar documents including agreements that are contingent upon issuance of the requested license.

## 90-5-1.5 Liquor and Tavern Regulations

c-3-b. An applicant shall provide any additional information that may be requested by the city clerk relating to the terms and conditions of occupancy of the premises for which the license is sought.

c-4. Exemptions. For any renewal application for an alcohol beverage retail establishment license for which there is no change in any information that is reported in the floor plan and plan of operation as submitted with the original or previous renewal application pursuant to this paragraph, the licensee may file a written statement to that effect with the city clerk and, having done so, shall not be required to file a new floor plan and plan of operation with the renewal application.

d. Number of Licenses. In any application for an alcohol beverage retail establishment license, the applicant shall state whether the applicant currently holds any alcohol beverage retail establishment license in any other location in the state.

**1.5. POLICE REVIEW OF FLOOR PLAN, PLAN OF OPERATION AND CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN SURVEY.** Following submission of the floor plan and plan of operation required by s. 90-5-1-c, but prior to the scheduling of a licensing committee hearing under s. 90-5-8-a-2, the applicant for a new Class "A," Class "B" or "Class C" retail license shall meet in person with a police department community liaison officer or other designee of the chief of police to review the floor plan and plan of operation and to conduct a crime prevention through environmental design (CPTED) survey.

**2. TRUTH OF STATEMENTS AND AFFIDAVITS; PENALTY.** a. All matters submitted in writing to the city by any applicant or licensee pertaining to an intoxicating liquor or fermented malt beverage license shall be true. Any person who submits in writing any untrue statement or affidavit to the city in connection with any such license or application shall be fined not to exceed \$500 or in default of payment thereof shall be imprisoned in the county jail or house of correction of Milwaukee county for not more than 90 days; and that license, if granted, shall be subject to revocation and no intoxicating liquor or fermented malt beverage license of any kind or nature whatsoever shall thereafter be granted to such a person for a period of one year from the date of such revocation.

b. There shall be contained on each individual application for an intoxicating liquor or fermented malt beverage license of any kind information to the effect that a penalty is provided for any false statement or false affidavit supplied by any such applicant or licensee.

**3. TIME OF FILING; LEGAL NOTICE AND FEE.** a. Filing Time. Application shall be filed for all liquor and beer licenses at least 30 days prior to the date of granting by the common council. When an application has been on file at least 14 days prior to the date of granting, and the police investigation has been completed with no police objection, and there are no other objections to the granting of the license, the common council may grant such licenses prior to the passage of the full 30 days.

b. Legal Notice and Fee. A notice of the application for an alcohol beverage retail establishment license containing the name and address of the applicant and the kind of license applied for and the location of the premises to be licensed shall, prior to the granting of such license be published in a daily paper which shall have been regularly and continuously published daily in the city for a period of at least 3 times successively. At the time of filing an application the applicant shall pay to the city clerk such sum as computed by the rate per folio for legal notices or publications as created, established, and applied in the counties of this state by provisions of Wisconsin statutes, would be required to pay for such publication.

**4. DEPOSIT OF FEE; REFUND.**

a. Prior to issuance of a license, each applicant shall deposit with the city treasurer the full amount of the fee required in ch. 81 for the specific license or licenses applied for.

b. It shall be the duty of the city treasurer to accept the deposit, issue a receipt therefor, and cause a record to be kept thereof. When a license is granted by the common council, it shall be the duty of the city treasurer to apply such deposit as full payment of the license fee, upon receipt of certification thereof by the city clerk.

c. It shall be the duty of the city clerk to enter on all applications filed with him the amount deposited with the city treasurer, the date of the deposit and the number of the treasurer's receipt.

e. Non-payment of all applicable fees, late fees and processing charges within 15 days from the date of the letter advising of the insufficiency shall render the license null and void as prescribed in s.125.04(1) and (8), Wis. Stats. If the license is required for the operation of an establishment, the establishment shall be closed until all fees, late fees and processing charges are paid in full.

**5. MONEY TO BE PART OF GENERAL CITY FUND.** All moneys received by the treasurer for licenses issued under this chapter shall be appropriated to and become part of the general city fund.

**6. FINGERPRINTING.** All applicants for a "Class A" retailer's intoxicating liquor license, a "Class B" tavern license, a Class "B" manager's license, a Class "A" fermented malt beverage retailer's license, a "Class C" wine retailer license, a Class "D" operator's license or a Class "D" provisional operator's license shall be fingerprinted as provided in s. 85-21-1.

**7. INVESTIGATION.** a. All applications shall be referred to the chief of police, the commissioner of neighborhood services and the commissioner of health, all of whom shall cause an investigation to be made and report their findings to the licensing committee of the common council. For an application for a "Class A" or "Class B" license for the sale of intoxicating liquor, the report of the commissioner of neighborhood services shall include a statement as to whether the main entrance of the premises is less than 300 feet from the main entrance of any church, school, day care center or hospital.

b. The chief of police shall investigate each applicant as provided in s. 85-21-2. The chief of police shall also provide copies of any licensed premise synopsis reports relating to licensed premises previously located at the premises proposed for licensing as a Class "A," "Class A," Class "B," "Class B" or "Class C" retail establishment during the 5-year period prior to the date of application.

**8. COMMITTEE ACTION.** a. Notice.

a-1. Applications for Class "D" operator's licenses shall be referred to chief of police for review. If the police chief files no written report summarizing the arrest and convictions of the applicant which could form a basis for denial, the license shall be forwarded to the common council for approval. If the chief or police files a written report summarizing the arrest and convictions of the applicant which

could form a basis for denial, the application, except as provided in subd. 3, shall be forwarded to the licensing committee of the common council for its recommendation as to whether or not each license should be issued.

a-2. Applications for all new Class "A," "Class A," Class "B," "Class B" and "Class C" retail licenses and Class "B" manager's licenses shall, except as provided in subd. 3, be referred to the licensing committee for its recommendation as to whether or not each license should be issued. Applications shall be referred without delay upon certification by the city clerk that the application is complete. Upon referral, the application shall be scheduled and heard by the licensing committee before the expiration of the period beginning on the date of referral and ending not later than 3 complete periods between regularly scheduled meetings of the common council.

a-2-a. Certification shall not be made prior to completion of all application paperwork and prior to receipt by the city clerk of the required police report required in subpar. a-2.

a-2-b. Certification shall not be made within 10 days following the provision of written notice of the application by the city clerk to all addresses located within 250 feet of the premises proposed for licensing with information about submitting comments related to the application, including objections to the proposed license, if any. The city clerk may receive comments and objections electronically, by telephone, by mail or through the direct filing of a written document. Communications relating to the license application shall be placed in the file containing application materials.

a-2-c. Certification shall not be made within 10 days following written and signed assurance to the city clerk by the applicant that notice of the application, on a form prescribed by the city clerk and approved by the licensing committee, has been conspicuously posted on the outside of the premises at applicant's expense providing notice to members of the public that an application has been made and that objections to the application may be filed with the city clerk, and that a survey form may be submitted electronically, through the city Internet site, by phone or in writing. The written and signed assurance shall include a statement of applicant's intent to maintain the posting, or replace any missing posting, until the date scheduled for hearing by the licensing committee.

### 90-5-8-a-3 Liquor and Tavern Regulations

a-2-d. Certification shall not be made prior to submission of a copy of a map displaying concentration in the neighborhood of licensed alcohol beverage retail establishments.

a-2-e. Except for a Class "B" manager's license application, certification shall not be made prior to the city clerk's receipt from the chief of police of written confirmation that the applicant has, as required by s. 90-5-1.5, met with a police department community liaison officer or other designee of the chief to review the applicant's floor plan and plan of operation and to conduct a crime prevention through environmental design (CPTED) survey.

a-2-f. An applicant for a new alcohol beverage retail establishment license, with the exception of applicants under subpar. h, shall appear before the licensing committee at the date, time and place specified in written notice provided to the applicant by the city clerk's office. The notice shall be accompanied by a copy of any written report prepared as a result of investigation under sub. 7, and shall further be accompanied by copies of previous licensed premise reports relative to the premises in the 5-year period prior to the date of application.

a-2-g. If the applicant is a corporation or limited liability company, a duly authorized agent or legal representative of the corporation shall appear before the licensing committee. All applicants may be represented by legal representatives before the licensing committee.

a-2-h. Unless there is a possibility of denial of any license, applicants shall not be required to appear before the licensing committee under subd. 2-f and g provided the applicants have been previously granted alcohol beverage retail establishment licenses for premises upon the Henry W. Maier Festival park grounds. Applications for alcohol beverage retail establishment licenses for premises upon the Henry W. Maier Festival Park grounds may be certified by the city clerk as complete without meeting the requirements for certification in subd. 2-a to d.

a-3. If the chief of police files a written report summarizing the arrest and convictions of an applicant for a new operator's license or manager's license which could form the basis for denial of the application, the city clerk shall, in lieu of forwarding the application to the licensing committee for a hearing under subds. 1 and 2, refer the application to the common council for

approval and, except as provided in subd. 4, issue a warning letter to the applicant whenever all of the following are true:

a-3-a. The applicant has no more than one pending charge for a misdemeanor offense and the pending charge is related to a non-violent offense.

a-3-b. The applicant has not within 12 months of the date of application been convicted of any misdemeanor offense related to a violent offense.

