

CHAPTER 33
(Cr. GO 26-84)

ALCOHOL BEVERAGE LICENSING

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33.01 **DEFINITIONS.** (Amd. GO 19-98) As used in this chapter, the following terms shall have the following meanings:

- (1) **ALCOHOL BEVERAGES.** Fermented malt beverages and intoxicating liquor.
- (2) **AVAILABLE LICENSE.** A "Class B" (Liquor) license that may be granted because the City has granted fewer of such licenses than permitted the City under §125.51(4)(b)1g, Wis. Stats.
- (3) **CLUB.** An organization, whether incorporated or not, which is the owner, lessee, or occupant of the building or portion thereof used exclusively for club purposes, which is operated solely for recreational, fraternal, social, patriotic, political, benevolent, or athletic purposes but not for pecuniary gain and which only sells alcohol beverages incidental to its operation.
- (4) **FERMENTED MALT BEVERAGES.** Any beverage made by the alcohol fermentation of an infusion in potable water of barley, malt and hops, with or without unmalted grains or decorticated and degerminated grains or sugar containing 0.5% or more of alcohol by volume.
- (5) **GRANTED LICENSE.** A license approved for issuance by the Common Council. Issuance is conditioned upon verification by the Police Department and the Department of Public Works - Inspection Division that the licensee to whom the license has been granted is in compliance with this chapter and the "qualification provisions" of Ch. 125, Wis. Stats.
- (6) **INTOXICATING LIQUOR.** All ardent, spirituous, distilled, or vinous liquors, liquids, or compounds, whether medicated, proprietary, patented or not, and by whatever name called containing 0.5% or more of alcohol by volume, which are beverages, but does not include "fermented malt beverages" which contain less than 6% alcohol by weight.
- (7) **INOPERATIVE LICENSE.** An issued license under which the licensed activity is no longer occurring on the licensed premises.
- (8) **ISSUED LICENSE.** A license which has been granted, approved by the proper authorities, and delivered by the City Clerk to the licensee.
- (9) **LICENSE.** An authorization to sell alcoholic beverages granted by the Green Bay Common Council under this chapter. The Council is hereby authorized to grant the following licenses:
 - (a) **Class "A" (Beer) License.** Authorizes retail sales of fermented malt beverages in original packages, containers, and bottles for consumption off the premises where sold.
 - (b) **"Class A" (Liquor) License.** Authorizes the retail sale of intoxicating liquor in original packages, containers, and bottles for consumption off the premises where sold.
 - (c) **Class "B" (Beer) License.** Authorizes retail sales of fermented malt beverages to be consumed whether on or off the premises where sold.
 - (d) **"Class B" (Liquor) License.** Authorizes the retail sale of intoxicating liquor for consumption on the premises where sold by the glass and not in the original package or container. Wine, however, may be sold for consumption off premises in original package or otherwise in any quantity.

(e) "Class B" Combination License. License which results when one licensee applies for both a Class "B" (Beer) license and a "Class B" (Liquor) license for use at one premises.

(f) Special Event or Picnic License. A special event or picnic license is issued for a period not to exceed three consecutive days to bona fide clubs, county or local fair associations, or agricultural societies, churches, lodges, or societies that have been in existence for not less than six months prior to the date of the application, or to veteran organizations or posts, authorizing them to sell fermented malt beverages and wine containing not more than 6% alcohol by volume at a particular picnic, gathering, or meeting, or during a fair conducted by a fair association or an agricultural society.

(g) Wholesalers' Fermented Malt Beverage License. Authorizes the sale of fermented malt beverages only in original packages or containers to retailers or wholesalers not to be consumed on or about the premises where sold.

(h) "Class C" (Wine) License. (Cr. GO 11-00) Authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.

(10) PERSON. A natural person, sole proprietorship, partnership, corporation, or association.

(11) PREMISES. The area described in a license or permit.

(12) REGULATION. Any rule or ordinance adopted by the Common Council.

(13) RESERVE LICENSE. A "Class B" (Liquor) license as defined in §125.51(4)(a)4, Wis. Stats., other than an available license, granted pursuant to §125.51(3)(e)2, Wis. Stats.

(14) RESTAURANT. Any building, room or place where meals or lunches are prepared, served, or sold to the general public.

(15) SELL, SOLD, SALE, OR SELLING. Any transfer of alcohol beverages with consideration or any transfer without consideration knowingly made for the purpose of evading the law relating to the sale of alcohol beverages or any shift, device, scheme, or transaction for obtaining alcohol beverages, including solicitation of order for, or the sale for future delivery of, alcohol beverages.

