

CITY OF MANITOWOC (“CITY”)
ALCOHOL BEVERAGE LICENSES
ENFORCEMENT POLICY GUIDELINES

The following guidelines are established to provide a framework for which persons are eligible for issuance of an alcohol beverage license (*i.e.* grounds for denial) and a framework for suspension, revocation or non-renewal. **There is broad discretion retained on behalf of the City to consider each case on an individual basis when in conformance with state law. Deviation from the guidelines may be allowed if unusual, exaggerated or mitigating circumstances exist, which may include, but are not limited to, the particular circumstances documented or the length of time that has expired since the offense.**

Since alcohol beverage license holders must act in cooperation with law enforcement to enforce the alcohol beverage laws, drunk driving laws, and assist with minimizing disturbances of the peace and maintaining the safety of the community, individuals with a past history of negative or uncooperative contacts with police agencies should be heavily scrutinized; provided, however, that the City and Common Council shall not discriminate against such applicants based on a prior arrest or conviction record, pursuant to Wis. Stat. §§ 111.321, 111.322, 111.335 and 125.12(1)(b), unless said arrest or conviction record **substantially relates** to the circumstances of the particular licensed activity. It is with these goals in mind, as well, that these guidelines are adopted.

For purposes of these guidelines, an “alcohol beverage license,” “license” or “permit” constitutes a retail license or an operator’s license. Additionally, the definition of “person” shall be as defined in Wis. Stat. § 125.02(14) of the Wisconsin Statutes. Therefore, these guidelines also apply to corporations, limited liability companies, agents, and partnerships. A corporation or limited liability company with an arrest or conviction record may be issued a license if the corporation or limited liability company has terminated its relationship with all the individuals whose actions directly contributed to a disqualifying conviction. **Furthermore, to the extent Wis. Stat. Ch. 125 or Manitowoc Ordinances provide additional grounds for denial, suspension, revocation or non-renewal, the City must also rely on such provisions.**

The Common Council will only deny renewal of, suspend or revoke a current alcohol beverage license under these guidelines, or other justification provided by law, if the person committed an offense substantially related to the licensed activity within the three license years immediately preceding the year for which the person is seeking renewal or within the license year period in which suspension or revocation is sought, unless the Police Chief demonstrates that previous offenses were not considered in the approval of the current license. In the event the person is considered for non-renewal, suspension or revocation as the result of such an offense, the Common Council shall consider all offenses, regardless of when they occurred, to determine application of these guidelines.

Additionally, with respect to a non-natural person, such person’s license may be revoked, suspended or non-renewed in the event a new officer, director, member, or manager, is named and such person does not qualify under these guidelines; with the exception that a corporation or limited liability company may retain its license if it terminates its relationship with all the individuals whose actions directly contributed to the conviction. With respect to successor agents, see Wis. Stat. § 125.04(6).

Notwithstanding the above, the following violations may not be used as grounds for suspension, revocation or non-renewal of an existing license:

1. Furnishing alcohol beverages to underage persons (unless the licensee has committed two (2) violations within a one (1) year period, or has committed a single violation in two consecutive years); or
2. Violations punishable under Wis. Stat. § 945.03(2m), 945.04(2m) or 945.05(1m) (relating to commercial gambling and gambling devices).

A copy of these guidelines shall be provided to each person who applies for a license.

GUIDELINES

Guideline 1. Provided the offense is **substantially related to the circumstances of the licensed activity**, any person who has been convicted of any felony, unless duly pardoned, does not qualify for an alcohol beverage license. (To the extent the other guidelines reference a specific offense, this guideline shall apply if the offense constitutes a felony.)

Guideline 2. Provided the offense is **substantially related to the circumstances of the licensed activity**, any person who has been convicted of, released from incarceration in a State or Federal Prison System, or a county jail for, or released from parole or probation status, or has a current charge pending, for two (2) or more offenses, **arising out of separate incidents**, within the last ten (10) years in the following subcategories, does not qualify for an alcohol beverage license:

- (a) Violent crimes against the person of another, including but not limited to homicide, aggravated battery, sexual assault, injury by negligent use of a weapon, injury by negligent use of a vehicle, or injury by intoxicated use of a vehicle.
- (b) Crimes involving cooperation (or lack thereof) with law enforcement officials, including but not limited to, obstructing a police officer, resisting arrest, bribery of public officers or employees, misconduct in public office, bomb scares, or acts or threats of terrorism.
- (c) Manufacturing, distributing, delivering a controlled substance or a controlled substance analog; possessing with intent to manufacture, distribute or deliver, a controlled substance or a controlled substance analog.