a-3-c. The applicant has not within 12 months of the date of application been convicted of more than one misdemeanor offense or municipal code violation.

a-3-d. The applicant has not within 3 years of the date of application been convicted of more than one misdemeanor offense or municipal ordinance violation related to serving underage or intoxicated persons.

a-3-e. The applicant has not within 3 years of the date of application been convicted of more than 3 misdemeanor offenses and municipal ordinance violations.

a-3-f. The applicant has not within 5 years of the date of application been convicted of more than one felony offense and has not within 5 years of the date of application served probation or been imprisoned for any felony conviction.

a-3-g. The applicant has not within 10 years of the date of application been convicted of a second or subsequent offense related to operating a motor vehicle while intoxicated.

a-4. If an applicant eligible to be issued a warning letter under subd. 3 has not within 10 years of the date of application been convicted of any misdemeanor or felony offense or municipal code violation, then the city clerk shall refer the application to the common council for approval and issue no warning letter.

a-5. In determining the eligibility of the applicant to be issued a warning letter under subd. 3, the city clerk shall not consider either of the following:

a-5-a. Any pending charges or convictions of any misdemeanor or felony offenses related to failure to pay child support.

a-5-b. Any one conviction of a misdemeanor offense or municipal ordinance violation related to retail theft for which the applicant was not imprisoned.

a-6. In determining the number of pending charges under subd. 3-a and convictions under subd. 3-b to g, any pending charges or convictions arising out of the same incident or occurrence shall be counted as one pending charge or conviction.

a-7. Notwithstanding the provisions of subds. 3 and 5, an applicant who meets the criteria of those subdivisions shall have his or her application forwarded to the licensing committee if a written objection to the application is filed by any interested party.

a-8. If there is a possibility of denial of any license regulated by this subsection, no hearing shall be heard unless the city clerk's office has provided written notice to the applicant so that the applicant has at least 3 days' notice of the hearing.

a-9. The notice shall contain:

a-9-a. The date, time and place of the hearing.

a-9-b. A statement to the effect that the possibility of denial of the license application exists and the reasons for possible denial.

a-9-c. A statement that an opportunity will be given to the applicant to respond to and challenge any reason for denial and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

a-9-d. A statement that the applicant may be represented by an attorney of the applicant's choice at the applicant's expense, if the applicant so wishes.

a-10. If it appears for the first time at the hearing that there will be objections, then the matter shall be laid over until the next meeting, prior to which proper notice shall be given.

a-11. If the chair at any time determines that a hearing is or will be contested, the chair shall announce that a time limit of 30 minutes shall be provided opponents of the proposed license and a time limit of 30 minutes for the applicant and supporters of the proposed license. This time shall be extended for relevant questioning by licensing committee members. If upon expiration of 30 minutes for opponents or 30 minutes for the applicant and proponents the chair determines, subject to the approval or objection of the committee, that a full and fair hearing of relevant issues requires an extension of time to protect the interests of the public and the applicant, a reasonable extension of time may be granted. Individuals opposing the proposed license and members of the public

supporting the proposed license may be limited to not more than 2 minutes testimony each, or a greater or lesser amount if the chair determines that a different time limit is appropriate to the fair and efficient conduct of the hearing. The applicant shall have the privilege of using any portion of applicant's 30 minutes for presentation and testimony. At any time, the chair may overrule or prohibit redundant testimony or argument found unnecessary to substantiate or corroborate testimony and argument previously presented.

b. Hearing. Upon certification by the city clerk as provided in par. a-2, all new applications for Class "A," "Class A," Class "B," "Class B" and "Class C" retail licenses shall be timely scheduled for hearing by the licensing committee on a date prior to the expiration of 3 full periods of time between regularly scheduled meetings of the common council. Licensing committee hearings on all new applications under this section shall be conducted in the following manner:

b-1. If there is a possibility of denial, at the hearing the committee chairman shall open the meeting by stating that a notice was sent and read the notice into the record unless the applicant admits notice. The chairman shall advise the applicant that the applicant has an option to proceed with 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-2. A due process hearing shall be conducted in the following manner:

b-2-a. All witnesses will be sworn in.

b-2-b. Any report prepared under sub. 7 and offered by the chief of police, the commissioner of health or the commissioner of neighborhood services shall be entered into the permanent record of the hearing without motion. Information contained in the report shall be admissible and considered by the committee as a public report to the extent that the report sets forth the activities of department personnel, or provides information about matters observed by department 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.

b-2-c. The chair shall then ask those opposed to the granting of the license to proceed.

## 90-5-9 Liquor and Tavern Regulations

b-2-d. The applicant shall be permitted an opportunity to cross-examine.

b-2-e. After the conclusion of the opponent's testimony, the applicant shall be permitted to present the applicant's own witnesses, subject to cross-examination.

b-2-f. Committee members may ask questions of witnesses.

b-2-g. Both proponents and opponents shall be permitted a brief summary statement.

c. Recommendations. c-1. The recommendations of the committee regarding the applicant must 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:

c-1-a. Whether or not the applicant meets the statutory and municipal requirements.

c-1-b. The appropriateness of the location and premises to be licensed and whether the location will create undesirable neighborhood problems. Probative evidence relating to these matters may be taken from the floor plan and plan of operation submitted pursuant to sub. 1-c and shall include information provided by the chief of police pursuant to sub. 7 of calls for service, complaints or criminal activity occurring on the premises that may be formally documented in a regular police department record such as a PA 33, summary or equivalent record that is proposed for licensing as a Class "A," "Class A," "Class B" or Class "B" retail establishment or a "Class C" retail establishment or incidents associated with the premises during the 5-year period prior to the date of application.

c-1-c. Whether there is an over-concentration of licensed establishments in the neighborhood. A concentration map placed in the applicant's file prior to certification for hearing may be admitted to the record upon motion of any interested party.

c-1-d. 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 licensed activity.

c-1-e. Any other 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. This recommendation may include such revisions to the floor plan and

plan of operation submitted pursuant to sub. 1-c as the committee may deem necessary and which are agreed to by the applicant. 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 full common council for vote at the next meeting at which such matter will be considered.

### 9. DISQUALIFICATION.

a. Whenever any application is 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.

b. Whenever a new application for a "Class A" retailer's intoxicating liquor license, a "Class B" tavern license, a Class "B" manager's license, a Class "A" fermented malt beverage retailer license, a Class "B" fermented malt beverage retailer license, a "Class C" wine retailer license, a Class "D" operator's license, a tavern amusement, dancing and music license, or a center for the visual and performing arts license, is withdrawn after commencement of the hearing of the licensing committee procedures for withdrawal provided in s. 85-13-3 shall apply.

10. ISSUANCE OF LICENSE BY CITY CLERK. It shall be the duty of the city clerk, whenever a license for the sale of intoxicating liquors, or fermented malt beverages shall have been granted by the common council, and the applicant shall have produced and filed with the city clerk a receipt showing payment of the sum required for such license to the city treasurer, to prepare and deliver to such applicant a license in accordance with this chapter and of the laws of the state of Wisconsin. Such license shall specifically state the premises to be licensed. Such license shall not be transferable from one person to another, except as otherwise provided in s. 90-10, and it shall not authorize the sale of intoxicating liquors or fermented malt beverages in any other manner than that specified in the license. It shall not inure to the benefit of any person other than the licensee therein named and shall not authorize the sale of intoxicating liquors or fermented malt beverages in any other place than that specified in the license. It shall bear the signature of the city clerk and the corporate seal of the city.

**11. LICENSE PERIOD; FEES.** See ch. 81 for the required license fees and the date of expiration.

**12. CHANGES TO BE REPORTED.**

a. A licensee shall notify the city clerk whenever there is a change in any information that is reported in the application form or renewal application form. The licensee shall make this notification in writing within 10 days after the change occurs.

b. A licensee, or an applicant if action has not been taken on an application, shall advise the city clerk upon receiving information that the right of the applicant or licensee to occupy the licensed premises will be interrupted or terminated prior to the expiration of the license period. Notification shall be made in writing within 10 days after the information becomes known to the licensee or applicant. The city clerk shall forward the communication to the member of the common council in whose district the licensed premises is located.

**13. CHANGE IN PLAN OF OPERATION.** See ss. 85-35 to 85-39 for provisions relating to changes to applications and plans of operation.

**90-5.5. License for Cider Sales Only.**

**1. GRANTING AND ISSUANCE.**

Notwithstanding s. 90-14, upon application, the common council shall grant, and the city clerk shall issue, a "Class A" license to the applicant if the following apply:

a. The application is made for a "Class A" license containing the condition that retail sales of intoxicating liquor are limited to cider.

B The applicant holds a Class "A" fermented malt beverage retailer license issued for the same premises for which the "Class A" license application is made.

**2. SALES LIMITED TO CIDER.**

Notwithstanding s. 125.51(2)(a), Wis. Stats., and s. 90-3-5 of this code, a person issued a "Class A" license under sub. 1 may not make retail sales, or provide taste samples, of any intoxicating liquor other than cider.