(16) WINE. (Cr. GO 11-00) Products obtained from the normal alcohol fermentation of the juice or must of sound, ripe grapes, other fruits or agricultural products, imitation wine, compounds sold as wine, vermouth, cider, perry, mead and sake, if such products contain 0.5% or more of alcohol by volume.

33.02 **INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGE STATE STATUTES ADOPTED.** The following provisions of Ch. 125, Wis. Stats., relating to the sale of intoxicating liquors and fermented malt beverages, exclusive of any provisions relating to the penalty to be imposed or the punishment for violation of such statutes, are hereby adopted and made part of this chapter as if set forth fully herein. Future amendments are also adopted prospectively, incorporated herein, and are intended to become a part of this Code.

(1) §125.04 General Licensing Requirements

(2) §125.06 License and Permit Exceptions (Amd. GO 19-98)

- (3) §125.07 Restrictions on Sales to Minors and Intoxicated Persons; Presence of Minors in Places of Sale, and Possession by Minors; Penalties
- (4) §125.085 Proof of Age (Amd. GO 19-98)
- (5) §125.09 General Restrictions
- (6) §125.17 Issuance of Operator's Licenses
- (7) §125.32 General Restrictions and Requirements
- (7m) §125.51 Retail Licenses and Permits [except §125.51(3)(b)] (Cr. GO 11-00)
- (8) §125.66 Sales without License; Failure to Obtain Permit; Penalties
- (9) §125.67 Evading Provisions of Law by Giving Away Intoxicating Liquor; Penalties
- (10) §125.68 General Restrictions and Requirements

33.03 **LICENSE APPLICATIONS.** (Rep. & Rec. GO 11-01)

(1) **GENERALLY.** An application for a license must contain the following information and materials. Applications lacking any of the required information or materials shall not be accepted by the City Clerk.

(a) **Forms.** Applications shall be made upon forms provided by the City Clerk, which shall be completed in their entirety.

(b) **Time Limitation.** An application shall not be valid after the license year for which it is filed.

(c) **Property Interest.** Applications shall be accompanied by proof of one of the following:

1. Ownership of the premises to be licensed.
2. A valid option to purchase the premises to be licensed.
3. A valid lease for the premises to be licensed for the term of the license.
4. A valid option to lease the premises to be licensed for the term of the license.

(d) **Statement of Intent.** The applicant shall sign a statement of intent on a form to be provided by the City Clerk. This statement shall include a provision that the applicant intends to personally operate under the license within 60 days of its granting by the Common Council and that the license shall be considered surrendered if the license is not issued within 60 days of the granting of the license. This time may be extended by the Common Council upon a finding that construction activities will delay the issuance. The applicant shall provide proof of such conditions upon application. The Common Council shall set a time limit for the issuance of such license, and the license shall be considered surrendered if the license is not issued within such time.

(2) **TRANSFER APPLICATIONS.** All applications for transfer of licenses from place-to-place and person-to-person are subject to the qualifications, review proceedings, and time constraints provided in this chapter and the Wisconsin Statutes. In addition, applications to transfer a license from person-to-person must be accompanied by written consent of the person from whom the license is to be transferred on a form provided by or acceptable to the City Clerk

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

33.04 **LICENSING PROCEDURES.** (Rep. & Rec. GO 11-01)

(1) **COMMON COUNCIL APPROVAL.** Applications complying with the provisions of this chapter and the Wisconsin Statutes shall be forwarded to the Common Council for action in the order in which they are filed, upon availability of a license of the type applied for. The Common Council shall review the application, the applicant's qualifications, and all other relevant factors and determine whether to grant the license application under the provisions of this chapter and the laws of the State of Wisconsin.

(2) **CONDITIONAL APPROVAL.** The Common Council may place additional conditions upon a license consistent with the provisions of this chapter and the laws of the State of Wisconsin. Violation of any such condition shall be considered a violation of this section and grounds for suspension or revocation of the license.

(3) **ADMINISTRATIVE APPROVAL.** Prior to the issuance of any license, the Department of Public Works, Inspection Division, and Brown County Department of Health shall certify on a form to be provided by the City Clerk that the premises complies with all applicable laws and regulations. No license shall be issued for a premises not in compliance with such laws and regulations. The departments may place conditions upon a license consistent with the provisions of this chapter and the laws of the State of Wisconsin. Violation of any such condition shall be considered a violation of this section and grounds for suspension or revocation of the license.