Guideline 3. Provided the offense is **substantially related to the circumstances of the licensed activity**, any person who has been convicted of, released from incarceration in a State or Federal Prison System, or a county jail for, or released from parole or probation status, or has a current charge pending, for two (2) or more offenses, **arising out of separate incidents**, within the last eight (8) years in the following subcategories, does not qualify for an alcohol beverage license:

- (a) Disorderly conduct, criminal damage to property, solicitation of prostitution or other prostitution related offenses, wherein the offense involves an incident at a place that is, or should have been licensed under Wis. Stat. Ch. 125.
- (b) Alcohol beverage offenses (under Wis. Stat. Ch. 125 or Manitowoc Municipal Code 11.010 - excluding administrative violations such as “failure to post license”) **(furnishing alcohol beverages to underage persons shall not be used as grounds for suspension, revocation, or non-renewal of an existing license unless the licensee has committed two (2) violations within a one (1) year period, or committed a single violation in two consecutive years).**
- (c) Perjury or false swearing, wherein the offense involves an incident at a place that is or should have been licensed under Wis. Stat. Ch. 125.
- (d) Possessing a controlled substance, controlled substance analog or drug

- paraphernalia.
- (e) Operating a motor vehicle while under the influence of intoxicants or drugs.
- (f) Operating a motor vehicle with a BAC in excess of .08% by weight.
- (g) Open intoxicants in public places or in a motor vehicle.

Guideline 4. Provided the offenses are **substantially related to the circumstances of the licensed activity**, any person who is a habitual law offender does not qualify for an alcohol beverage license. To constitute a habitual law offender there need not have been a trial or conviction for each or any offense. What is required is that the offenses were committed, that the law has been violated, and that the fact of such violations can be shown. *See Smith v. City of Oak Creek*, 139 Wis. 2d 788 (1987). For purposes of these guidelines, a habitual offender includes, but is not limited to, a person who has committed two (2) or more offenses, each a separate incident, within the immediately preceding five (5) years.

Guideline 5. In addition to the other provisions under these guidelines, pursuant to Wis. Stat § 125.12, a person's alcohol beverage license may be denied, non-renewed, suspended or revoked if the person:

- (a) Keeps or maintains a disorderly or riotous, indecent or improper house.
- (b) Sold or has given away alcohol beverages to known habitual drunkards.
- (c) Does not possess the qualifications under Chapter 125 of the Wisconsin Statutes and Chapter 14 of the Municipal Code of the City of Manitowoc to hold a license.
- (d) Was issued a license in conjunction with a warning letter as to any future law violations, regardless of whether the basis for the warning letter was conduct occurring earlier or outside of any of the time limits set forth in Guidelines 2., 3. and 4. above, and has committed a law violation subsequent to the issuance of the warning letter.

Guideline 6. Any person who materially falsifies an application for an alcohol beverage license will not be eligible to re-apply for an alcohol beverage license for a period of twelve (12) months from the **date of denial** of such application. The Common Council may waive the provisions of this paragraph, allow the applicant to submit a corrected application, with the appropriate fee additional fee, and grant an alcohol beverage license to the person, if it appears to the Common Council that any falsifications on the application were the result of inadvertence, excusable neglect or mistake.

Guideline 7. In the event that any person's alcohol beverage license is denied, non-renewed, suspended or revoked based upon the person's conviction record, the person shall be allowed the opportunity to show evidence of rehabilitation and fitness to engage in the licensed activity. If the person shows competent evidence of sufficient rehabilitation and fitness to perform the licensed activity, the Common Council may not refuse to license the person or bar or terminate the person from licensing based on that conviction record unless the conviction is for an exempt offense under Wis. Stat. § 111.335(4); these are offenses that are **substantially related to the circumstances of the applied activity**. Competent evidence of sufficient rehabilitation and fitness to perform the licensed activity may be established by the production of any of the following:

- (a) The person's most recent certified copy of a federal department of defense form DD-214 showing the person's honorable discharge, or separation under honorable conditions, from the U.S. armed forces for military service rendered following conviction for any offense that would otherwise disqualify the person from the license sought, except that the discharge form is not competent evidence of sufficient

rehabilitation and fitness to perform the licensed activity if the person was convicted of any misdemeanor or felony subsequent to the date of the honorable discharge or separation from military service.

- (b) A copy of the local, state, or federal release document; and either a copy of the relevant department of corrections document showing completion of probation, extended supervision, or parole; or other evidence that at least one year has elapsed since release from any local, state, or federal correctional institution without subsequent conviction of a crime along with evidence showing compliance with all terms and conditions of probation, extended supervision, or parole.
- (c) In addition to the above documentary evidence, the City will consider any of the following evidence presented by the individual:
 - i. Evidence of the nature and seriousness of any offense of which he or she was convicted.
 - ii. Evidence of all circumstances relative to the offense, including mitigating circumstances or social conditions surrounding the commission of the offense.
 - iii. The age of the person at the time the offense was committed.
 - iv. The length of time that has elapsed since the offense was committed.
 - v. Letters of reference by individuals who have been in contact with the person since the person's release from any local, state, or federal correctional institution.
 - vi. All other relevant evidence of rehabilitation and present fitness presented.

Severability. If any section, subsection, sentence or phrase of this Policy is for any reason held to be invalid or unconstitutional by reason of a decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase.

Conflict. Any impermissible conflict between Wis. Stat. Ch. 125, Manitowoc Municipal Code 11.010 and this policy shall be decided on the order of precedence which shall be the order listed in this sentence.

This policy will go into effect on _____.