**90-6. Qualifications for Licenses.**

**1. PROFESSIONAL CHARACTER.**

a. The common council, consistent with ss. 111.321, 111.322, and 111.335, Wis. Stats., may refuse to grant a license to any person who has been convicted of any felony, misdemeanor or other offense the circumstances of which substantially relate to the circumstances of the particular licensed activity. If the applicant is a corporation, this requirement does not apply if the corporation has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.

b. In addition, any applicant for a Class "D" operator's license or a Class "B" manager's license shall not have been convicted of 2 or more offenses during the last 3 years relating to serving minors or intoxicated persons.

c. Class "D" operator's licenses may be issued only to applicants who have attained the age of 18. All other licenses issued under this chapter may be issued only to applicants who have attained the age of 21.

**2. RESIDENCY REQUIREMENTS.**

a. By License Class. "Class A" retailer's intoxicating liquor license; "Class B" tavern license, retailer's intoxicating liquor and service bar licenses; Class "A" fermented malt beverage retailer's license; Class "B" fermented malt beverage retailer's license; "Class C" wine retailer's license:

a-1. The applicant shall have been a resident of the state of Wisconsin continuously for at least 90 days prior to the date of the application.

a-2. This subsection shall not apply to officers and directors of corporations.

b. Class "B" Manager's License. The applicant shall have been a resident of the state of Wisconsin prior to the date of issuance.

c. Licenses Not Requiring City Residency. There shall be no city residency requirements for the following licenses:

c-1. Class "B" special malt beverage retailer's license.

c-3. Class "D" operator's license.

c-4. Class "D" special temporary operator's license.

## 90-7 Liquor and Tavern Regulations

d. Limited Partners. All limited partners in a limited partnership, as defined in ch. 179, Wis. Stats., shall have been residents of the state of Wisconsin continuously for at least 90 days prior to the date of the application for any license issued pursuant to ch. 90.

### 3. PROOF OF SELLER'S PERMIT.

The applicant shall have submitted proof under s. 77.61 (11), Wis. Stats., that the applicant is the holder of a seller's permit as required by subch. 3, ch. 77, Wis. Stats., or has been informed by an employee of the Wisconsin department of revenue that the department will issue a seller's permit to the applicant. This provision shall not apply to the following:

a. Applicants for a Class "D" operator's license.

b. Applicants for a Class "B" manager's license.

c. Applicants for a Class "B" special fermented malt beverage license.

### 4. TRAINING COURSE.

a. No alcohol beverage retail establishment license, Class "B" manager's license or Class "D" operator's license may be issued unless the applicant has successfully completed a responsible beverage server training course approved by the Wisconsin department of revenue unless the applicant fulfills one of the following requirements:

a-1. The person is renewing an operator's license, a manager's license, an alcohol beverage retail establishment license.

a-2. Within the past 2 years, the person held an alcohol beverage retail establishment license, manager's license or operator's license.

a-3. Within the past 2 years, the person has completed such a training course.

a-4. The person was an agent of a corporation or limited liability company that held, within the past 2 years, an alcohol beverage retail establishment license, manager's or operator's license.

b. If the applicant is a corporation or limited liability company, the agent shall complete the required responsible beverage server training course.

## 90-7. Restrictions on Corporations.

### 1. RESPONSIBLE PERSON.

a. General. No corporation organized under the laws of the state of Wisconsin or of any state or foreign country may be issued a license to sell in any manner any intoxicating

liquor or fermented malt beverage unless it has appointed as agent a natural person who has been a resident of the state of Wisconsin continuously for at least 90 days prior to the date of the application for any license issued pursuant to ch. 90. The agent must meet the provisions of s. 90-6-1-a. The agent shall have vested in him or her, by properly authorized and executed written delegation, full authority and control of the premises described in the license of the corporation, and of the conduct of all business on the premises relative to intoxicating liquor or fermented malt beverages that the licensee could have and exercise if it were a natural person.

b. Certain Retail Premises. Under a "Class B," Class "B" or "Class C" retailer's license, there shall be upon the licensed premises at all times, the licensee, or the agent of the corporation or limited liability company, or a Class "D" operator, or a person holding a Class "B" manager's license.

2. CORPORATE STOCK. Each corporate applicant shall file with its application for a license a statement by its officers showing names and addresses of all persons who individually hold 20% or more of the corporation's total or voting stock, or proxies for that amount of stock, together with the amount of stock or proxies held by each person. It shall be the duty of the corporation agent to file with the city clerk a statement of the transfer of any stock or proxies, where the effect of the transfer would constitute a change in the stockholders list then on file. Notice to the city clerk shall be given not later than 10 calendar days after any transfer. If this transfer results in any person holding 20% or more of the corporation's total or voting stock, or proxies for that amount of stock, and that person has not been fingerprinted pursuant to another provision of this chapter, that person shall be fingerprinted. All of the information provided pursuant to this subsection shall be forwarded to the chief of police who shall cause an investigation to be made and who shall report his or her findings to the city clerk. The provisions of this subsection do not apply to hotels, duly organized fraternal organizations, concessionaires in public auditoriums, municipal festival organizations and to the Wisconsin center district established pursuant to ch. 229, Wis. Stats.

**3. CHANGE OF OFFICERS.** Whenever a corporation or licensed limited partnership licensed to sell intoxicating liquor or fermented malt beverages changes any of its corporate officers, directors or members, it shall be the duty of the corporation agent to file with the city clerk a statement of the change on a form provided therefor. Notice to the city clerk shall be given not later than 10 calendar days after any change is made. This subsection shall not apply to hotels concessionaires in public auditoriums, municipal festival organizations, the Wisconsin center district established pursuant to ch. 229, Wis. Stats., or duly organized fraternal organizations nor when a change in the corporate setup is necessitated by the death of officers or directors.

**90-8. Responsible Person Upon Licensed Premises. 1. REQUIRED.** There shall be upon the premises operated under an alcohol beverage retail establishment license at all times the licensee, or a Class "B" Manager, or a Class "D" Operator who shall be responsible for the control of the establishment which includes the acts of all employees serving intoxicating liquor or fermented malt beverages to customers. The appointment of a Class "B" manager or a Class "D" operator to oversee the premises shall not relieve the licensee of his responsibility under this chapter.

**2. PENALTY.** a. Any person violating this section shall be subject to the penalty specified in s. 90-40.

b. In addition to the penalty specified in par. a., a licensee may also be subject to suspension or revocation proceedings provided in s. 90-12.

**90-8.5. Use of License by Another Prohibited.** No person may allow another to use his or her alcohol beverage retail establishment license to sell alcohol beverages.

**90-10. Transfer of License or Change of Name.** See s. 85-19 for provisions relating to the transfer of licenses and change of licensee names.

**90-10.5. Surrender of License Upon Ceasing Operation.** Any person holding an alcohol beverage retail establishment license under this chapter shall surrender the license upon ceasing operations and return the license to the city clerk

not later than 5 working days following the day on which operations permitted by the license ceased.

**90-11. Renewal of License. 1. PROCEDURE FOR RENEWAL** a. General. Applications for the renewal of alcohol beverage retail establishment licenses and manager and operator licenses shall be made to the city clerk on forms provided therefor. The city clerk shall refer all applications for license renewal to the chief of police and, excepting applications for manager's and operator's licenses, to the commissioner of neighborhood services and the commissioner of health for their review. If the chief of police and, when applicable, the commissioner of neighborhood services and commissioner of health indicate that the applicant still meets all of the licensing qualifications, the application shall be referred to the common council for approval.

b. Objection. Upon the filing of an application for renewal of a Class "A," "Class A," Class "B," "Class B" or "Class C" retail establishment, the city clerk shall provide the applicant with a form, prescribed by the city clerk and approved by the licensing committee, to be completed by the applicant and conspicuously posted at the expense of the applicant on the outside of the licensed premises providing notice to members of the public that an application has been made and that objections to the application may be made in accordance with the procedures in s. 85-3-3. If the city clerk determines that there is cause to question the renewal of the license on the basis of one or more written complaints related to operation of the licensee during the current license period, or if police reports of incidents and activities on or related to the licensed premises not previously considered by the licensing committee establish cause to question whether renewal of the license may have an adverse impact on the health, safety and welfare of the public and the neighborhood, the city clerk shall cause the application to be scheduled for hearing. A written objection shall meet the definition in s. 85-2-4 and shall comply with the requirements of s. 85-3-3.

c. Warning Letter. c-1. If the chief of police files a written report summarizing the arrest and convictions of an applicant for renewal of an operator's license or manager's license which could form a basis for nonrenewal

## 90-11-2 Liquor and Tavern Regulations

of the application, and if no written objection has been filed under par. b, the city clerk shall, in lieu of forwarding the application to the licensing committee for a hearing under par. b, refer the application to the common council for approval and, except as provided in subd. 2, issue a warning letter to the applicant whenever all of the following are true:

c-1-a. The applicant has no more than one pending charge for a misdemeanor offense and the pending charge is related to a non-violent offense.

c-1-b. The applicant has not within 12 months of the date of application been convicted of any misdemeanor offense related to a violent offense.

c-1-c. The applicant has not within 12 months of the date of application been convicted of more than one misdemeanor offense or municipal code violation.

c-1-d. The applicant has not within 3 years of the date of application been convicted of more than one misdemeanor offense or municipal ordinance violation related to serving underage or intoxicated persons.

c-1-e. The applicant has not within 3 years of the date of application been convicted of more than 3 misdemeanor offenses and municipal ordinance violations.

c-1-f. The applicant has not within 5 years of the date of application been convicted of more than one felony offense and has not within 5 years of the date of application served probation or been imprisoned for any felony conviction.