(4) **FORM AND EXPIRATION OF LICENSE.** All licenses shall be numbered in the order in which they are issued. The date of issuance, the fee paid, and the name of the licensee shall appear on said license. All retail licenses shall expire on June 30th following issuance unless sooner revoked or nonrenewed. The City Clerk shall affix to the license his or her affidavit as required by Sec. 125.04, Wis. Stats.

33.05 **LICENSE FEES.** (Rep. & Rec. GO 11-01) The City Clerk shall issue the following licenses to those applicants approved under the procedures set forth in this chapter and the Wisconsin Statutes. The City Clerk shall be authorized to issue a Special Event or Picnic License upon receipt of proper application. The clerk shall not issue a license until the fee has been paid.

- (1) Class "A" (Beer). \$250.00 (Amd. GO 52-03).
- (2) Class "B" (Beer). \$100.00.
- (3) Special Event or Picnic License. \$10.00.
- (4) "Class A" (Liquor). \$250.00 (Amd. GO 52-03).

- (5) “Class B” (Liquor). \$400.00 (Rep. & Rec. GO 28-05).
- (6) Wholesaler’s Beer License. \$25.00.
- (7) Operator’s License. \$50.00 (Two-Year License) (Rep. & Rec. GO 28-05), (Rep & Rec. GO 22-13).
- (8) Initial Issuance of a Reserve “Class B” (Liquor) License. \$10,000.00
- (9) “Class C” (Wine). \$100.00.

33.06 **INOPERATIVE OR UNISSUED LICENSES.** (Rep. & Rec. GO 11-01) A license which has been granted but not issued or issued but not in continuous use in a manner indicating an ongoing business for a period in excess of 60 days is presumed invalid and shall be subject to revocation, unless otherwise authorized by the Common Council.

33.07 **HEARINGS FOR SUSPENSION, REVOCATION, AND NONRENEWAL OF LICENSES.**

(1) INTENT. (Amd. GO 51-98) No license granted hereunder shall be suspended or revoked by the Common Council without first affording the license holder an opportunity for a public evidentiary hearing.

(2) HEARING FORM. The Protection and Welfare Committee shall conduct any hearing or prehearing as described in this subsection.

(3) GROUNDS. Licenses may be the subject of hearings as described in this provision for any violation of Ch. 125, Wis. Stats., or of the Green Bay Code of Ordinances, including, but not limited to, the following:

- (a) The running of a disorderly house as proscribed by §125.12, Wis. Stats.
- (b) Licensee or operator directly interfering with police officers or otherwise violating the law in a manner substantially related to the operation of the licensed facility.
- (c) Any violation of any health code provision of this Municipal Code dealing with public health, welfare, and safety.
- (d) Any building, electrical, or plumbing code violation of this Municipal Code dealing with public health, welfare, and safety.
- (e) Any liquor-related violation involving juveniles as proscribed by Ch. 125, Wis. Stats., (specifically §125.07, Wis. Stats.).
- (f) Any violation of general statutory restrictions pertaining to licensed premises and operations as proscribed by Ch. 125, Wis. Stats.
- (g) Any failure to maintain the qualifications required of all license holders as detailed by §125.04, Wis. Stats., and as modified by the conditions of this Code or as a condition of granting or renewing a license.

(h) (Amd. GO 19-98) Any violation of any restriction, stipulation, or agreement entered into with the City of Green Bay or signed in consideration of a license issued by the City under this chapter or Ch. 125, Wis. Stats.

(i) (Cr. GO 19-98) Whether the licensee and/or the licensee's agents, employees, and assigns have accumulated 12 or more demerit points within a 24 month period pursuant to the schedule below.

1. Point Schedule. (Amd. GO 22-08)

POINT SCHEDULE (Amd. GO 22-08)		
Ordinance and/or Statute Number	Type of Violation	Points
33.08(10) GBMC	Violation of Stipulation or Agreement Requiring Surrender of License	13
33.08(6) GBMC	Disorderly House Requiring Police Closure	13
Ch. 961 Wis. Stats.	Controlled Substance	13
139.08(4) Wis. Stats.	Refusing Police Entry	13
33.08(6) GBMC	Disorderly House	6
33.08(10) GBMC	Violation of Stipulation or Agreement (Except violations of a provision requiring license surrender)	6
33.08 GBMC 125.32(3) & 125.68(4) Wis. Stats.	Open After Hours	6
33.02 GBMC 125.07(3) Wis. Stats.	Underage Person on Licensed Premises	4
33.02 GBMC 125.07(1) Wis. Stats.	Serving an Underage Person	6
33.02 GBMC 125.07(2) Wis. Stats.	Serving an Intoxicated Person	4
125.32(2) & 125.68(2) Wis. Stats.	No Licensed Bartender	4
	Violation of Business Plan	3
	Other Nonenumerated Violations of Ch. 33, GBMC, or Ch. 125, Wis. Stats.	3

2. This schedule shall not affect the discretion of the Protection and Welfare Committee in determining whether a formal evidentiary hearing is warranted.

