



License Committee

Regular Meeting

335 South Broadway
De Pere, WI 54115
<http://www.de-pere.org>

Agenda

Tuesday, January 21, 2020

7:00 PM

De Pere City Hall Riverview Room

Pursuant to Wisconsin Statutes 19.84, Notice is hereby given to the public that a meeting of the **License Committee** of the City of De Pere will be held on **January 21, 2020** at **7:00 PM** in the **De Pere City Hall Riverview Room, 335 S. Broadway, De Pere, WI 54115**.

Call to Order

1. Roll Call
2. Approval of the minutes of the January 7, 2020 License Committee meeting.
3. Public Comment Period and other Announcements.
4. Operator License Applications.*
5. Application for a temporary premises description change submitted by St. Norbert College.*
6. Review Use of Arrest and Conviction Records in Alcohol Beverage Licensing.
7. Adjournment.

Respectfully Submitted,

Ann Ledvina, Deputy Clerk Treasurer

Any person wishing to attend this meeting who, because of disability, requires special accommodations should contact the Clerk's office at 339-4050 by Noon, the previous day so that arrangements can be made.

***Items with an asterisk require City Council approval.**

Agenda Sent To:

Alderspersons
City Administrator
Mayor
Department Heads
TV, Newspapers & Radio Stations
Kress Family Library
De Pere Chamber of Commerce
Lee Ann Bellow
Emma Butry
Asad Hussein
Maria Laakso



City of De Pere, Wisconsin

Request For License Committee Action

MEETING DATE: January 21, 2020

DEPARTMENT: City Clerk

FROM: Ann Ledvina

SUBJECT: Approval of the minutes of the January 7, 2020 License Committee meeting.

ATTACHMENTS:

- 1-7-20 License Committee Minutes_Draft (DOC)



License Committee

Regular Meeting

335 South Broadway
De Pere, WI 54115
<http://www.de-pere.org>

Draft Minutes

Tuesday, January 7, 2020

7:00 PM

De Pere City Hall Riverview Room

1. Call to Order. The meeting was called to order at 7:00 PM by Alderperson James Boyd.

Attendee Name	Title	Status	Arrived
James Boyd	Alderperson	Present	
Dan Carpenter	Alderperson	Present	
Jonathon Hansen	Alderperson	Present	

Also present: City Attorney Judy Schmidt-Lehman and City Clerk Carey Danen.

2. Approval of the Minutes of the December 17, 2019 License Committee meeting.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Dan Carpenter, Alderperson
SECONDER:	Jonathon Hansen, Alderperson
AYES:	James Boyd, Dan Carpenter, Jonathon Hansen

3. Public Comment Period and other Announcements.

None.

4. Operator License Applications.*

Alderperson Boyd moved, seconded by Alderperson Carpenter to open the meeting. Upon vote, motion carried unanimously. Previously Tabled applications #1 for Alex Buratti and #2 for Kara Mason were presented. The applicants answered Committee members' questions. Alderperson Boyd moved, seconded by Alderperson Carpenter to close the meeting. Upon vote, motion carried unanimously. Alderperson Carpenter moved, seconded by Alderperson Hansen to approve Previously Tabled applications #1 and 2. Upon vote, motion carried unanimously. Alderperson Boyd moved, seconded by Alderperson Hansen to open the meeting. Upon vote, motion carried unanimously. New Operator application #6 for Tamara Conway-Marshall was presented. The applicant answered Committee members' questions. Alderperson Boyd moved, seconded by Alderperson Hansen to close the meeting. Upon vote, motion carried unanimously. Alderperson Hansen moved, seconded by Alderperson Carpenter to approve New Operator applications #1-6. Upon vote, motion carried unanimously.

5. Adjournment.

Alderperson Boyd moved, seconded by Alderperson Carpenter to adjourn the meeting at 7:07 PM. Upon vote, motion carried unanimously.

Respectfully submitted,
Carey Danen, City Clerk



City of De Pere, Wisconsin

Request For License Committee Action

MEETING DATE: January 21, 2020

DEPARTMENT: City Clerk

FROM: Ann Ledvina

SUBJECT: Operator License Applications.*

ATTACHMENTS:

- Operator List 1-21-2020 (PDF)

CITY OF DE PERE
License Committee - January 21, 2020

New Operator License Applications	
1	BELLOW, LEE ANN
2	BUTRY, EMMA
3	HUSSEIN, ASAD
4	LAAKSO, MARIA



City of De Pere, Wisconsin

Request For License Committee Action

MEETING DATE: January 21, 2020

DEPARTMENT: City Clerk

FROM: Ann Ledvina

SUBJECT: Application for a temporary premises description change submitted by St. Norbert College.*

ATTACHMENTS:

- SNC Temporary Premises Description Change 1-21-2020 (PDF)

Premise Description Change

Renewal Alcohol Beverage License Application

Submit to municipal clerk. Read instructions on reverse side.