c-1-g. The applicant has not within 10 years of the date of application been convicted of a second or subsequent offense related to operating a motor vehicle while intoxicated.

c-2. If an applicant eligible to be issued a warning letter under this paragraph has not within 10 years of the date of application been convicted of any misdemeanor or felony offense or municipal code violation, then the city clerk shall refer the application to the common council for approval and issue no warning letter.

c-3. In determining the eligibility of the applicant to be issued a warning letter under this paragraph, the city clerk shall not consider either of the following:

c-3-a. Any pending charges or convictions of any misdemeanor or felony offenses related to failure to pay child support.

c-3-b. Any one conviction of a misdemeanor offense or municipal ordinance violation related to retail theft for which the applicant was not imprisoned.

d. In determining the number of pending charges under par. c-1-a and convictions under par. c-1-b to g, any pending charges or convictions arising out of the same incident or occurrence shall be counted as one pending charge or conviction.

e. Notwithstanding the provisions of pars. 1 and 3, an applicant who meets the criteria of those paragraphs shall have his or her application forwarded to the licensing committee for a hearing if a written objection to the renewal is filed by any interested party.

f. If any person fails to have issued by the city clerk prior to the expiration of the license an alcohol beverage retail establishment license that has been approved by the common council, the person shall not be permitted to apply for and be issued more than one renewal license for the premises, provided that the person is residentially and in all other respects qualified to make the application. The common council may waive the provisions of this paragraph if unusual circumstances have been demonstrated.

**2. PROCEDURE FOR NON-RENEWAL.** a. Notice. a-1. The licensing committee shall be responsible for holding hearings regarding the nonrenewal of licenses. If there is a possibility that the committee will not renew a license, a motion should be entertained to hold the application in committee and instruct the city clerk to forward proper notice to the applicant, unless such proper notice has already been sent, in which case the hearing shall proceed.

a-2. Prior to the date set for the hearing, the city clerk's office shall forward notice to the applicant which shall contain:

a-2-a. The date, time and place of the hearing.

a-2-b. A statement of the common council's intention not to renew the license or suspend the license in the event any objections to renewal are found to be true.

## Liquor and Tavern Regulations 90-11-2-b

a-2-c. A statement of the reasons for nonrenewal.

a-2-d. A statement that an opportunity will be given to respond to and challenge such reasons for nonrenewal and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

a-2-e. A statement that the applicant may be represented by an attorney of the applicant's choice at the applicant's expense, if the applicant so wishes.

b. Hearing. b-1. At the committee hearing, the chairman shall open the hearing by stating that a notice was sent, and shall read the notice into the record unless the applicant admits notice. The chairman shall advise the applicant that he or she has an option to proceed with a hearing, represented by counsel, with all testimony under oath, or he or she can make a statement.

b-2. If the applicant selects a hearing:

b-2-a. Any report prepared as the result of a review required under sub. 1-a and offered by the chief of police, the commissioner of health or the commissioner of neighborhood services shall be entered into the permanent record of the hearing without motion. Information contained in the report shall be admitted and considered by the committee as a public report to the extent that the report sets forth the activities of department personnel, or provides information about matters observed by department 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. The chief of police shall offer a written report summarizing any criminal or ordinance convictions or pending criminal charges or ordinance citations of an applicant for license renewal. The report offered by the chief of police shall also include information summarizing any police investigation or action related to the licensed premise or its patrons.

b-2-b. The chairman shall order all witnesses sworn in.

b-2-c. The chairman shall then ask those opposed to the renewal of the license to present their case in opposition to renewal.

b-2-d. The applicant shall then be permitted an opportunity to cross-examine witnesses in opposition to the renewal.

b-2-e. After the conclusion of the opponent's case, the applicant shall be permitted to present witnesses, testimony and exhibits subject to cross-examination.

b-2-f. Committee members may ask questions of witnesses.

b-2-g. Both sides shall be permitted a brief summary statement.

b-2-h. If the chair should at any time determine that a hearing is or will be contested, the chair will announce that a time limit of 30 minutes shall be provided opponents of the license renewal and a time limit of 30 minutes for the applicant and supporters of the license renewal. This time will be extended for relevant questioning by licensing committee members. If upon expiration of 30 minutes for opponents or 30 minutes for the applicant and proponents the chair should determine, subject to the approval or objection of the committee, that a full and fair hearing of relevant issues requires an extension of time to protect the interests of the public and the applicant, a reasonable extension of time may be granted. Individuals opposing the proposed license and members of the public supporting the proposed license may be limited to not more than 2 minutes testimony each, or a greater or lesser amount if the chair determines that a different time limit is appropriate to the fair and efficient conduct of the hearing. The applicant shall have the privilege of using any portion of applicant's 30 minutes for presentation and testimony. At any time, the chair may overrule or prohibit redundant testimony or argument found unnecessary to substantiate or corroborate testimony and argument previously presented.

b-2-i. A record shall be made of all committee hearings as provided in s. 85-4-3.

c. Recommendation. c-1. The recommendation of the committee regarding the applicant must be based on evidence presented at the hearing. Probative evidence concerning nonrenewal may include evidence of:

c-1-a. Failure of the applicant to meet the statutory and municipal license qualifications.

c-1-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 activity, on behalf of the licensee, his or her employees, or patrons.

## 90-12 Liquor and Tavern Regulations

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 employee 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

## 90-12-5-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

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 employees in a designated employee 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

## 90-16 Liquor and Tavern Regulations

licensed premises between the hours of 2 a.m. and 6 a.m., except as otherwise provided in his subdivision and subd. 2. On January 1, premises operating under such licenses are not required to close. On Saturday and Sunday, no premises may remain open between 2:30 a.m. and 6 a.m., except that, on the Sunday that daylight saving time begins as specified in s. 175.095(2), Wis. Stats., no premises shall remain open between 3:30 a.m. and 6 a.m.

a-2. Hotels and restaurants the principal business of which is the furnishing of food and lodging to patrons, bowling centers, movie theaters, painting studios, indoor golf and baseball facilities, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but may not sell intoxicating liquor or fermented malt beverages during the prohibited hours under subd. 1.

a-3. No patron shall enter or remain on the licensed premises during the hours specified in subd. 1.

b. Special Hours for Sale in Original Packages. Between 9:00 p.m. and 8:00 a.m. no person may sell any intoxicating liquor or fermented malt beverages on any Class "B" licensed premises in an original unopened package, container, or bottle or for consumption away from the premises, except as provided in s. 90-4-2-c-3.

4. HOURS FOR MUSIC. See s. 108-23 for the applicable regulations.

5. PENALTY. A patron who is convicted of violating sub. 3-a-3 shall be subject to a forfeiture of not more than \$250 and in default thereof, shall be imprisoned in the county jail or house of correction for a period not to exceed 10 days.

**90-16. Display of License.** 1. POSTING. Every person licensed under this chapter shall post the license and maintain it posted while in force in a conspicuous place in the room or place where alcohol beverages are drawn or removed for service or sale. It shall be unlawful for any person to post the license or to permit another person to post the license upon premises other than those identified in the application, or knowingly to deface or destroy the license.

2. CARRYING BY OPERATORS. A Class "D" operator licensed under s. 90-4-10 to 12 may carry the license on his or her person while engaged in activities related to drawing, removing for service or serving alcohol beverages and, if carried, shall present the license for inspection upon request made by any person. A license carried as provided in this subsection need not be posted as required in sub. 1.

**90-17. Tavern Charges to be Posted.** All entertainment, admission, cover and minimum charges shall be posted by the tavern licensee in a conspicuous place near the main entrance in the room where the patron or patrons are served. Said charges shall be uniformly displayed in letters and figures of the same size.

**90-18. Sale to an Underaged Person Prohibited.** 1. SALES OF ALCOHOL BEVERAGES TO UNDERAGED PERSONS.

a. Restrictions. a-1. No person may procure for, sell, dispense or give away any alcohol beverages to any underaged person not accompanied by his or her parent, guardian or spouse who has attained the drinking age.

a-2. No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with any underaged person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.

a-3. No person may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the person or under the person's control. This subdivision does not apply to alcohol beverages used exclusively as part of a religious service.

a-4. No person may intentionally encourage or contribute to a violation of subs. 1, 2 or 3 with respect to an underage person.

b. Penalties and License Suspension for Sale to Underage Person. b-1. In this paragraph, violation means a violation of sub. 1. For the purpose of determining whether or not a previous violation has occurred, if more than one violation occurs at the same time all those violations shall be counted as one.

b-2. A person who commits a violation is subject to a forfeiture of:

b-2-a. Not more than \$500 if the person has not committed a previous violation within 12 months of the violation.

b-2-b. Not less than \$200 nor more than \$500 if the person has committed a previous violation within 12 months of the violation.

b-2-c. Not less than \$500 nor more than \$1,000 if the person has committed 2 previous violations within 12 months of the violation.

b-2-d. Not less than \$1,000 nor more than \$5,000 if the person has committed 3 or more previous violations within 12 months of the violation.

b-3. A court shall suspend any license or permit issued under this chapter to a person and shall revoke the person's right to purchase stamps from the Wisconsin department of revenue for:

b-3-a. Not more than 3 days, if the court finds that the person committed a violation within 12 months after committing one previous violation.

b-3-b. Not less than 3 days nor more than 10 days, if the court finds that the person committed a violation within 12 months after committing 2 other violations; or

b-3-c. Not less than 15 days nor more than 30 days, if the court finds that the person committed the violation within 12 months after committing 3 other violations.

b-4. The court shall promptly mail notice of a suspension under this paragraph to the department of revenue and to the clerk of each municipality which has issued a license or permit to the person.

c. Penalty; Underage Persons. Any underage person who procures or attempts to procure alcohol beverages is subject to the penalties provided by s. 125.07(4) Wis. Stats.