3. For purposes of computing demerit points accrued pursuant to the above schedule, only those violations occurring after June 30, 1998, shall be counted.

(4) PREHEARING. Notwithstanding the provisions of §125.12, Wis. Stats., or (6) of this subsection, any State or City agency may, by communication to the Common Council, bring allegations of any violation of State liquor laws or any violation listed above before the Protection and Welfare Committee for prehearing as an item in the regular meeting of said Committee. Conduct of such prehearing shall be informal, allowing the Committee an opportunity to hear the allegations and permitting the accused licensee to respond if they so wish. The purpose of such prehearing will be to determine if the allegations are of such magnitude, importance, or otherwise of such nature to require a formal evidentiary hearing as provided by (5) below. After hearing the allegations and any response, the Committee shall determine whether to recommend to the Common Council that: a formal evidentiary hearing be held; a letter of warning to become part of the licensee's permanent file be issued; or no action be taken. In determining the appropriate course of action, the Committee shall consider:

(a) The licensee's history of convictions, charges, or complaints and the relationship of such history to licensed activities.

(b) The length of time since such conviction, charge, or complaint.

(c) The circumstances and seriousness surrounding the complaint(s) before the Committee.

(d) The degree of personal rehabilitation since the last incident involving the licensee.

(e) The community's standards or interests to be protected.

(f) The need for formal hearing to clarify the facts in regard to factors listed above.

(g) (Cr. GO 19-98) The number of demerit points accrued pursuant to subsection (3)(g) above.

(5) COUNCIL ORDERED HEARING. If a prehearing is conducted, as provided in (4), and a formal evidentiary hearing is ordered by the Common Council by recommendation of the Protection and Welfare Committee, the City Attorney's Office, or a special prosecutor appointed for such hearing, shall draft a formal complaint and see to it that such complaint is served with a summons as provided in (6) below. The complaint may include any alleged violation of state or municipal liquor law occurring in the preceding license year which was not the subject of a hearing under this section. Such complaint shall be issued in the name of the complainant and shall state specific violations complained of and may include any other violations involving the licensee in the past two license years which have not been the subject of a formal hearing. The complaint shall be served with a summons as provided in (6) below. Any formal evidentiary hearing shall be held in conformity with the procedures in (6) below.

(6) HEARING PROCEDURES.

(a) (Amd. GO 51-98) Upon a verified complaint filed with the City Clerk that any person licensed hereunder has violated the provision of Ch. 125, Wis. Stats., the criminal code of the State of Wisconsin, or any provision of the Code of Ordinances, including those listed in (3) above, or any other provision of this

chapter or Ch. 125, Wis. Stats., the Common Council shall issue a summons signed by the Clerk directed to any peace officer or constable therein, commanding the person so complained of to appear before the Protection and Welfare Committee on a day and at a place named in such summons, not less than three days nor more than 10 days from its date, and show cause why the license should not be suspended or revoked. Such summons shall be served at least three days before the time in which such person is commanded to appear, and shall be served as provided at Ch. 801, Wis. Stats.

(b) The licensee may be represented by counsel, present and examine witnesses, and have prepared at the licensee's expense a transcript of the hearing.

(c) The provisions of §125.12, Wis. Stats., shall govern the conduct of the hearing hereunder.

(7) **RECOMMENDATIONS.** At the conclusion of the evidentiary hearing, which may be held in open or executive session depending on the nature of the evidence to be produced, the Committee, following deliberation in open or executive session, shall consider the factors listed at (4) and shall thereupon make specific findings of fact and conclusions of law, and forward one or more of the following recommendations to the Common Council:

(a) No action should be taken due to insufficiency of the evidence.

(b) No action should be taken at present because of an accommodation on the part of the license holder has been reached.

(c) A warning letter be issued and the original thereof be retained in the licensee's file kept in the office of the City Clerk.

(d) A suspension of not less than 10 days nor more than 90 days be imposed.