For the license period beginning: 07 01 2019 ending: 06 30 2020
(MM-DD-YYYY) (MM-DD-YYYY)

TO THE GOVERNING BODY of the: ☐ Town of } Depere
☐ Village of }
☒ City of }

County of brown Aldermanic Dist. No. _____ (If required by ordinance)

CHECK ONE ☐ Individual ☐ Partnership ☐ Limited Liability Company
☒ Corporation/Nonprofit Organization

Complete A or B. All must complete C.

A. Individual or Partnership:

Full Name(s) (Last, First and Middle Name)

Home Address

Post Office & Zip Code

B. Full Name of Corporation/Nonprofit Organization/Limited Liability Company St. Norbert College, Inc.

Address of Corporation/Limited Liability Company (if different from licensed premises) 100 grant st depere 54115

All Officer(s) Director(s) and Agent of Corporation and Members/Managers and Agent of Limited Liability Company:

Title	Name (Inc. Middle Name)	Home Address	Post Office & Zip Code
President/Member	Brian Bruesse	1527 Fox Ridge ct	DePere 54115

Vice President/Member

Secretary/Member	Amy Sorenson	1521 Bay Highlands	Green Bay 54311
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Treasurer/Member	Eileen Jahnke	3435 Bay Highlands	Green Bay 54311
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Agent	Terrie DuBois	118 S. Washington st B114	Green Bay 54301
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Directors/Managers

C. 1. Trade Name St. Norbert College Business Phone Number 9204031352

2. Address of Premises see attached Post Office & Zip Code DePere 54115

3. Does the applicant understand that they must purchase alcohol beverages only from Wisconsin wholesalers, breweries and brewpubs? ☒ Yes ☐ No

4. Premises description: Describe building or buildings where alcohol beverages are to be sold and stored. The applicant must include all rooms including living quarters, if used, for the sales, service, consumption, and/or storage of alcohol beverages and records. (Alcohol beverages may be sold and stored only on the premises described.) see attached

5. Legal description (omit if street address is given above): see attached

6. a. Since filing of the last application, has the named licensee, any member of a partnership licensee, or any member, officer, director, manager or agent for either a limited liability company licensee, corporation licensee, or nonprofit organization licensee been convicted of any offenses (excluding traffic offenses not related to alcohol) for violation of any federal laws, any Wisconsin laws, any laws of other states, or ordinances of any county or municipality? If yes, complete reverse side ☐ Yes ☒ No

b. Are charges for any offenses presently pending (excluding traffic offenses not related to alcohol) against the named licensee or any other persons affiliated with this licensee? If yes, explain fully on reverse side ☐ Yes ☒ No

7. Except for questions 6a and 6b, have there been any changes in the answers to the questions as submitted by you on your last application for this license? If yes, explain. ☐ Yes ☒ No

8. Was the profit or loss from the sale of alcohol beverages for the previous year reported on the Wisconsin Income or Franchise Tax return of the licensee? If not, explain. we are tax exempt ☐ Yes ☒ No

9. Does the applicant understand they must hold a Wisconsin Seller's Permit? [phone (808) 266-2776] ☒ Yes ☐ No

10. Does the applicant understand that alcohol beverage invoices must be kept at the licensed premises for 2 years from the date of invoice and made available for inspection by law enforcement? ☒ Yes ☐ No

11. Is the applicant indebted to any wholesaler beyond 15 days for beer or 30 days for liquor? ☐ Yes ☒ No

READ CAREFULLY BEFORE SIGNING: Under penalty provided by law, the undersigned states that each of the above questions has been truthfully answered to the best of the knowledge of the signer. The signer agrees that he/she is the person named in the foregoing application; that the applicant has read and made a complete answer to each question, and that the answers in each instance are true and correct. The undersigned further understands that any license issued contrary to Chapter 125 of the Wisconsin Statutes shall be void, and under penalty of state law, the applicant may be prosecuted for submitting false statements and affidavits in connection with this application. Any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000.

Eileen Jahnke
(Officer of Corporation / Member / Manager of Limited Liability Company / Partner / Individual)

TO BE COMPLETED BY CLERK

Date received and filed with municipal clerk <u>12-11-19</u>	Date reported to council/board	Date license granted
License number issued	Date license issued	Signature of Clerk/Deputy Clerk <u>[Signature]</u>

AT-118 (R. 7-18)

Wisconsin Department of Revenue

Attachment: SNC Temporary Premises Description Change 1-21-2020 (9119 : Application for a temporary premises description change

Temporary Extension of Premises for 2019/2020 licensed year:

Bush Art Center, 403 Third St

Thursday, Feb 6th, 5:30 pm – 7:30 pm

Friday, Feb 28th, 5 pm – 7 pm

Friday, Apr 17th, 5 pm – 7 pm

Mulva Library, 400 Third St

Wednesday, Mar 25th 4 – 6 pm



City of De Pere, Wisconsin

Request For License Committee Action

MEETING DATE: January 21, 2020

DEPARTMENT: City Attorney

FROM: Angela Zills

SUBJECT: Review Use of Arrest and Conviction Records in Alcohol Beverage Licensing.