**2. POSSESSION OF ALCOHOL BEVERAGES BY UNDERAGE PERSONS; PROHIBITIONS; PENALTY.** Any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, who knowingly possesses or who consumes any alcohol beverages is subject to the penalties provided by s. 125.07(4) Wis Stats. This subsection does not apply to an underage person processing alcohol beverage in the course of employment during his or her working hours if he or she is employed by a brewer, a fermented malt beverage wholesaler, a permittee other than a Class "B" fermented malt beverage or "Class B" intoxicating liquor

permittee, a facility for the production of alcohol fuel, a retail licensee under conditions specified in s. 90-19-1-i or for the delivery of unopened containers to the home or vehicle of a customer, or a campus, if the underage person is at least 18 years of age, and is under the immediate supervision of a person who has attained the legal drinking age.

**3. MISREPRESENTATION OF AGE; PENALTY.** Any person who falsely represents that he or she is of legal drinking age or over for the purpose of receiving alcohol beverages from a licensee or permittee is subject to the penalties provided by s. 125.07(4) Wis. Stats.

**90-19. Presence of Underage Persons in Places of Sale; Penalty. 1. RESTRICTIONS.**

No underaged person, not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, may enter, knowingly attempt to enter, or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued, for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or his or her employee. The business may not be amusement or the purchase, receiving or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises. This subsection does not apply to:

a. An underage person who is a resident, employee, lodger or boarder on the premises controlled by the proprietor, licensee or permittee of which the licensed premises consists or is a part.

b. An underage person who enters or is on a Class "A" or "Class A" premises for the purpose of purchasing items other than alcohol beverages. Any underage person so entering the premises may not remain on the premises after the purchase.

c. Hotels, drug stores, grocery stores, bowling centers, movie theaters, painting studios, billiards centers having on the premises 12 or more billiards tables that are not designed for coin operation and that are 8 feet or longer in length, indoor golf simulator facilities, indoor golf and baseball facilities on premises for which the only alcohol beverage license issued is a Class "B" fermented malt beverage license, service stations, vessels, cars operated by any railroad, regularly established athletic fields, outdoor volleyball courts that are contiguous to a

## 90-19.5 Liquor and Tavern Regulations

licensed premises, stadiums, public facilities as defined in s. 125.51(5)(b)1.d., Wis. Stats., which are owned by a county or municipality, or centers for the visual or performing arts.

d. Premises in the state fair park, concessions authorized on state-owned premises in the state parks and state forests as defined or designated in chs. 27 and 28, Wis. Stats., and parks owned or operated by agricultural societies.

e. Ski chalets, golf courses and golf clubhouses, curling clubs, private soccer clubs and private tennis clubs.

f. Premises operated under both a Class "B" or "Class B" license or permit and a restaurant permit where the principal business conducted is that of a restaurant. If the premises are operated under both a Class "B" or "Class B" license or permit and a restaurant permit, the principal business conducted is presumed to be the sale of alcohol beverages, but the presumption may be rebutted by competent evidence.

g. An underage person who enters or remains on a Class "B" premises for the purpose of transacting business at an auction or market if the person does not enter or remain in a room where alcohol beverages are sold, furnished or possessed.

h. A person who is at least 18 years of age who serves alcohol beverages on a licensed premises under the immediate supervision of the licensee, agent or person holding an operator's license, who is on the premises at the time of the service.

i. A person who is at least 18 years of age and who is working under a contract with the licensee or agent to provide entertainment for customers on the premises.

j. An underage person who enters or remains on Class "B" or "Class B" licensed premises on a date specified by the licensee during times when no alcohol beverages are consumed, sold or given away. See s. 90-19.5 for regulations with respect to the operation of a licensed premises under this paragraph.

k. An underage person who enters or remains in a dance hall or banquet or hospitality room attached to Class "B" or "Class B" licensed premises for the purposes of attending a banquet, reception, dance or other similar event.

L. An underage person who enters or remains in a banquet or hospitality room on brewery premises operated under a Class "B" or

"Class B" license for the purpose of attending a brewery tour.

**2. PENALTIES.** a. Licenses, etc.

a-1. A licensee or permittee who directly or indirectly permits an underage person to enter or be on a licensed premises in violation of sub. 1 is subject to a forfeiture of not more than \$500.

a-2. No person may intentionally encourage or contribute to a violation of sub. 1. Any person violating sub. 1 is subject to the penalty provided by subd. 1.

b. Underage Person. An underage person who enters or is on a premises licensed for the sale of alcohol beverages in violation of sub. 1 is subject to the penalties provided by s. 125.07(4) Wis. Stats.

**90-19.5. Presence of Underage Persons During Times When No Alcohol Beverages Are Sold.** Underage persons may enter or remain on a Class "B" or "Class B" licensed premises pursuant to s. 90-19-1-k under the following conditions:

**1. NOTIFICATION OF TIMES.** a. The licensee or agent shall notify the police chief at least 7 days prior to any date on which underage persons will be permitted to enter and remain on the premises. The time period may be waived by the police chief or a designee upon determination of good cause or special circumstances.

b. Each event shall require separate notification. Notification shall be in writing and contain the following information:

b-1. Dates and times of the event.

b-2. Specific nature of the event, including description of entertainment.

b-3. Number of persons expected on the premises.

**2. REGULATIONS.** The operation of a licensed premises during those times when underage persons are on the premises under this section shall be subject to the following regulations:

a. There shall be at least a one hour period between the serving of the last alcohol beverage and the commencement of operations under this section.

b. No alcohol beverages may be consumed, sold or given away in any part of the licensed premises.

c. All alcohol beverages on tables shall be removed.

## Liquor and Tavern Regulations 90-20

d. The licensee, the agent named in the license if the licensee is a corporation, or a person who has an operator's license shall be on the premises unless all alcohol beverages are stored in a locked portion of the premises.

e. The licensee shall be responsible for the adequate supervision of the premises, and such supervision shall consist of adult persons 21 years of age or older.

f. Closing hours shall be no later than 1 a.m. on weekdays and 1:30 a.m. on Sundays.

g. An announcement shall be made 20 minutes prior to the beginning of curfew hours specified in s. 106-23 to provide for the exit of those underage persons subject to s. 106-23. All entertainment shall cease for the 20 minute period before the curfew.

h. All underage persons must be off the licensed premises at least 1/2 hour prior to the resumption of alcohol beverage sales.

### **90-20. Sale to Intoxicated Person Prohibited.**

It shall be unlawful for any licensee under this chapter, or any of his employees, to sell, serve or give away intoxicating liquor or fermented malt beverages to any intoxicated person or person bordering on a state of intoxication.

### **90-20.5. Theft of Cable Service and Tampering Prohibited. 1. THEFT OF CABLE SERVICES AND TAMPERING.**

No licensee, employee or patron of a Class "B" licensed premises whether or not a subscriber to the Milwaukee cable television and communications system may intentionally or knowingly damage or cause to be damaged any wire, cable, conduit, equipment or apparatus of the grantee of the Milwaukee city cable communications franchise, or commit any act with intent to cause such damage, or to tap, tamper with or otherwise connect any wire or device to a wire, cable, conduit, equipment and apparatus or appurtenances of the grantee with the intent to obtain a signal or impulse from the cable system without authorization from or compensation to the grantee, or to obtain cable television or other communications service with intent to cheat or defraud the grantee of any lawful charge to which it is entitled.

**2. PENALTIES.** a. Forfeiture. A person who commits a violation of this section is subject to a forfeiture of not less than \$500 nor more than \$1,000.

b. License Suspension. A court shall suspend any license or permit issued under this chapter to a person and shall revoke the person's right to purchase stamps from the Wisconsin department of revenue for:

b-1. Not more than 3 days, if the court finds that the person committed a violation of this section.

b-2. Not less than 3 days nor more than 10 days, if the court finds that the person committed a second or subsequent violation of this section.

### **90-21. Disorderly Premises Prohibited.**

It shall be unlawful to suffer or permit any gambling or gaming for money or other valuable thing, drunkenness, or disorderly conduct as defined in s. 106-1 or upon any licensed premises where intoxicating liquor or fermented malt beverages are sold or kept for sale.

### **90-23. Solicitation Prohibited. 1.**

**PROHIBITION.** Any employee, manager, bartender, entertainer or licensee of a Class "B" fermented malt beverage or "Class B" tavern licensed establishment shall not solicit, appeal to, ask or invite any unacquainted person of either sex to purchase for, procure for or give to such person or to a third person or party a drink of intoxicating liquor, fermented malt beverage, nonintoxicating liquor or soda water beverage in any Class "B" fermented malt beverage or "Class B" tavern licensed premises.

**2. PENALTY.** Any person found guilty of violating this section shall be subject to a forfeiture in a sum not less than \$50 nor more than \$200, and in default of payment thereof, shall be imprisoned in the county jail or house of correction of Milwaukee county for a period not to exceed 6 months.