(e) (Amd. GO 51-98) The license be revoked or invalidated.

(f) The licensee be placed on probation, and the Committee shall set conditions therefore.

(g) The complaint be tabled pending disposition of pending criminal or Municipal Court code violations, at which time the matter will be considered and a recommendation made.

(8) **COUNCIL ACTION.** The Common Council shall consider and take action on the recommendation of the Protection and Welfare Committee within 45 days after the Committee adjourns the hearing. The Common Council may adopt, reject, modify, or remand the recommendation to the Committee for further deliberations.

(8m) **NONRENEWAL.** (Cr. GO 51-98) A license may be nonrenewed for any of the grounds identified in Sub. (3). Upon Common Council denial of the renewal, the City Attorney shall notify the licensee in writing of the intention to nonrenew. The licensee shall have 10 days to request, in writing, a formal evidentiary hearing. This hearing shall be held before the Protection and Welfare Committee pursuant to §125.12(2)(b), Wis. Stats. The Committee shall make a report and recommendation as provided under §125.12(2)(b)3, Wis. Stats., and the Common Council shall follow the procedure specified under that subdivision in making its determination.

(9) APPEAL. Appeal from the decision of the Common Council shall be to the Circuit Court for Brown County.

33.08 **LICENSE RESTRICTIONS GENERALLY.** (1) STATUTORY REQUIREMENTS. Any license granted pursuant to this section to sell intoxicating liquor or fermented malt beverages shall be subject to the regulations, conditions, and restrictions imposed by Ch. 125, Wis. Stats. In addition, the City of Green Bay, pursuant to the authority of §125.10, Wis. Stats., adopts certain other restrictions and requirements specifically by this section.

(2) RESTRICTIONS ON LOCATION. (Amd. GO 11-00) (Amd. GO 25-10), (Amd. GO 17-16) No alcohol license shall be issued for a premises when any portion of the structure housing the premises would be less than 300 feet from any portion of a structure housing any established public school, parochial school, hospital, or church; said restriction may be waived by a two-thirds vote of the governing body. This subsection shall not apply to:

- (a) any premises licensed as such on March 25, 2000;
- (b) any premises licensed as such prior to the occupation within 300 feet thereof of any school building, hospital building, or church building;
- (c) any Special Event or Picnic license; or
- (d) any premises operated under both a Class "B" (Beer) or "Class B" (Liquor) license and a restaurant permit where the principal business conducted is that of a restaurant.

(3) HEALTH AND SANITARY REQUIREMENTS. (Amd. GO 11-00) A Class "B" (Beer), "Class B" (Liquor), or "Class C" (Wine) license shall not be issued for any premises which does not conform to the sanitary, safety, and health requirements of the State Department of Industry, Labor, and Human Relations pertaining to buildings and plumbing, to the rules and regulations of the State Department of Health and Social Services applicable to restaurants, and to all such ordinances and regulations adopted by the City. Should a licensed premises fall below such standards, the license may be revoked or suspended pursuant to §33.07, Green Bay Municipal Code.

(4) DELINQUENT PAYMENT. The City Clerk shall not issue a license to any applicant occupying a premises for which real or personal property taxes are delinquent or to an applicant otherwise indebted to the City, unless such applicant shall make arrangements satisfactory to the Clerk to pay such debts not less than 30 days before the expiration of the license.

(5) CLOSING HOURS. (Amd. GO 51-98) (a) (Amd. GO 11-00) No premises for which a Class "B" (Beer), "Class B" (Liquor), or "Class C" (Wine) license has been issued may remain open between the hours of 2:00 A.M. and 6:00 A.M., except as otherwise provided in this Chapter. On Saturday and Sunday, no premises may remain open between 2:30 A.M. and 6:00 A.M. For the purposes of this section, "open" shall mean allowing any person, other than the licensee or an employee actively performing job-related duties, to enter, loiter or remain in or on the licensed premises.

(am) (Cr. GO 51-98) No licensee or person in charge of a premises for which a Class "B" (Beer) or "Class B" (Liquor) license has been issued shall allow the carry out of closed containers of alcohol beverages between the hours of Midnight and 6:00 A.M.

(b) (Amd. GO 11-00) On January 1, premises licensed under a Class "B" (Beer), "Class B" (Liquor), or "Class C" (Wine) license are not required to close.