ATTACHMENTS:

- Alderperson Boyd & License Committee-Conviction Records1-14-20 (PDF)

CITY OF DE PERE MEMO



To: Alderperson James Boyd, Chair
License Committee Members

From: Kristen Johnson, Assistant City Attorney

Date: January 21, 2020 (meeting date)

RE: Conviction Records and Alcohol Beverage Licensing

The purpose of this memo is to provide the License Committee with information regarding how conviction records should be considered when making recommendations to the Common Council on applications for alcohol beverage licenses.

Chapter 125 of the Wisconsin Statutes and Chapter 7 of the De Pere Municipal Code grant the License Committee and the Common Council discretion when determining whether to approve or deny applications related to alcohol beverages, including operator's licenses. While the licensing body may use its discretion, the law does provide some guidance as to what shall and shall not be considered by the licensing body.

Wis. Stat. §125.04(5)(b) prohibits a license from being issued to any person who has habitually been a law offender or who has been convicted of a felony, unless the person has been duly pardoned.

Wis. Stat. § 111.335 allows a licensing agency to consider a conviction if it substantially relates to the licensed activity. Certain pending criminal charges may also be considered, but only if it is one of the enumerated offenses listed by statute, which includes crimes against life and bodily security and violent crimes against a child. Unfortunately, the law does not provide further clarification on what it means for a conviction to "substantially relate" to the licensed activity. This can lead to confusion amongst the licensing body and inconsistencies throughout municipalities.

Several municipalities have adopted guidelines for their licensing body to use when considering applications for alcohol beverage licenses. Below is a sample of guidelines followed by other municipalities.

Beloit:

- City reviews the applicant's record for the most recent 5-year period, unless a pattern of conduct exists.

- In general, if the applicant has 1 offense in the last 3 years or 2 or more offenses in the last 5 years, the application may be denied.
- If the applicant has a felony conviction, the application will be denied until the applicant has been duly pardoned.
- A list of offenses is provided, convictions of which are subject to review. These include:
 - o Giving false or incomplete information on the application
 - o Arrest or conviction for selling/procuring/giving away alcohol to an underage person (2 or more violations within a 12-month period)
 - o Arrest or conviction for permitting underage person on premise
 - o Any substance abuse and/or drug offense
 - o Operating while under the influence, operating with a prohibited alcohol concentration, or operating with restricted controlled substance
 - o Allowing another person to use your operator's license
 - o Selling alcohol to an intoxicated person
 - o Selling after closing hours
 - o Selling without an alcohol license
 - o Any part of Chapter 125 related to alcohol beverages
 - o Arrest or conviction of a charge related to activities performed while bartending
 - o Habitual law offender where circumstances of the charges substantially related to the licensed activity

Mequon, Franklin and Racine: Several cities have adopted formal guidelines, which are substantially similar. Mequon's guidelines are attached for reference.

Examples of Informal Guidelines:

- Convictions more than 10 years old are generally not considered, unless the offense is a serious one.
- Convictions more than 5 years old for minor offenses are generally not considered.
- An applicant with one OWI conviction with the past 5 years will normally get called before the licensing committee.
- If the applicant has 2 OWI convictions on their record, they will normally get called before the licensing committee.
- If the applicant has 3 or more convictions for OWI related offenses, the applicant is usually denied, although exceptions have been made for very old cases.

If you have any questions regarding this matter, please feel free to contact me directly at 339-4070.

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Conviction Records and Alcohol Beverage Licensing

CITY OF MEQUON
ALCOHOL BEVERAGE LICENSES
ENFORCEMENT POLICY GUIDELINES

Intent. As it is the responsibility of the Finance and Personnel Committee (“Committee”) of the Mequon Common Council to screen applications for alcohol beverage licenses within the City of Mequon and to make recommendations thereupon to the Common Council for its decision under the licensing authority granted by Chapter 125 of the Wisconsin Statutes and Chapter 14 of the Municipal Code of the City of Mequon, the Committee recommends and the Common Council adopts the following guidelines in order to specify the reasons for denying, non-renewing or revoking an alcohol beverage license. If a decision is made to deny, revoke, suspend or non-renew a license, the Council is required to provide that person with a written reason for the denial. These guidelines are adopted to assist the Committee in its reviews and recommendations and the Common Council in its decision-making, to meet that requirement.

The following guidelines are established by the Common Council 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 Committee and the Common Council to consider each case on an individual basis. 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 scrutinized; provided, however, that the Committee and the 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 the conviction. **Furthermore, to the extent Wis. Stat. Ch. 125 or Mequon Ordinances provide additional grounds for denial, suspension, revocation or non-renewal, the Committee may 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 license year period 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 Committee and 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 seven (7) 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 Mequon Ordinance Ch. 14 - excluding administrative violations such as “failure to post license under glass”) **(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 Mequon 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 Committee within its review and recommendation process and the Common Council may waive the provisions of this paragraph, allow the applicant to submit a corrected application, with the appropriate 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 Committee 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). 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 Committee 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, Ch. 14 of the Municipal Code of the City of Mequon 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 the 1st day of October, 2019.