### **90-24. Sanitary Requirements. 1.**

"Class B" tavern licenses are subject to rules on sanitation. The rules and regulations made by the state department of agriculture, trade and consumer protection and rules and regulations of the city of Milwaukee governing sanitation in restaurants shall apply to all "Class B" tavern licensed premises. No "Class B" tavern license shall be issued unless the premises to be licensed conforms to such rules and regulations

## 90-25 Liquor and Tavern Regulations

2. As stated in s. 17-13 of the charter, in order to promote and secure the general health and welfare of the city whenever the commissioner of health finds unsanitary or other conditions in the operation of a food or drink service establishment, including any Class "B" fermented malt beverage or "Class B" tavern licensed premises, which in the commissioner's judgment constitutes a substantial hazard to the public health, the commissioner may without warning, notice or hearing issue a written notice to the operator of the establishment citing such condition, specifying the time period within which such action shall be taken. If deemed necessary for the health of the public, the order shall state that all food and drink service operations, including the service of all intoxicating liquor or fermented malt beverages, are to be immediately discontinued. Any person to whom such an order is issued shall immediately comply therewith, but upon written request to the commissioner of health shall be provided a hearing as stated in s. 68-67 for suspension or revocation of a food dealer's license.

**90-25. Employment of Minors.** 1. Minors under 14 years of age are prohibited from working in establishments selling or possessing intoxicating liquor or fermented malt beverages.

2. Minors 14 to 17 years of age may be employed in establishments where intoxicating liquor or fermented malt beverages are present so long as the minors do not sell, serve or dispense the fermented malt beverages or intoxicating liquor.

**90-26. Restrictions on Unlicensed Persons Functioning as Class "D" Operators.** 1. "CLASS A" INTOXICATING LIQUOR RETAILER'S LICENSE. No person other than the licensee in any place operated under a "Class A" retailer's intoxicating liquor license shall sell or serve any intoxicating liquor unless he shall be under the immediate supervision of the licensee or a person holding an operator's license who shall be at the time of said sale or service upon said premises.

2. CLASS "A" FERMENTED MALT BEVERAGE RETAILER'S LICENSE. No person other than the licensee shall sell fermented malt beverages in any place operated under a Class "A" fermented malt beverage retailer's license unless he or she possesses an operator's license, or unless he or she is under the

immediate supervision of the licensee or a person holding an operator's license who is at the time of such service upon the premises.

3. "CLASS B," CLASS "B" OR "CLASS C" RETAILER'S LICENSE. No person other than the licensee shall draw, remove or serve fermented malt beverages or intoxicating liquor in any place operated under a "Class B," Class "B" or "Class C" retailer's license to a customer for consumption on or off the premises where sold, unless he or she shall possess a Class "D" operator's license or a Class "B" manager's license, or unless he or she shall be under the immediate supervision of the licensee, or a person holding an operator's or manager's license who shall be at the time of such service upon said premises.

## 90-27. Licensed Premises Accessible and Lighted.

1. OPEN ENTRY. The entrance doors to any such licensed premises and serving rooms shall at all times remain unlocked during the conduct of business on such licensed premises, provided, however, a licensee may apply to the common council for an annual permit to be granted by the common council to said licensee permitting that the entrance doors to certain licensed premises and serving rooms be locked or so controlled as to allow only members and guests to gain entry into said premises provided that:

a. The licensee be an organization which is the owner, lessee or occupant of a building used exclusively for club purposes and operated solely for fraternal, social, patriotic, benevolent or athletic purposes, and not for pecuniary gain. Said organization must have been issued a certificate of incorporation as a fraternal society under the provisions of ch. 188, Wis. Stats. for at least 5 years before such entrance doors may be locked.

b. The trafficking in intoxicating liquors shall be incidental only and not the object of the existence or operation of the structure.

c. The licensee must, upon request, issue to the police department, local and state authorities, means to gain immediate entry to the locked premises equal to that offered to any member of the organization.

d. All entrance doors to said licensed premises and serving rooms may not be so locked or controlled so as to prevent or interfere with the safe egress of occupants in case of fire or other emergency, and, in regard thereto,

there must be compliance with ch. 254 and with all other local and state rules, regulations and laws.

2. DOORS KEPT CLOSED. All doors used for the admission of patrons to any Class "B" tavern premises shall, except when used for ingress and egress, be kept closed after 10 p.m. during the conduct of business on the premises.

3. ADJACENT ROOMS. All separate rooms adjacent to the licensed tavern area of premises licensed for the sale of soda water where malt beverages, intoxicating liquor or soft drinks are served, shall be on the same floor with the licensed tavern area and shall abut and open directly upon a street or alley, and shall be further provided with doorless openings to the tavern area at least 2 feet 6 inches in width and at least 6 feet 8 inches in height and doorless openings between rooms 7 feet square in width and height. All other such rooms not abutting a street or alley shall have doorless openings to the tavern area and between rooms at least 7 feet square in width and height.

4. TAVERN PREMISES. All rooms where such beverages are to be served shall be designated in the application for the tavern license as part of the tavern premises, and said application shall be investigated as provided by s. 90-5, and only such rooms shall be so used for tavern purposes, and no alterations, changes or additions shall be made to such designated licensed premises without first securing a permit for such alterations, changes or additions from the commissioner of city development.

5. HOTELS; CLUBS. Nothing in this section shall prohibit the serving of intoxicating liquors or fermented malt beverages to registered guests in their rooms at hotels and clubs having a hotel license and having a license to sell such beverages; and provided, further, that nothing contained in this section shall prohibit the serving of such intoxicating liquors or fermented malt beverages to guests in private dining rooms in hotels and restaurants which are licensed to sell such beverages if such guests in any one such room be 4 or more in number or, if less than 4 in number, if they be of the same sex; and provided, further, that such license shall entitle the holder thereof to serve intoxicating liquors or fermented malt beverages in separate rooms maintained solely for public banquet or dinner functions or in regularly

maintained public dining rooms where such beverages are served only with meals or food.

6. ILLUMINATION. All areas of taverns which are accessible to the public and which are licensed under this chapter shall be illuminated at all times during the conduct of business to a minimum intensity of not less than 1.5 foot candles. This designated illumination intensity shall be maintained on a horizontal plane not higher than 32 inches above the floor and all illumination measurements taken for the purpose of this section shall be taken while the sensitive element of the light target is in a horizontal position.

**90-28. Misleading Advertising Prohibited in Class "B" Taverns.** The following regulations are enacted to govern the conduct of business under Class "B" tavern licenses in the city:

1. No person, firm or corporation conducting a business under a Class "B" tavern license shall use the words, "super bar" or "value bar" in connection with the name of such business in any manner whatsoever, either on or off the premises so licensed.

2. There shall be no misleading, fraudulent or illegal advertising.

3. There shall be no advertising of prices of individual drinks of intoxicating liquor or fermented malt beverages displayed in the exterior windows of the licensed premises.

4. There shall be no advertising of prices either in the windows or on the outside of the licensed premises, or in newspapers or flyers, or in any other manner, by which advertising the licensee holds himself out as selling, dealing or trafficking in intoxicating liquor in the original package or container in quantities of more than 4 liters at any one time, to be consumed off premises so licensed or as selling fermented malt beverages at wholesale.

5. There shall be no indication either in or about the licensed premises or in the method of conduct of operation of the Class "B" tavern business by which indication the licensee holds himself out as selling, dealing or trafficking in intoxicating liquor in the original package or container in quantities of more than 4 liters at any one time, to be consumed off premises so licensed or as selling fermented malt beverages in quantities of more than 4-1/2 gallons or at wholesale.

## 90-28.5 Liquor and Tavern Regulations

**90-28.5. Advertising in Class "A" Fermented Malt Beverage Premises.** No person may advertise the price of fermented malt beverages by display on the exterior walls or windows whether on the interior or exterior of those windows of a Class "A" fermented malt beverage retailer premises.

**90-29. Alcohol Content to Show on Label.** No fermented malt beverages or intoxicating liquors shall be sold unless the barrel, keg, cask, bottle or other container containing the same shall have thereupon at the time of a sale a label of the kind and character required by statute. Every bottle shall contain upon the label thereof a statement of the contents in fluid ounces in plain and legible form. No bottle or other container shall be refilled as permitted in s. 90-31-1-b, unless there is a label or other identification on the container bearing a statement of its contents in fluid ounces in plain legible type.

**90-30. Selling of Illegal Beverages Prohibited.** No beverages of an alcoholic content prohibited by the laws of the United States shall be kept in or about licensed premises.

**90-30.5. Single-Use, Plastic Straws Prohibited.** 1. PROHIBITED. Effective April 14, 2020, no alcohol beverage establishment may provide any customer with a single-use, plastic straw, where "single-use" means a product that is designed and intended to be used only once and is generally recognized by the public as an item that is to be discarded after one use.

2. EXEMPTIONS. Subsection 1 shall not prohibit:

a. Prepackaged individual serving beverages where a small plastic straw is included in the packaging.

b. The provision of a plastic beverage straw to a customer upon request of a plastic beverage straw by the customer.

c. The provision of a plastic beverage straw to a customer receiving a viscous beverage, such as a milkshake or smoothie, that requires a large, durable straw, for which a non-plastic straw would not be suitable.

d. The provision of any other approved compostable straw as determined by the environmental sustainability director. The environmental sustainability director shall maintain a list of acceptable compostable straws.