(c). (Rep. & Rec. GO 32-04), (Amd. GO 20-12) No premises for which a Class "A" (Beer) or "Class A" (Liquore) license is issued shall be permitted to remain open between 12:00 A.M. and 8:00 A.M. for the purpose of selling fermented malt beverages. No deliveries of fermented malt beverages shall be permitted within the City of Green Bay between the hours of 12:00 A.M. and 8:00 A.M.

(d) Hotels and restaurants, whose principal business is furnishing of food, drinks, or lodging to patrons, bowling alleys, and golf courses may remain open for the conduct of their regular business, but may not sell alcoholic beverages during the closing hours mentioned above. An establishment remaining open for the purpose of their regular business must, at all times, allow for open public access to the licensed establishment after such closing hours. In determining whether or not an establishment is open for the purpose other than selling alcoholic beverages, the burden shall be on the licensee.

(e) No person shall loiter in a licensed establishment after closing hours.

(f) (Cr. GO 51-98) No person shall carry out closed containers of alcohol beverages from a premises for which a Class "B" (Beer) or "Class B" (Liquor) license has been issued between the hours of Midnight and 6:00 A.M.

(6) DISORDERLY HOUSE.

(a) Duty to Maintain Order. A licensee under this section shall have a duty to maintain order and peace in and around the licensed premises. This duty shall extend to and include any adjacent parking lot or facility adjacent to and servicing the licensed premises.

(b) Police Power to Close Licensed Premises.

1. Police Department. The Police Department may order any disorderly house closed until 8 A.M. the following day when, in the reasonable view of the department, the licensee or person in charge failed to maintain peace and order as per (a) of this section, or the department otherwise believes that the public peace and safety is served by such closing by reason of threat to the bodily security, property, or peaceful repose of any member of the general public.

2. (Amd. GO 81-93) Department of Public Works - Inspection Division. The Green Bay Department of Public Works - Inspection Division may order the temporary suspension of a restaurant and beverage license where an imminent health hazard exist on licensed premises pending a hearing pursuant to §6.31, Green Bay Municipal Code. Such closing may act as grounds for suspension or revocation of a liquor license privilege under this chapter.

(c) Open Containers. (Amd. GO 20-08), (Amd. GO 25-12)

1. PROHIBITED. A licensee or person in charge shall not allow the sale, service, consumption or carry out of alcohol beverages in open containers outside the licensed premises.

2. EXEMPTION. This paragraph shall not apply to the consumption or carry out of alcohol beverages in open containers from the licensed premises to a special event premises licensed to serve alcohol beverages if all of the following apply:

a. The alcohol beverage is carried from the licensed premises to the adjoining special event premises without crossing an unlicensed area;

b. No glass containers may be carried off the licensed premises.

(7) **OUTDOOR AREAS.** (Amd. GO 35-99; Amd. GO 11-17)

(a) New Applications. An application for a license pursuant to this chapter may include an outdoor area in the proposed premises. The inclusion of the outdoor area in the licensed premises shall be subject to review in the same manner as any other license application and the restrictions provided in this section.

(b) Amendment. A licensee may apply to amend a licensed premises to include an outdoor area. The request shall be filed with the City Clerk no less than 30 days prior to the first date of use of the outdoor area. The application for amendment shall be subject to review in the same manner as any other license application, inspection by the Building Inspector and Police Department, and the restrictions provided in this section.

(c) Physical Requirements.

1. **Immediately Adjacent.** A licensed outdoor area must be immediately adjacent to the indoor portion of the licensed premises.

2. **Fencing.** A licensed outdoor area must be enclosed by a fence or structure at least 6 feet in height impervious to the passing of alcoholic beverages to or from the licensed premises.

3. **Ingress.** A licensed outdoor area shall have no more than one means of direct ingress from unlicensed areas. This subsection shall not be construed to limit the means of access to or from the outdoor licensed area to indoor licensed areas.

4. **Modification.** The requirements of this subsection may be waived by a two-thirds majority vote of the Protection and Welfare Committee and the Common Council.

(d) Noise. No musical instruments, radios, juke boxes, or other means of electric sound amplification may be used or operated in a licensed outdoor area after 10:00 P.M., unless a variance has been granted pursuant to §27.02, Green Bay Municipal Code, or §29.01, Brown County Code.

(e) Unlicensed Outdoor Area. An unlicensed outdoor area adjacent to and used in conjunction with the licensed premises shall not be used for the purpose of serving or consuming alcoholic beverages.

(f) Licensee Responsibility. Any licensed outdoor area is subject to all regulations of this chapter and Ch. 125, Wis. Stats.

(g) Maintaining Order. The licensee shall maintain peace and order over any outdoor area adjacent to and used in conjunction with a licensed premises whether or not said outdoor area is licensed. Violation of this section may result in the Police Department exercising its authority under §33.08(6)(b), Green Bay Municipal Code, and ordering any outdoor premises or the entire licensed area closed in the public interest.

(h) Sidewalk Café.

1. Special Conditions for sale of alcohol beverages at sidewalk cafes.

a. No alcohol beverages may be served in a sidewalk café unless the Common Council have approved a sidewalk café permit issued under § 6.155 of the Green Bay Municipal Code and approved an expansion of the Class B license to include the area of a sidewalk café.

b. Violations of the requirements of this chapter or Wis. Stat. ch. 125 may result in the sidewalk café permit issued hereunder and the Class B premise expansion being repealed by the Common Council in addition to other penalties provided under those regulations.

c. Alcohol beverages shall only be served to patrons of the establishment. No carryout or carry-in of alcohol beverages by a patron to and from the area of the sidewalk shall be permitted.

d. Each sidewalk café serving alcohol beverages shall be responsible for monitoring the area of the sidewalk café to ensure that customers are of legal drinking age and that alcohol beverages are not removed from the premises.

e. The sale of alcohol beverages in sidewalk cafes shall be limited to the hours of 11:00 am to 11:00 pm. All alcohol shall be removed from the sidewalk café area no later than 11:30 pm.

2. Revocation of permit. In addition to all other reasons enumerated or allowed in this section or Green Bay Municipal code, all sidewalk café permits, including the privilege to serve alcohol beverages in such area, are subject to revocation under Wis. Stats. § 66.0425 if it is determined that occupancy of the sidewalk is detrimental to the public health, safety or welfare or if the right-of-way subject to such permit is required for some other public purpose.

(8) (Rep. & Rec. GO 12-07) AREA FOR LIQUOR SALES ON "CLASS A" (LIQUOR) LICENSED PREMISES.

(a) In the interest of limiting juvenile access to alcohol beverages at retail establishments, and in the interest of promoting effective, unhampered, and efficient enforcement of such provisions as they relate to juveniles, no "Class A" (Liquor) License shall be granted for any premises where the principal business conducted thereon is other than the sale of alcohol beverages, unless the establishment has:

1. a separate area with the ability to lock that portion of the premises during non-sale hours;
2. 24-hour surveillance camera with recordings available to law enforcement at their request; and
3. signage informing minors that they “must be 21” to purchase alcohol.

(b) Burden of Proof. If a question arises as to what is the principal business being conducted on a premise, the burden of proof shall be on the applicant or licensee. A violation of this provision can act as grounds for revocation or nonrenewal of a liquor license privilege under this chapter.

(9) RESTRICTIONS ON USE OF PICNIC LICENSE. (Cr. GO 18-85)

(a) Licensed Operators Required. No person holding a picnic license, as defined at §33.01(10)(c),

Green Bay Municipal Code, shall permit the sale of fermented malt beverages unless a person holding an operator's license, also issued under this chapter, is in direct supervision and control of the area(s) in which the sale of fermented malt beverages is occurring. Where two areas of sale are used pursuant to (b) herein, at least one licensed operator must be present and in supervision of each area of sale.

(b) **Outdoor Use of Picnic Licenses.** Where a picnic license issued under this chapter is intended for use for an outdoor gathering, such as a picnic or fair, the following regulations shall apply:

1. No more than two separate areas may be used to dispense fermented malt beverages.
2. At least one uniformed security officer shall be present at the outdoor event at all times while fermented malt beverages are being sold or dispensed.

(10) **VIOLATION OF STIPULATION OR AGREEMENT.** (Amd. GO 19-98) No licensee may violate a provision of a stipulation or other agreement entered into with the City of Green Bay or signed in consideration of a license issued by the City under this chapter or Ch. 125, Wis. Stats. Any person who violates this provision shall be subject to a penalty as provided in §33.10, Green Bay Municipal Code.

(11) **ALLOWING ENTRY.** (Cr. GO 51-98) No licensee or person in charge may refuse entry of a police officer, peace officer or agent of the Department of Revenue to the licensed premises at any reasonable time to determine whether Ch. 125, Wis. Stats., and this chapter are being complied with. "Reasonable time" includes without limitation all times when the premises is open.