**90-31. Refilling Bottles or Substitution of Brands Prohibited.** 1. RETAILER MAY NOT BOTTLE OR REFILL. a. Prohibited. No person licensed under this chapter may bottle any intoxicating liquor or fermented malt beverage or refill any bottle or add to the contents of any bottle or container from any other bottle or container.

b. Exception. A "Class B" tavern or Class "B" retail licensee authorized to sell fermented malt beverages may dispense and sell fermented malt beverages in refillable bottles or containers labeled and identified as provided in s. 90-29 and not exceeding one gallon capacity.

2. SERVE NO SUBSTITUTE. No licensee or his employee selling intoxicating liquors or fermented malt beverages by the drink, when requested to serve a particular brand or type of intoxicating liquor or fermented malt beverage shall substitute another brand or type of intoxicating liquor or fermented malt beverage without telling the patron of the substitution.

**90-32. Fraud on Tavern Keepers Prohibited.**

1. PROHIBITED. It shall be unlawful for any person: a. Having obtained any food, lodging or beverages of any kind or other services at any tavern, to intentionally abscond without paying for it.

b. While a patron at any tavern, to intentionally defraud the keeper thereof in any transaction arising out of such relationship as a patron.

2. EVIDENCE. Under this section, prima facie evidence of an intent to defraud is shown by:

a. The refusal of payment upon presentation when due, and the return unpaid of any bank check or order for the payment of money, given by any patron to any tavern, in payment of any obligation arising out of such relationship as patron. Such facts shall also be deemed prima facie evidence of an intent to abscond without payment.

b. The failure or refusal of any patron at a tavern, to pay, upon written demand, the established charge for food, beverages of any kind or other services actually rendered.

c. The giving of false information or the presenting of false or fictitious credentials for the purpose of obtaining credit, food, beverages or other services.

d. The drawing, endorsing, issuing or delivering to any tavern, of any check, draft or order for payment of money upon any bank or

other depository, in payment of established charges for food, beverages of any kind, or other service, knowing at the time that there is not sufficient credit with the drawee bank or other depository for payment in full of the instrument drawn.

**90-37. Centers for the Visual and Performing Arts.**

**1. FINDINGS.** The Wisconsin state statutes create the designation “centers for the visual and performing arts” and exempt them from certain restrictions relating to the presence of underage persons on licensed Class “B” alcohol beverage premises. The state statutes do not, however, provide a definition for “centers for the visual and performing arts.” The prevention of the underage consumption of alcohol and the regulation of alcohol beverage premises where underage persons congregate is a primary concern of the common council, given its responsibility to protect its most vulnerable residents. The common council finds, therefore, that it is essential to define and license “centers for the visual and performing arts” to help ensure the health, safety and welfare of the people of the city of Milwaukee and, in this light, to grant this license infrequently and only after careful consideration, review and deliberation.

**2. LICENSE REQUIRED.** No premise shall be deemed a center for the visual and performing arts without first obtaining a license as required in this section, except that no license shall be required of centers for the visual and performing arts operated by nonprofit organizations which, for the purposes of this provision, shall mean a federal, state or local unit of government or agency thereof, a public or private elementary, secondary or post-secondary school, or an organization that is described in s. 501(c)(3) of the internal revenue code of the United States of America and is exempt from taxation under s. 501(a) of this code.

**3. MINIMUM QUALIFICATIONS.** No premise shall be licensed as a center for the visual and performing arts unless it fulfills all the relevant criteria of pars. a to d.

a. The operator of the premises shall hold a valid public entertainment premises license for the same premises issued under ch. 108.

b. A center for the visual and performing arts shall have either of the following:

b-1. At least one stage or designated performance space.

b-2. A collection of recognized works of art placed on regular public display, as testified to before the licensing committee of the common council by recognized experts or art critics.

c. At a center for the visual and performing arts that is also a theater, the service of alcohol beverages shall be incidental to the main function of the licensed premise as evidenced by the service of alcohol beverages no earlier than 2 hours before a given day’s scheduled performance, no later than 2 hours after a given day’s scheduled performance and only in a designated lobby area.

d. At a center for the visual and performing arts that provides live music performances on a stage or designated performance space less than 1200 square feet in size to an all-ages audience, which is subject to the curfew limitations set forth in s. 106-23 and the employment limitations of minors set forth in s. 103.78, Wis. Stats., underage patrons shall enter the premises no earlier than one hour before a scheduled performance and shall leave the premises no later than one half hour after completion of the performance.

**4. APPLICATION.** a. Application for a center for the visual and performing arts license shall be filed with the city clerk on a form provided therefor.

b. The application shall require:

b-1. The name and permanent address of the applicant.

b-2. The name and address of the premise for which the license is to be granted, including the aldermanic district in which it is situated.

b-3. If the applicant is a corporation, the name of the corporation shall be set forth exactly as it is set forth in its articles of incorporation, together with the names and address of each of its officers, directors and designated managers, if any; the application shall be verified by an officer of the corporation.

b-4. If the applicant is a partnership, the application shall set forth the name and resident address of each of the partners, including limited partners, and the application shall be verified by each partner. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the corporate partners.

b-5. If the applicant is a club, association or other organization which is neither a corporation or partnership, the application shall set forth the exact name of the entity together with the names and resident

## 90-37-5 Liquor and Tavern Regulations

addresses of all officers and be verified by an officer of the club, association, or organization.

b-6. The date of birth of the applicant.

b-7. A completed plan of operation on a form provided therefor by the city clerk. The plan of operation shall require:

b-7-a. The planned hours of operation for the premises.

b-7-b. The number of patrons expected on a daily basis at the premises.

b-7-c. The legal occupancy limit of the premises.

b-7-d. What plans, if any, the applicant has to insure underage persons are not served alcohol beverages at the premise and that alcohol beverages are not consumed by underage persons at the premise.

b-7-e. What plans, if any, the applicant has to insure that underage persons are not on the premise in violation of the city's curfew ordinance as set forth in s. 106-23.

b-7-f. The number of off-street parking spaces available at the premises.

b-7-g. Whether or not the premises will make use of sound amplification equipment and, if so, what kind.

b-7-h. What plans, if any, the applicant has to provide security for the premises.

b-7-i. What plans, if any, the applicant has to insure the orderly appearance and operation of the premises with respect to litter and noise.

b-8. Any other licenses held by the applicant or attached to the premises.

b-9. Such other reasonable and pertinent information the common council or the proper licensing committee may from time to time require.

**5. ISSUANCE.** a. An application shall be referred to the chief of police and the commissioner of neighborhood services, each of whom shall cause an investigation to be made and report their findings to the licensing committee in accordance with the provisions of s. 85-2.5 and 85-2.7.

b. The licensing committee shall hold a hearing on whether or not to issue each new license. If there is a possibility of denial, no hearing shall be heard unless the city clerk's office has provided written notice to the applicant. The notice shall be served upon the applicant so that the applicant has at least 3 days' notice of the hearing. The notice shall contain:

b-1. The date, time and place of the hearing.

b-2. A statement to the effect that the possibility of denial of the license application exists and the reasons for possible denial.

b-3. A statement that an opportunity will be given to the applicant to respond to and challenge any reason for denial and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

b-4. A statement that the applicant may be represented by an attorney of the applicant's choice at the applicant's expense, if the applicant so wishes.

c. If there is a possibility of denial, at the hearing the committee chair shall open the meeting by stating that a notice was sent and read the notice into the record unless the applicant admits notice. The chair shall advise the applicant that the applicant has an option to proceed with 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.

d. A due process hearing shall be conducted in the following manner:

d-1. All witnesses will be sworn in.

d-2. The chair shall ask those opposed to the granting of the license to proceed first.

d-3. The applicant shall be permitted an opportunity to cross-examine.

d-4. After the conclusion of the opponent's testimony, the applicant shall be permitted to present the applicant's own witnesses, subject to cross-examination.

d-5. Committee members may ask questions of witnesses.

d-6. Both proponents and opponents shall be permitted a brief summary statement.

e. The recommendations of the committee regarding the applicant must 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:

e-1. Whether or not the applicant meets the municipal requirements, including those in sub. 3.

e-2. The appropriateness of the location and premises where the center for the visual and performing arts is to be located and whether the location will create undesirable neighborhood problems. Probative evidence relating to these matters may be taken from the plan of operation submitted pursuant to sub. 4-b-8. but not the content of any performance.

e-3. The applicant's record in operating similarly licensed premises.

e-4. 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 licensed activity.

e-5. Any other factors which reasonably relate to the public health, safety and welfare.

f. The committee may make a recommendation immediately following the hearing or at a later date. This recommendation may include such revisions to the plan of operation submitted pursuant to sub 4-b-8 as the committee may deem necessary and which are agreed to by the applicant. 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.