(12) **PREMISES CAPACITY.** (Cr. GO 36-03) Every Class "B" (Beer) and "Class B" (Liquor) licensed establishment shall display a sign stating the maximum number of persons permitted on the premises by the Green Bay Municipal Code, Wisconsin Administrative Code, and/or International Building Code. The sign shall be placed in a conspicuous place at the main entrance to each premises. The sign shall have the following wording: "Limit (number) persons." The lettering shall be white on a dark background. The letters shall not be less than one and one-half (1½) inches in height and the number shall not be less than three (3) inches in height. No licensee or person in charge of a premises shall allow more persons on the premises than the maximum number posted thereon.

33.09 **OPERATOR'S LICENSE.**

(1) **APPLICATIONS.**

(a) Application for operator's licenses shall be made to the City Clerk on a form supplied by the City Clerk's Office.

(b) Upon receipt of an application, the City Clerk shall forward the application to the Police Department for verification of the veracity of the application as well as research into the qualifications of the applicant in accordance with the requirements of §125.04, Wis. Stats.

(c) All applications shall be accurately completed in its entirety or shall be rendered void by the City Clerk.

(d) The license fee set out in §33.05(7), Green Bay Municipal Code, shall be submitted with the application.

(e) Operator licenses may be granted by the Common Council without further review in the event the Police Department approves of the application.

(f) (Amd. GO 11-99) The license shall be issued for a period of two consecutive licensing years. At all times while engaged in activities requiring a license issued pursuant to this section, the licensee shall keep the following items available for production upon request of any City or State inspecting officer: the operator's license and a valid form of identification issued by a governmental agency containing a photograph of the licensee.

(2) **PROVISIONAL LICENSE.** (Rep. & Rec. GO 44-92) The City Clerk shall be authorized to issue a Provisional Operator's License upon receipt of the regular Operator's License application. The requirements and provisions of Ch. 125.17, Wis. Stats., relating to Provisional Operator's License are hereby adopted and made part of this Code as if set forth fully herein. Future amendments are also adopted prospectively, incorporated herein, and are intended to become a part of this Code.

(3) **DENIAL OF OPERATOR'S LICENSE.** (Amd. GO 19-98)

(a) If the Police Department determines that any portion of the application is false or that the applicant does not possess the qualifications under §125.04, Wis. Stats., the license may be denied by the Police Department.

(b) The Police Department shall notify any applicant so denied.

(c) Any applicant whose application has been denied by the Police Department may appeal such determination to the Protection and Welfare Committee. Upon appeal, the Protection and Welfare Committee shall determine if the applicant possesses the qualifications of Sec. 125.04, Wis. Stats. After making such determination, the Protection and Welfare Committee shall forward its recommendation to the Common Council.

(4) **ISSUANCE OF LICENSE.** The City Clerk shall not issue any operator's license until all the requirements above have been satisfied.

33.10 **PENALTIES.** (Cr. GO 19-98)

(1) **DEFINITIONS.** As used in this section, the following terms shall have the following meanings:

(a) **Licensee.** The person to whom the license has been issued or such person's agents, employees, or assigns.

(b) **Violation.** Any violation of this chapter, except violations of §33.02, Green Bay Municipal Code, adopting §§125.07(1), 125.07(4), 125.085, and 125.09(2), Wis. Stats.

(2) **FORFEITURE.** Any person violating a provision of this chapter where no penalty is specified shall be subject to a forfeiture of not less than \$1 nor more than \$500 for each offense.

(3) **LICENSE SUSPENSION.** A court shall suspend any license or permit issued under this chapter for:

(a) Not less than three nor more than seven days if the court finds that the licensee committed a

violation within 24 months after committing one previous violation.

(b) Not less than seven nor more than 15 days if the court finds that the licensee committed a violation within 24 months after committing two previous violations.

(c) Not less than 15 nor more than 30 days if the court finds that the licensee committed a violation within 24 months after committing three previous violations.

(d) Not less than 45 nor more than 90 days if the court finds that the licensee committed a violation within 24 months after committing four previous violations.

(4) LICENSE REVOCATION. A court shall revoke any license or permit issued under this chapter if the court finds that the licensee committed a violation within 24 months after committing five previous violations.

(5) COUNTING. For purposes of counting previous violations under subsections (3) and (4) above, the following provisions apply:

(a) Only those violations occurring after June 30, 1998, shall be counted.

(b) Multiple violations arising out of the same incident and on the same date shall be considered a single violation.

(6) SPECIFIC VIOLATIONS. Any person violating §§125.07(1), 125.07(4), 125.085, and 125.09(2), Wis. Stats., as adopted in §33.02, Green Bay Municipal Code, shall be subject to the penalties provided therein.