**6. DEPOSIT OF FEE; REFUND.**

a. Prior to issuance of a license, each applicant shall deposit with the city treasurer the full amount of the fee required in s. 81-17.7 for the license or permit applied for.

b. It shall be the duty of the city treasurer to accept the deposit, issue a receipt therefor, and cause a record to be kept thereof. When a license or permit is granted by the common council, it shall be the duty of the city treasurer to apply such deposit as full payment of the license or permit fee, upon receipt of certification thereof by the city clerk.

c. It shall be the duty of the city clerk to enter on all applications filed with him or her the amount deposited with the city treasurer, the date of the deposit and the number of the treasurer's receipt.

d. Upon the withdrawal or the common council's denial of a center for the visual and performing arts license application, the amount of \$50 of the application fee shall be retained by the city treasurer to defray the cost of investigation of facts and administration thereof. The remainder of the application fee and deposits on all applications denied by the common council shall be refunded by the city treasurer upon surrender of the deposit receipt certified by the city clerk, provided that the certified deposit receipt is surrendered no later than one year after the date of the license denial.

**7. FEES.** See s. 81-17.7 for the required permit fees and terms.

**8. CHANGE IN PLAN OF OPERATION.** If, after the license has been granted or issued, the licensee wishes to substantially deviate from the plan of operation as submitted with the original application, the licensee shall file a written request with the city clerk which states the nature of the change. No change shall take place until the request has been approved by the common council. The common council's approval shall be given only if it determines, in the manner set forth in sub. 5-e-2, that the change is compatible with the normal activity of the neighborhood in which the premises is located.

**9. RENEWAL OF LICENSES.**

a. Procedure for Renewal. Applications for the renewal of a center for the visual and performing arts license shall be made to the city clerk. The clerk shall refer the application for license renewal to the chief of police, the commissioner of neighborhood services and the commissioner of health for review. If the chief of police, the commissioner of neighborhood services and the commissioner of health indicate that the applicant still meets the licensing qualifications, the application shall be referred to the common council for approval unless a written objection has been filed with the city clerk at least 45 days prior to the date on which the license expires. This objection may be filed by any interested person. If a written objection is filed, or if a determination is made that the applicant no longer meets the licensing qualifications, the application shall be forwarded to the licensing committee for its recommendation to the common council.

b. Procedure for Non-Renewal.

b-1. If there is a possibility that the committee will not renew a license, a motion should be entertained to hold the application in committee and instruct the city clerk to forward proper notice to the applicant, unless such proper notice has already been sent, in which case the hearing shall proceed.

b-2. Prior to the date set for the hearing, the city clerk's office shall forward notice to the applicant which shall contain:

b-2-a. The date, time and place of the hearing.

b-2-b. A statement of the common council's intention not to renew the license in the event any objections to renewal are found to be true.

b-2-c. A statement of the reasons for non-renewal.

## 90-37-10 Liquor and Tavern Regulations

b-2-d. A statement that an opportunity will be given to respond to and challenge such reasons for non-renewal and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

b-2-e. A statement that the applicant may be represented by an attorney of the applicant's choice at the applicant's expense, if the applicant so wishes.

c. Hearings. All hearings held and committee recommendations prepared pursuant to this subsection shall be conducted as set forth in sub. 11.

**10. REVOCATION.** a. Any license issued under this section may be revoked for cause by the common council after notice to the licensee and a hearing.

b. Revocation proceedings may be instituted by the licensing committee 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.

c. 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 ordinances that are grounds for revocation of a license, the city clerk shall issue notice to the licensee of the licensing committee's intention to hear the matter. The notice shall be served upon the licensee so that the licensee has at least 10 working days' notice of the hearing. The notice shall contain:

c-1. The date, time and place of the hearing.

c-2. A statement to the effect that the possibility of revocation of the license exists and the reasons for possible revocation.

c-3. A statement that an opportunity will be given to the applicant to respond to and challenge any reason for revocation and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

c-4. A statement that the licensee may be represented by an attorney of the licensee's choice at the licensee's expense, if the licensee so wishes.

d. The licensing committee shall convene at the date and time designated in the notice for the purpose of taking evidence and making findings of fact and conclusions of law

and a recommendation to the common council in connection with the proposed revocation.

e. If the licensee appears before the committee at the time designated in the summons and denies the charges contained in the complaint, an evidentiary hearing in connection with the revocation 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 complaints and the licensee in connection with the revocation.

f. All hearings held and committee recommendations prepared pursuant to this subsection shall be conducted as set forth in sub 11.

### **11. HEARING PROCEDURE.**

a. Authority of Licensing Committee. The licensing committee shall conduct hearings with respect to the non-renewal or revocation of a center for the visual and performing arts license pursuant to this subsection. The chair of the licensing committee shall be the presiding officer.

b. Committee Hearing Procedure.

b-1. The chair shall direct that oaths be administered and subpoenas issued upon request of either side.

b-2. The chair shall ensure that an orderly hearing is conducted in accordance with the requirements of this subsection.

b-3. 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.

b-4. 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.

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

d. Grounds for Non-Renewal or Revocation. The recommendation of the committee regarding the licensee must be based on evidence presented at the hearing. Probative evidence concerning non-renewal or revocation may include evidence of:

d-1. Failure of the licensee to meet the municipal qualifications.

d-2. Failure of the licensee to operate the premise in accordance with the plan of operation submitted pursuant to sub. 4-b-8.

d-3. 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 activity, by the licensee, his or her employees, or patrons.

d-4. Neighborhood problems due to management or location.

d-5. Any other factor or factors which reasonably relate to the public health, safety and welfare.

e. Committee Report. The committee may make a recommendation immediately following the hearing or at a later date. The committee may recommend that the license be renewed, not renewed or revoked. All non-renewals and revocations shall be effective upon service of notice of the non-renewal or revocation upon the licensee or person in charge of the premises at the time of service.

f. Council Action. f-1. Within 10 working days after it reaches a decision, the committee shall prepare and serve a report and recommendation on the licensee. 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.

f-2. If the committee recommends that the license not be renewed or be revoked then within 7 days of the receipt of the report and recommendation of the committee, the licensee may file written exceptions to the report and recommendations of the committee.

f-3. Any exceptions filed by the licensee to the report and recommendations of the committee shall be provided to each member of the common council at least 24 hours before any vote on the question is scheduled before the full common council.

f-4. 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 recommendation. Not less than 5 days prior to the hearing before the common council, the city clerk shall notify the licensee and complainant

by certified mail and also notify the city attorney 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 recommendation of the committee. When written exceptions are filed to a committee report and recommendation that the license be revoked or not renewed, each member of the common council shall be asked to affirm that he or she has read the exceptions. If members of the council have not read the recommendation and report of the committee and any exceptions that have been filed thereto, the chair shall allocate time for the members to do so. Oral argument in support of the report and recommendation presented by the city attorney, oral argument on behalf of the licensee in opposition to the report and recommendation and oral argument by the complainant objecting to the report and recommendation shall be permitted only at the discretion of the chair. If argument is permitted by the chair, argument shall be limited to 5 minutes and the arguments shall be limited to the subject matter of the report and recommendation 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.

f-5. The common council shall determine by a majority vote of those in attendance and voting whether to adopt the recommendation of the committee. The 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 non-renewal or revocation with the committee's report and recommendation, the city clerk shall give notice of each nonrenewal or revocation to the person whose license is not renewed or revoked. If the common council finds the complaint to be untrue, the proceedings shall be dismissed without cost to the accused. If the common council finds the complaint to be malicious and without probable cause, the cost shall be paid by the complainant upon invoice from the city.

## 90-39 Liquor and Tavern Regulations

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

**13. ALTERATION TO PREMISES.** Any alteration, change or addition resulting in expansion of a licensed premises shall be approved by the licensing committee prior to issuance of a license, pursuant to s. 200-24, by the department of city development. An applicant whose application has been denied by the committee may appeal the decision to the common council.

**14. PENALTY.** Any person convicted of violating this section shall be fined not less than \$500 nor more than \$2,000 for each violation, plus costs of prosecution, and, in default thereof, be imprisoned for a period not to exceed 80 days, or until forfeiture costs are paid.

### **90-39. Alcoholic Beverages on School Premises Prohibited.**

**1. LIQUOR OR FERMENTED MALT BEVERAGES.** It shall be unlawful for any person to possess or consume intoxicating liquor or fermented malt beverages in any school or on any school premises in the city; in a motor vehicle, if a pupil attending the school is in a motor vehicle; or while participating in a school-sponsored activity; provided, however, that 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 Milwaukee school board policies. For purposes of this subsection, "school" means a public, parochial or private school which provides an educational program for one or more grades between grades one and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school; "school premises" means premises owned, rented or under the control of a school; and "motor vehicle" means a motor vehicle owned, rented or consigned to a school.

**2. PENALTY.** a. **Persons Who Have Attained the Legal drinking Age.** Any person who has attained the legal drinking age and is found guilty of violating this section shall be subject to a forfeiture not to exceed \$200, and in default of payment thereof, shall be imprisoned in the county jail or house of correction of Milwaukee County for a period not to exceed 30 days.

b. **Underaged Persons.** Any underaged person found guilty of violating this section shall be subject to the penalties provided in s. 125.07(4) Wis. Stats.

**90-40. Penalty, General.** Any person who violates any of the provisions of this chapter shall, where no other provisions are expressly made for the enforcement of any forfeitures or penalties under this chapter, upon conviction be subject to a forfeiture of not more than \$1,000 and in default thereof, shall be imprisoned in the county jail or house of correction for a period not to exceed 40 days.

"For legislative history of chapter 90, contact the Legislative Reference Bureau."

**[Pages 395 to 398 are blank]**